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# CONSTITUTION

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This document explains the structure and workings of the North Yorkshire Council, including all the rules and procedures under which the Council operates. It sets out who makes decisions and how they are made, and the rights of citizens to obtain information and to influence decisions.

This Constitution is maintained under Section 9P of the Local Government Act 2000 as amended.

# CONSTITUTION OF THE NORTH YORKSHIRE COUNCIL

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# Part 1

## SUMMARY AND EXPLANATION

## **The Council's Constitution**

The North Yorkshire Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Council operates a Leader and Executive model of governance. This is explained below.

### **What's in the Constitution?**

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols later in the Constitution document.

Article 1 of the Constitution commits the Council to work in partnership with others to:

- ◆ promote a successful North Yorkshire economy and infrastructure;
- ◆ raise standards of achievement in education and skills throughout life;
- ◆ promote safe, healthy and sustainable communities;
- ◆ reduce disadvantage and help people in need;
- ◆ improve how we work and communicate with people locally; and
- ◆ ensure a future capacity to provide quality services which people want.

Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- ◆ Members of the Council (Article 2).
- ◆ Citizens and the Council (Article 3).
- ◆ The Full Council (Article 4).
- ◆ Chairing the Council (Article 5).
- ◆ Overview and Scrutiny Committees (Article 6).
- ◆ The Executive (Article 7).
- ◆ Regulatory and Other Committees (Article 8).
- ◆ The Standards and Governance Committee (Article 9).
- ◆ Area Constituency Committees (Article 10).
- ◆ Joint Arrangements (Article 11).
- ◆ Staff (Article 12).
- ◆ Decision making (Article 13).
- ◆ Finance, Contracts and Legal Matters (Article 14).
- ◆ Review and Revision of the Constitution (Article 15).
- ◆ Suspension, Interpretation and Publication of the Constitution (Article 16).

### **How the Council Operates**

The Council is composed of 90 Councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to residents in their divisions, including those who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.

The Council operates through 4 main elements being the full Council, the Executive, Overview and Scrutiny, and its Committees. Each of these elements is supported by and delegates matters to Council employees known as Officers.

Full Council is where all Councillors meet together at meetings which are open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

The Council elects one Councillor as the Council Leader. The Leader and at least 2, but not more than 9, other Councillors appointed by the Leader form the Executive.

The Council has appointed 6 Overview and Scrutiny Committees to look at the effectiveness of the Executive and help develop Council policy.

The Council also appoints other Committees, including 6 Area Constituency Committees to deal with local matters and various regulatory committees to deal with functions including licensing and planning.

## **Full Council**

There are three types of full Council meeting: the Annual Meeting; ordinary meetings; and extraordinary meetings. They are conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

The Council sets the Budget and Policy Framework for the Council. All decisions must be taken in accordance with these and only full Council can change them.

A Chair is elected by the full Council at its Annual Meeting each year, which is usually held in May. The Council also elects a Vice Chair, who acts as Chair when the Chair is not available. The Chair (and the Vice Chair) undertake civil and ceremonial roles on behalf of the Council and represent the Council at events. The Chair promotes public involvement in the Council's activities. Although the Chair is an elected politician and has a vote, there is a duty to be impartial in carrying out the role. The Chair presides over meetings of the full Council to ensure that business is carried out effectively and has responsibilities for upholding and interpreting this Constitution.

## **The Executive**

The Executive is the part of the Council which is responsible for most day-to-day decisions. When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated, and must be published at least 28 days before a Key Decision is made. Urgency procedures allow for Key Decisions still to be taken if these timescales cannot be met.

If these major decisions are to be discussed at a meeting of the Executive, this will generally be open for the public to attend except where exempt or confidential matters are being discussed. The definition of exempt or confidential information is set by law and can be found in the Access to Information Procedure Rules in Part 4 of the Constitution.

The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **Overview and Scrutiny**

There are 6 Overview and Scrutiny Committees (and other ad hoc joint scrutiny of health overview and scrutiny committees established as and when required) whose job it is to look into how effectively the Council is serving the needs of its communities.

These Committees produce reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery, as well as looking at reviews of individual services.

Overview and Scrutiny Committees also monitor the decisions of the Executive. They can scrutinise an Executive decision which has been “called in” by any 6 Councillors. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision or they may refer the matter to full Council. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The Overview and Scrutiny Committees perform specific statutory functions in relation to the scrutiny of health and crime and disorder matters. Their meetings are generally in public and they may involve citizens and other interested parties in their work, so that the public has a say in Council affairs.

The Council has established a Health and Wellbeing Board which undertakes functions and operates as required in relation to health and wellbeing matters, by the Health and Social Care Act 2012 and related regulations.

## **Area Constituency Committees**

In order to give local citizens a greater say in Council affairs, 6 Area Constituency Committees have been created. These cover the same areas as the 6 electoral constituencies for North Yorkshire MPs. They maintain an overview of the effectiveness of the public services provided to their local community by the Council and other agencies and to advocate the interests of their community in relation to those services. They involve Councillors for each particular area and meetings are held in public.

## **Regulatory and Other Council Committees**

Some decisions cannot be decided by the Executive including planning and licensing determinations. These non-executive functions are delegated by the Council to committees and Officers.

Council committees, unlike the Executive and its sub-committees, must generally be proportionate to the size of the political groups on the Council. Members of Council committees are appointed by full Council.

The Council has established committees to deal with regulatory functions such as licensing and planning matters.

In addition, Councillors take part when required in Appeals Committees.

There is also an Independent Remuneration Panel to advise on Members’ Allowances.

These Committees and all the other committees are explained in more detail in Part 3.



## **The Council's Staff - Officers**

The Council has many people working for it: including teachers, social workers, staff in elderly persons homes and many others delivering direct services to the public. Staff who give advice, implement decisions and manage the day-to-day delivery of services are also known as 'Officers'. Some Officers have a specific duty to ensure that the Council acts within the law. A protocol governs the relationships between Officers and Members of the Council. The management structure is set out on the Council's website and in Part 7 of the Constitution. Officers must comply with the Employee Standards of Conduct Policy.

## **Citizens' Rights**

Citizens have a right to have a say about decisions which affect them, and to be able to understand what decisions have been taken and why.

Citizens have a number of specific rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- ◆ vote at local elections if they are registered;
- ◆ contact their local Councillor about any matters of concern to them;
- ◆ attend meetings of the Council and its committees except where, exempt or confidential matters are being discussed;
- ◆ participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committees;
- ◆ find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or Officers, and when;
- ◆ attend meetings of the Executive except when confidential/exempt information is being considered;
- ◆ see reports and background papers, and any record of decisions made by the Council and Executive;
- ◆ comment or make suggestions in relation to the Council and the services it delivers, and complain if they feel something has gone wrong;
- ◆ complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- ◆ complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the relevant Code of Conduct for Members;
- ◆ inspect the Council's accounts and make their views known to the external auditor;
- ◆ submit a petition to the Council regarding issues of concern;
- ◆ petition to request a referendum on a different form of Constitution; and
- ◆ obtain a copy of the Constitution.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the office of the Chief Executive Officer at County Hall, Northallerton, North Yorkshire. A full statement of the rights of citizens to inspect agendas and reports and to attend meetings is available from the Assistant Chief Executive Legal and Democratic Services at the same address.

## **Members' Conduct and Interests**

All Members of the Council must give a written undertaking that in performing their functions they will observe the Members' Code of Conduct. The Code is set out in Part 5 of this Constitution.

The Monitoring Officer maintains a register of the interests of the Members and certain co-opted Members of the Council and of members of town/parish councils located in the North Yorkshire area. These registers are available for inspection by the public at County Hall, Northallerton during normal office hours, by contacting the Monitoring Officer or by viewing the electronic interests forms published on the Council's website.

### **Note on the Text**

Text in ordinary type forms part of the Constitution

*Text in italics is explanatory, and not part of the Constitution.*

## **Part 2**

# **Articles of the Constitution**

# Article 1 – The Constitution

## 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## 1.02 The Constitution

This Constitution, and all its parts as listed on the contents page, is the Constitution of the North Yorkshire Council.

## 1.03 Purpose of the Constitution

The purpose of the Constitution is to provide a framework which will:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) provide a means of improving the delivery of services to the community; and
- (i) ensure that the work of the Council promotes its vision and key ambitions:-

Our Vision

“Working for all our citizens and businesses, supporting our diverse communities and helping North Yorkshire to prosper.”

Our Goals:

- Understand our people, businesses and communities
- Deliver strong services that support their needs
- Provide leadership for our place

#### **1.04 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

All decisions taken by or on behalf of the Council will:

- ♦ have regard to relevant facts and considerations, and disregard irrelevant ones;
- ♦ be reasonable, and proportionate to the subject matter;
- ♦ be taken with respect for equality of opportunity and human rights; and
- ♦ be taken in observance of the Codes of Conduct set out in Part 5 of this Constitution.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

For the avoidance of doubt, references within the Constitution to legislation (eg Act or Statutory Instrument) include reference to any amended, re-enacted or successor legislation.

# Article 2 – Members of the Council

## 2.01 Composition and eligibility

- (a) **Composition:** The Council comprises 90 Members, otherwise called Councillors. One Councillor is elected by the voters of each of 89 electoral divisions, and two are elected to one electoral division in the County.
- (b) **Eligibility:** Only registered voters of the county or those living or working there will be eligible to hold the office of Councillor.

## 2.02 Election and Terms of Councillors

**Election and terms:** The regular election of Councillors will be held on the first Thursday in May (unless the Government determines otherwise) every four years. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## 2.03 Roles and Functions of all Councillors

- (a) **Key roles.** All Councillors will:
  - (i) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (ii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (iii) balance different interests identified within their electoral division and represent the electoral division as a whole;
  - (iv) represent the Council in the community;
  - (v) meeting together in full Council, set the budget and policy framework for Council;
  - (vi) participate in decision making through membership of Area Constituency Committees;
  - (vii) if a member of the Executive, take or participate in executive decisions; and if not a member of the Executive, participate in the scrutiny of such decisions.
  - (viii) become involved in policy development, through membership of Overview and Scrutiny Committees;
  - (ix) participate in Scrutiny Reviews;
  - (x) provide a channel of communication and information to and from local people in time of emergency;

- (xi) be available to represent the Council on other bodies; and
- (xii) maintain the highest standards of conduct and ethics.

(b) **Rights and duties**

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Except as legally permitted, Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

**2.04 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol for Member/Officer Relations set out in Part 5 of this Constitution.

**2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

# Article 3 – Citizens and the Council

## 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and petitions:** Citizens on the electoral roll for the area have the right:
  - (i) to vote at Council elections;
  - (ii) to submit a petition to the Council regarding issues of concern. Details of the Council's Petitions' Scheme are published on the Council's website; and
  - (iii) to sign a petition to request a referendum for a different form of Constitution.
  
- (b) **Information:** Citizens have the right to:
  - (i) attend meetings of the Council and its committees and of the Executive, except where confidential or exempt information (as defined in the Access to Information Procedure Rules contained in Part 4 of this Constitution) is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the Forward Plan what key decisions will be taken by the Executive and other decision takers and when. Also, subject to urgency procedures, to have at least 28 days' prior notice of a private meeting of an executive decision making body;
  - (iii) see reports and background papers (except where these contain confidential or exempt information), and any records of decisions made by the Council and the Executive;
  - (iv) make representations about why a proposed private meeting/part of a meeting of an executive decision making body should be held in public; and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
  
- (c) **Participation:** Citizens have the right to participate by making statements or asking questions at meetings of the Council and its committees (including Overview and Scrutiny Committees and Area Constituency Committees) and the Executive. Citizens may also respond to consultation exercises organised by the Council, or make their views known by speaking, writing or e-mailing to a Councillor or member of staff.
  
- (d) **Comments and Complaints:** Citizens have the right to comment on the Council's services and/or its performance. Good performance can be praised; constructive suggestions for improvement are always welcome. Where citizens feel something has gone wrong they may complain to:



- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman after using the Council's own complaints scheme;
- (iv) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

Any citizen who is unsure how to go about making a comment, suggestion or complaint should write to the Chief Executive Officer's office at County Hall, Northallerton.

Citizens may raise any comments or suggestions in relation to this Constitution by contacting the Council's Monitoring Officer (the Assistant Chief Executive Legal and Democratic Services, based at County Hall) or with any Councillor.

### **3.02 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or staff and must not wilfully harm things owned by the Council, Councillors, or the Council's contractors or agents.

# Article 4 – The Full Council

## 4.01 Meanings

(a) **Policy Framework:** The policy framework means the following plans and strategies:-

- ◆ The Council Plan
- ◆ Local Transport Plan
- ◆ Plans and strategies which together comprise the Development Plan
- ◆ Medium Term Financial Strategy
- ◆ Council Tax Reduction Scheme
- ◆ Discretionary Relief Rules
- ◆ Statement of Licensing Policy
- ◆ Statement of Principles (Gambling Act 2005)
- ◆ Economic Development Strategy
- ◆ Treasury Management Policy and Strategy
- ◆ Corporate Risk Management Policy
- ◆ Children and Young People's Plan
- ◆ Youth Justice Plan
- ◆ Education Capital Local Policy Statement
- ◆ Home to School/College Transport Policy
- ◆ Strategy for Children in Care and Care Leavers
- ◆ Admissions Policy for Community and Voluntary Schools
- ◆ Local Management in Schools (LMS) Formula
- ◆ Joint Health and Wellbeing Strategy
- ◆ Allocations Scheme for the provision of social housing
- ◆ Homelessness review and Homelessness Strategy
- ◆ Policy for the Provision of Housing Assistance
- ◆ Affordable Housing Development Strategy
- ◆ Library Strategy
- ◆ Waste Management Strategy
- ◆ Household Waste Recycling Centre Policies
- ◆ Highway Asset Management Policy
- ◆ Highway Asset Management Strategy
- ◆ Community Safety Partnership Strategy

(b) **Budget:** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the Council's borrowing requirement, and the control of its capital expenditure.

(c) **Virement:** Virement is the transfer of budget provision between individually defined budget headings. It is dealt with in Financial Procedure Rules approved by full Council, and included in Part 4 of this Constitution.

## 4.02 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution (including the exercise of all legal powers to make standing orders) (subject to Article 15);
- (b) adopting the policy framework and the budget;
- (c) taking any decision which is contrary to the approved policy framework and/or the budget (except in cases of urgency, where the procedure set out in the Access to Information Procedure Rules applies);
- (d) electing the Leader of the Executive;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) subject to Article 11.06 appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council (*for details of who makes appointments to outside bodies, see Schedule 5 to Part 3*);
- (g) making an allowances scheme under Article 2.05, and determining the amount of all allowances payable to Members of the Council and its committees;
- (h) changing the name of the County;
- (i) through the Chief Officers Appointments and Disciplinary Committee, making the appointment of the Chief Executive Officer (Head of Paid Service), and other Chief Officers;
- (j) designating officers to be the Council's Head of Paid Service, Chief Finance Officer, Monitoring Officer and Scrutiny Officer, and appointing officers as Proper Officer for particular purposes (see Article 12);
- (k) conferring the title of honorary alderman/alderwoman;
- (l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (m) making arrangements for the proper administration of the Council's financial affairs;
- (n) all local choice functions as set out in Part 3 of this Constitution as ones which the Council will itself undertake; and
- (o) all other matters which, by law, must be reserved to Council.

#### **4.03 Council Meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for Functions**

The Council will maintain Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

# Article 5 – Chairing The Council

## 5.01 Role and function of the Chair

The Chair will be elected by the Council at its annual meeting. The Chair (and, in their absence, the Vice-Chair) will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members who are not on the Executive are able to hold the Executive to account;
- (d) to promote public involvement in the Council's activities;
- (e) to represent the Council; and
- (f) to perform the ambassadorial role of the Chair by attending such civic and ceremonial functions as the Council and/or the Chair determines appropriate.

*Note: For the year 2024/25, the Chair of the Council is Councillor Roberta Swiers and the Vice-Chair is Councillor George Jabbour.*

## 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	<p>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.</p> <p>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.</p>
Transport, Economy, Environment and Enterprise	<p>Transport and communications infrastructure of all kinds, however owned or provided, and how the transport needs of the community are met.</p> <p>Supporting business, economic development and regeneration and helping people develop their skills, including lifelong learning.</p> <p>Sustainable development, climate change strategy, countryside management, waste management, environmental conservation and enhancement flooding and cultural issues.</p>
Children and Families	The interests of young people, including education, care and protection and family support.
Scrutiny of Health	<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 Health and Care Partnerships.</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</p>

COMMITTEE	SCOPE
	<p>delivery and development of health services and will look:</p> <ul style="list-style-type: none"> <li>◆ To focus on action to achieve health improvement;</li> <li>◆ To examine health care in the context of the wider determinants of health;</li> <li>◆ To examine how health services address the needs of local communities;</li> <li>◆ To especially address health inequalities;</li> <li>◆ To ensure that local health and health related issues are being tackled jointly and in a co-ordinated way across agencies;</li> <li>◆ To contribute to 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 with them.</li> </ul>
Housing and Leisure	<p>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</p> <p>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.</p> <p>The Council's role as a provider of leisure services.</p> <p>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.</p> <p>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.</p>

## 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;
  - (v) question members of the Executive and/or committees and senior Officers about their views on issues and proposals affecting the area; and
  - (vi) 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.
  - (d) **Finance.** Overview and Scrutiny Committees will exercise overall responsibility for the finances made available to them.
  - (e) **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.

# Article 7 – The Executive

## 7.01 Role

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

## 7.02 Form and composition

Only Councillors may be appointed to the Executive. There may be no co-optees and no deputies or substitutes for Executive Members. Neither the Chair nor Vice-Chair of the Council may be appointed to the Executive and members of the Executive (including the Leader) may not be members of an Overview and Scrutiny Committee.

The Executive will consist of the Leader elected by the Council, together with at least 2, but not more than 9, Councillors appointed to the Executive by the Leader. Should any member(s) of the Executive cease to hold office as such, or in the opinion of the Leader become disabled (temporarily or permanently) from performing the duties of their office, the Leader may remove them from office, and/or may appoint any other Councillor(s) to the Executive. In no case, however, shall the total membership of the Executive (including the Leader) exceed 10. The Leader's powers of removal/appointment shall be exercisable by giving written notice to the Assistant Chief Executive Legal and Democratic Services.

## 7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) they resign from the office; or
- (b) they are disqualified from being a Councillor under Part I Chapter 7 of the Localism Act 2011; or
- (c) they are no longer a Councillor; or
- (d) they are removed from office by resolution of the Council; or
- (e) the day of the post-election annual meeting which follows their election as Leader.

The Leader will appoint a member of the Executive to be Deputy Leader, and may remove the Deputy Leader from Office if the Leader thinks fit. Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another member of the Executive to take their place. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in their place.

If for any reason –

- (a) the Leader is unable to act or the office of Leader is vacant, and
- (b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for a member of the Executive to act in their place.

#### **7.04 Other Executive Members**

Other Executive Members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer Councillors; or
- (c) they are removed from office, either individually or collectively, by the Leader under 7.02 above.

#### **7.05 Proceedings of the Executive**

- (a) Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.
- (b) Access to information legislation sets out additional requirements upon local authority decision-making in relation to executive matters. These are incorporated in the Council's Access to Information Procedure Rules set out in Part 4 of the Constitution.

#### **7.06 Responsibility for Functions**

The Leader will maintain in Part 3 of this Constitution statements setting out the responsibilities of individual members of the Executive, committees of the Executive, Area Constituency Committees, Officers or joint arrangements, including responsibilities for the exercise of particular executive functions.

#### **7.07 Membership**

The names and addresses of members of the Executive are also contained in the list referred to in paragraph 7.06.

#### **7.08 Committees**

The Executive shall have power to establish one or more committees, and to delegate powers to any such committee(s). Details of such committees, and their delegated powers, shall be set out in Part 3 of this Constitution.

# Article 8 – Regulatory and Other Committees

## 8.01 Regulatory and other committees

The Council will appoint the committees set out in paragraphs 2.3 to 2.10 of Part 3 of this Constitution to discharge the functions set out in Part 3 as the terms of reference of those committees.

## 8.02 Strategic Planning Committee, Area Constituency Planning Committees, General Licensing and Registration Committee and Sub-Committees, Statutory Licensing Committee and Sub-Committees – no whipping

In meetings of the Strategic Planning Committee and Area Constituency Planning Committees when determining development control applications, there will be no whipping on voting.

“Whipping” means any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application of any threat to apply any sanction by the group in respect of that Councillor should they speak or vote (or fail to speak or vote) in any particular manner.

All planning matters will be dealt with in accordance with the Code of Practice for Councillors and Officers dealing with planning matters, a copy of which is available from the Monitoring Officer and in Part 5 of the Constitution.

In the General Licensing and Registration Committee and Sub-Committees and the Statutory Licensing Committee and Sub-Committees there will be no whipping on voting.

## 8.03 Health and Wellbeing Board

The Council has established a Health and Wellbeing Board which undertakes functions and operates as required, in relation to health and wellbeing matters, by the Health and Social Care Act 2012 and related regulations.

# Article 9 - The Standards and Governance Committee

## 9.01 Standards and Governance Committee

### Standards Functions

The Council has established a Standards and Governance Committee to provide and maintain high standards of conduct within the authority and to determine any complaints against Members and voting co-opted Members referred to it by the Monitoring Officer.

The responsibility for receiving and assessing complaints that a Member may have breached the Members' Code of Conduct lies with the Monitoring Officer, after consultation with the Independent Person for standards.

What this means is that if a person wishes to complain that the conduct of a Member of North Yorkshire Council or voting co-opted Member on one of its committees or Member of a town/parish council located in the North Yorkshire area has breached the relevant Members' Code of Conduct, the complainant must submit their complaint, in writing, to:

The Monitoring Officer  
Legal and Democratic Services  
North Yorkshire Council  
County Hall  
NORTHALLERTON  
North Yorkshire  
DL7 8AD

setting out full details of the alleged behaviour and linking this to specific paragraphs of the Code where possible.

The Standards and Governance Committee can only deal with complaints about the behaviour of a Member within the remit of the relevant Code and cannot deal with complaints about things that are not covered by that Members' Code of Conduct. A complaint to the Monitoring Officer under that Code must be about why the complainant thinks a Member has **not followed the relevant Code** of Conduct.

If a complaint against a Member does **not** involve an alleged breach of the Council's Code of Conduct for Members, then such a complaint should be made to the Chief Executive Officer of North Yorkshire Council at the address above or the relevant town/parish council Clerk directly in respect of a parish council member. Contact details for individual parish councils are on the Council's website.

Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### Governance Functions

The Standards and Governance Committee also has powers to make necessary decisions in relation to elections and to have responsibility for community governance together with

making recommendations on Honorary Aldermen/women and residual powers in relation to consultation on personal Bills and the making of by-laws.

### **9.02 Composition**

The Standards and Governance Committee will be composed of 10 councillors and will be subject to the rules in relation to proportionality. The Council's Independent Persons for standards are invited to attend Standards and Governance Committee meetings.

Where a standards complaint Hearing Panel is convened to determine a complaint that a parish/town council Member may have breached the relevant parish/town council Members' code of conduct, a non-voting parish/town council representative shall be selected, from a pool of parish/town council representatives who have received appropriate training, to attend the Hearing Panel.

### **9.03 Roles, Terms of Reference and Functions**

The terms of reference for the Standards and Governance Committee are set out in Schedule 1 to Part 3 of the Constitution.

### **9.04 Membership**

Membership of the Standards and Governance Committee is set out in Part 3 of this Constitution.

# Article 10 - Area Constituency Committees

## 10.01 Area Committees

- (a) The Council may appoint area committees under the Local Government Act 2000 (as amended) as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.
- (b) The Council has created six Area Constituency Committees (one with 13 Members, three with 15 Members and two with 16 Members) which are coterminous with the six Parliamentary constituencies and have therefore been named “Area Constituency Committees”.

## 10.02 Form, Composition and Function

- (a) **Table of Area Constituency Committees:** The Council will appoint the Area Constituency Committees as set out below. The number of Members per Committee assumes that the six Members whose division covers two constituencies would join and attend the committee covering the area in which the majority of the Member’s constituents reside, with the right to attend and speak at the other committee, but not vote or move motions. This is subject to situations where the split of constituents is finely balanced to a 1% variation, in which case the Member must decide, in their discretion and with the agreement of the Chairs of both committees, which of the two committees the Member shall join and attend as set out in this paragraph.

NAME OF COMMITTEE	COMPOSITION
Skipton and Ripon Area Constituency Committee	15 Members representing: <ul style="list-style-type: none"> <li>• Boroughbridge &amp; Claro (part)</li> <li>• Aire Valley</li> <li>• Bentham &amp; Ingleton</li> <li>• Glusburn, Cross Hills &amp; Sutton-in-Craven</li> <li>• Masham &amp; Fountains (part)</li> <li>• Mid Craven</li> <li>• Pateley Bridge &amp; Nidderdale</li> <li>• Ripon Minster &amp; Moorside</li> <li>• Ripon Ure Bank &amp; Spa</li> <li>• Settle &amp; Penyghent</li> <li>• Skipton East &amp; South</li> <li>• Skipton North &amp; Embsay-with-Eastby</li> <li>• Skipton West &amp; West Craven</li> <li>• Wathvale &amp; Bishop Monkton</li> <li>• Wharfedale</li> <li>• Washburn &amp; Birstwith (part)</li> </ul>



NAME OF COMMITTEE	COMPOSITION
Richmond (Yorks) Area Constituency Committee	16 Members representing: <ul style="list-style-type: none"> <li>• Aiskew &amp; Leeming</li> <li>• Bedale</li> <li>• Catterick Village &amp; Brompton-on-Swale</li> <li>• Great Ayton</li> <li>• Hillside &amp; Raskelf (part)</li> <li>• Hipswell &amp; Colburn</li> <li>• Hutton Rudby &amp; Osmotherley</li> <li>• Leyburn &amp; Middleham</li> <li>• Morton-on-Swale &amp; Appleton Wiske (part)</li> <li>• North Richmondshire</li> <li>• Northallerton North &amp; Brompton</li> <li>• Northallerton South</li> <li>• Richmond</li> <li>• Romanby</li> <li>• Scotton &amp; Lower Wensleydale</li> <li>• Stokesley</li> <li>• Upper Dales</li> </ul>
Harrogate and Knaresborough Area Constituency Committee	13 Members representing: <ul style="list-style-type: none"> <li>• Bilton &amp; Nidd Gorge</li> <li>• Bilton Grange &amp; New Park</li> <li>• Boroughbridge &amp; Claro (part)</li> <li>• Coppice Valley &amp; Duchy</li> <li>• Fairfax &amp; Starbeck</li> <li>• Harlow &amp; St Georges</li> <li>• High Harrogate &amp; Kingsley</li> <li>• Killinghall, Hampsthwaite &amp; Saltergate</li> <li>• Knaresborough East</li> <li>• Knaresborough West</li> <li>• Masham &amp; Fountains (part)</li> <li>• Oatlands &amp; Pannal</li> <li>• Ouseburn (part)</li> <li>• Stray, Woodlands &amp; Hookstone</li> <li>• Valley Gardens &amp; Central Harrogate</li> </ul>

NAME OF COMMITTEE	COMPOSITION
Thirsk and Malton Area Constituency Committee	15 Members representing: <ul style="list-style-type: none"> <li>• Amotherby &amp; Ampleforth</li> <li>• Easingwold</li> <li>• Filey</li> <li>• Helmsley &amp; Sinnington</li> <li>• Hillside &amp; Raskelf (part)</li> <li>• Huby &amp; Tollerton</li> <li>• Hunmanby &amp; Sherburn</li> <li>• Kirkbymoorside &amp; Dales</li> <li>• Malton</li> <li>• Morton-on-Swale &amp; Appleton Wiske (part)</li> <li>• Norton</li> <li>• Pickering</li> <li>• Sheriff Hutton &amp; Derwent</li> <li>• Sowerby &amp; Topcliffe</li> <li>• Thirsk</li> <li>• Thornton Dale &amp; Wolds</li> </ul>
Scarborough and Whitby Area Constituency Committee	15 Members representing: <ul style="list-style-type: none"> <li>• Castle</li> <li>• Cayton</li> <li>• Danby &amp; Mulgrave</li> <li>• Derwent Valley &amp; Moor</li> <li>• Eastfield</li> <li>• Esk Valley &amp; Coast</li> <li>• Falsgrave &amp; Stepney</li> <li>• Newby</li> <li>• Northstead</li> <li>• Scalby &amp; the Coast</li> <li>• Seamer</li> <li>• Weaponness &amp; Ramshill</li> <li>• Whitby Streonshalh</li> <li>• Whitby West</li> <li>• Woodlands</li> </ul>

NAME OF COMMITTEE	COMPOSITION
Selby and Ainsty Area Constituency Committee	16 Members representing: <ul style="list-style-type: none"> <li>• Appleton Roebuck &amp; Church Fenton</li> <li>• Barby &amp; Riccall</li> <li>• Boroughbridge &amp; Claro (part)</li> <li>• Brayton &amp; Barlow</li> <li>• Camblesforth &amp; Carlton</li> <li>• Cawood &amp; Escrick</li> <li>• Cliffe &amp; North Duffield</li> <li>• Monk Fryston &amp; South Milford</li> <li>• Osgoldcross</li> <li>• Ouseburn (part)</li> <li>• Selby East</li> <li>• Selby West 1</li> <li>• Selby West 2</li> <li>• Sherburn in Elmet</li> <li>• Spofforth with Lower Wharfedale &amp; Tockwith</li> <li>• Tadcaster</li> <li>• Thorpe Willoughby &amp; Hambleton</li> <li>• Washburn &amp; Birstwith (part)</li> </ul>

All Area Constituency Committees shall have power to co-opt additional members, but no co-opted members shall have the right to vote unless the law so requires. No co-opted member who has been given the right to vote may vote on the question of whether any other co-opted member(s) should have that right or on whether they or any other co-opted member should continue to have that right.

- (b) **Terms of reference:** All Area Constituency Committees have the same terms of references in relation to their respective areas as set out in Part 3.
- (c) **Delegations:** The Council and the Executive will include details of the delegations to Area Constituency Committees in Part 3 of this Constitution, including the functions delegated (showing which are the responsibility of the Executive and which are not), the composition and membership of the committees, budgets and any limitations on delegation.
- (d) **Finance:** Area Constituency Committees will exercise overall responsibility for the finances made available to them.
- (e) **Liaison with Executive:** The Area Constituency Committees are able to report issues of concern directly to Executive either through the appropriate Executive Member or as an agenda item at a public meeting of Executive.

### 10.03 Conflicts of interest – Membership of Area Constituency Committees and Overview and Scrutiny Committees

- (a) **Conflict of interest:** If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Area Constituency Committee of which an Overview and Scrutiny Committee Councillor is also a member, then the Councillor concerned may not take part in the discussion or vote

at the Overview and Scrutiny Committee meeting if they were present at the Area Constituency Committee meeting in question and took part in the decision making (except that a Councillor may provide evidence or opinion to those undertaking any scrutiny process), unless a dispensation to do so is given by the Standards and Governance Committee.

- (b) **General policy reviews:** Where an Overview and Scrutiny Committee is reviewing policy generally the Member must declare their interest before the relevant agenda item is reached, but need not withdraw.

#### **10.04 Area Constituency Committees – access to information**

Area Constituency Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for Area Constituency Committee meetings may deal with both functions of the Executive and functions which are not the responsibility of the Executive: non-executive functions will be marked with an asterisk (\*).

#### **10.05 Executive members on Area Constituency Committees**

A member of the Executive may serve on an Area Constituency Committee if otherwise eligible to do so as a Councillor.

# Article 11 - Joint Arrangements

## 11.01 Arrangements to promote wellbeing

Subject to statutory limitations, the Council has power to do anything that individuals generally may do including:

- (a) power to do it anywhere in the United Kingdom or elsewhere;
- (b) power to do it for a commercial purpose or otherwise for a charge, or without charge; and
- (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.

## 11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities and any Councillor may be appointed to such a joint committee.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities, and only Executive Members may be appointed to such a joint committee.
- (c) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

## 11.03 Access to information

The Access to Information Rules in Part VA of the Local Government Act 1972 will apply to joint committees established under this Article.

## 11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

## **11.05 Contracting Out**

The Council (for non-executive functions) and the Executive (for executive functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the other body or organisation acts as the Council's contractor or agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

# Article 12 – Staff

## 12.01 Terminology

- (a) **General:** The Council may engage such staff as it considers necessary to carry out its functions. All staff will work on the basis of political neutrality and service to the whole Council. Professional staff, who advise on and/or implement Council decisions, are also known as Officers.
- (b) **Chief Officers:** The full Council will engage persons for the following posts, who will be designated Chief Officers:
- ♦ Chief Executive Officer
  - ♦ Corporate Director of Health and Adult Services
  - ♦ Corporate Director of Environment
  - ♦ Corporate Director Children and Young People’s Service
  - ♦ Corporate Director of Resources
  - ♦ Corporate Director of Community Development
  - ♦ Director of Public Health for North Yorkshire.
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer:** The Council designates the following posts as shown:
- |                           |   |
|---------------------------|---|
| ♦ Head of Paid Service -  | Chief Executive Officer                                 |
| ♦ Chief Finance Officer - | Corporate Director of Resources                         |
| ♦ Monitoring Officer -    | Assistant Chief Executive Legal and Democratic Services |
| ♦ Scrutiny Officer -      | Head of Democratic Services and Scrutiny                |
- Such posts will have the functions described in Article 12.02–12.04 below.
- (d) **Proper Officer:** Certain legislation requires the Council to designate a particular officer as “Proper Officer” for the performance of certain functions. These designations are set out in Article 12.06.
- (e) **Structure:** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution.
- (f) Appointment of staff below Chief Officer level will be the responsibility of the Head of Paid Service, but may be delegated by them to other staff.

## 12.02 Functions of the Head of Paid Service

- (a) **Management:** Overall corporate management and operational responsibility including overall management responsibility for all staff, and co-ordinating the work of the Council’s Directorates.
- (b) **Professional advice:** The provision of professional advice to all parties in the decision making process.

- (c) **Record Keeping:** Together with the Monitoring Officer, responsibility for a system of record keeping for all decisions made by or on behalf of the Council.
- (d) **Representation:** Representing the Council on partnership and external bodies as required.
- (e) **Discharge of functions by the Council:** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- (f) **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and balance in decision making:** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Executive in relation to an executive function) if the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will be sent to all Members of the Council and will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards and Governance Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct and ethics through provision of support to the Standards and Governance Committee.
- (d) **Receiving complaints and reports:** The Monitoring Officer will receive and act on complaints that Members may have breached the Members' Code of Conduct and any reports made by Investigating Officers appointed by the Monitoring Officer and any determination decisions of the Standards and Governance Committee and/or its Hearings Panel.
- (e) **Assessment of complaints and conducting investigations:** The Monitoring Officer will assess complaints made, in consultation with the Independent Person for standards, and will decide whether a complaint merits formal investigation or other action. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be investigated by an officer nominated by the Monitoring Officer.
- (f) **Advising whether executive decisions are within the budget and policy framework:** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.



- (g) **Providing advice:** The Monitoring Officer (in liaison as necessary with the Chief Finance Officer) will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (h) **Restrictions on posts:** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **12.04 Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council (or to the Executive in relation to an executive function) and send a copy of the report to all Members of the Council and to the Council's external auditor if the Chief Finance Officer considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council (or the Executive) is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs:** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management:** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice:** The Chief Finance Officer (in liaison as necessary with the Monitoring Officer) will provide advice on the scope of powers and authority to take decisions, maladministration in relation to financial matters, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and staff in their respective roles.
- (e) **Give financial information:** Where required by law or authorised by the Council, the Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in the opinion of those Officers sufficient to allow their duties to be performed.

## 12.06 Proper Officer Functions

The following Officers are designated to perform the functions of Proper Officer in relation to the matters set out below:

(a) Local Government Act 1972

SECTION	DUTIES	PROPER OFFICER
13(3)	Parish Trustee where no Parish Council.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
83(1)	To receive the declaration of acceptance of office by the Chair, Vice-Chair or Councillor of the Council.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
83(3)	To witness the declaration of acceptance of office by the Chair, Vice-Chair or Councillor of the Council.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
84	To receive written notice of resignation from any office under the Local Government Act 1972.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
86	Duty to declare vacancy in office in certain cases.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
87	Duty to give public notice of a casual vacancy.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
88(2)	To convene a meeting of the Council for the election of Chair of the Council on a casual vacancy occurring.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
89(1)(b)	To receive written notice of a casual vacancy in the office of a Councillor from two local Government electors.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
146(1)(a) (re: transfer of securities of a company in the name of a local authority)	To make statutory declarations as to the securities and the change of name and identity of an authority on the transfer of those securities into the new name of the authority.	Assistant Chief Executive Legal and Democratic Services or, in their absence a Principal Lawyer.
146(1)(b) (re: transfer of securities of a company in the name of a local authority)	To give a certificate confirming that a local authority has become entitled to securities, dividends or interest standing in the name of another local authority.	Assistant Chief Executive Legal and Democratic Services or, in their absence a Principal Lawyer.
191(2)	To receive applications concerning surveying under Section 1 of the Ordnance Survey Act 1841.	Corporate Director of Environment.
204(3)	To receive notice of an application for Justices Licence under Schedule 2 Licensing Act 1964.	Corporate Director of Environment.
210(6) and (7)	Duties related to charities.	Corporate Director of Resources.
225(1)	To receive and retain such documents as are specified by the Standing Orders of the House of Commons, or any enactment or instrument, in the manner and for the purposes directed and to make such notes and endorsements thereon and to give such acknowledgements and receipts in respect thereof as may be so directed.	Assistant Chief Executive Legal and Democratic Services.

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
229(5)	To give a certificate in legal proceedings that a document is a photographic copy of a document or of any part of a document which is in the custody of, or has been destroyed while in the custody of a local authority.	Assistant Chief Executive Legal and Democratic Services.
234(1)	To sign on behalf of the authority any notice, order or other document which the authority is authorised or required to give, make or issue.	Assistant Chief Executive Legal and Democratic Services.
238	To sign a certificate endorsed on a printed copy of any byelaws (relating to the authenticity of the byelaw).	Assistant Chief Executive Legal and Democratic Services.
Schedule 12 para 4(2)(b)	To sign summons (to every Member of the Council) to attend a meeting of the Council, specifying the business proposed to be transacted.	Assistant Chief Executive Legal and Democratic Services.
Schedule 12 para 4(3)	To receive written notice from a Member that the summons to attend meetings of the Council shall be sent to some other address than his place of residence.	Assistant Chief Executive Legal and Democratic Services.
Schedule 14 Part II Para 25	To certify resolutions of the Council.	Assistant Chief Executive Legal and Democratic Services.
Schedule 16(28)	To receive on deposit lists of buildings of special architectural or historic interest under Section 54(4) of the Town and Country Planning Act.	Head of Service, Heritage Unit.
Schedule 29 para 41(5)	Section 20(b) of Registration Service Act 1953 – prescription of duties, in Regulations of Clerks of County Council under Registration Acts.	Corporate Director of Environment
100B(2)	Excluding from inspection by members of the public the whole or part of any report which, in his opinion, is not likely to be considered in public at a Council, Committee or Sub-Committee meeting.	Assistant Chief Executive Legal and Democratic Services.

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
100B(7)	Deciding whether or not a newspaper should be supplied with copies of any documents supplied to Members of the Council other than agenda, reports and statements or particulars indicating the nature of agenda items.	Assistant Chief Executive Legal and Democratic Services.
100C(2)	Making (without disclosing exempt information) a written summary to provide members of the public with a reasonably fair and coherent record of the whole or part of proceedings where part of the Minutes of a meeting are not open to inspection by members of the public because they disclose exempt information.	Assistant Chief Executive Legal and Democratic Services.
100(D)(1)	The compilation of a list of background papers.	Assistant Chief Executive Legal and Democratic Services.
100D(5)	Definition of background papers – opinion of proper officer.	Assistant Chief Executive Legal and Democratic Services.
100F(2)	To determine whether a document does not require to be open to inspection.	Assistant Chief Executive Legal and Democratic Services.

(b) Highways Act 1980

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
205(5) (re: private street works)	To certify a copy of the resolution of the local authority approving the specifications and estimates and apportionment and a copy of those documents for keeping on deposit open to public inspection.	Assistant Chief Executive Legal and Democratic Services.
210(2) (re private street works)	To certify a document giving details of the amendment of any estimate and consequential amendment of any apportionment for keeping on deposit open to public inspection.	Assistant Chief Executive Legal and Democratic Services.

(c) Local Government and Housing Act 1989

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
15	To receive notification from Members of the formation of, and changes to, political groups.	Assistant Chief Executive Legal and Democratic Services.
19	Receiving information concerning Members' interests, and keeping that information up to date.	Assistant Chief Executive Legal and Democratic Services.

(d) Representation of the People Act 1983

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
8	To be the Electoral Registration Officer.	Chief Executive Officer.
	To be the Deputy Electoral Registration Officer.	Assistant Chief Executive Legal and Democratic Services.
35	To be the Returning Officer for elections of Councillors of the County.	Chief Executive Officer.
39(4)	Powers in respect of holding elections.	Chief Executive Officer.

(e) Localism Act 2011

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
33(1)	To be the Proper Officer for receiving written requests for dispensations from Members and voting co-opted Members from either or both of the restrictions in section 31(4) of the Act.	Assistant Chief Executive Legal and Democratic Services and Monitoring Officer.

(f) Local Government Finance Act 1988

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
116	To be the Proper Officer that informs the Council's external auditor of the date, time place and outcome of any meetings held under Section 115 of the Act.	Corporate Director of Resources.

(g) Public Health Legislation

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
National Assistance Act 1948 Section 47	To initiate action for removal of persons in need of care and attention.	Director of Public Health or their nominee.
Public Health (Control of Disease) Act 1984 Section 48	To issue certificates relative to the removal of bodies to mortuaries or for immediate burial.	Director of Public Health or their nominee.
The Health Protection (Notification) Regulations 2010 Regulations 2, 3 and 6	To receive and forward information about notifications.	Director of Public Health or their nominee.
Public Health Act 1936 Sections 84 and 85	To deal with verminous persons, clothing or articles and any enactments amending or replacing sections 84 and 85 of the Public Health Act 1936.	Director of Public Health or their nominee.

(h) Registration legislation

Registration Service Act 1953

SECTION	DUTIES	PROPER OFFICER
Section 9(1)	The determination of a deputy to become interim Superintendent Registrar or interim Registrar of Births and Deaths if the latter ceases to hold office.	Corporate Director of Environment or nominated officer.
Section 9(2)	The appointment of interim Superintendent Registrar or Registrar of Births and Deaths where no deputy.	Corporate Director of Environment or nominated officer.
Section 13(2)(h)	Details of running of service hours-in-business Superintendent Registrars.	Corporate Director of Environment or nominated officer.
Section 13(3)(b)	General supervisory powers over administration of Registration Service Act.	Corporate Director of Environment or nominated officer.

(i) Counter-fraud legislation

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

SECTION	DUTIES	PROPER OFFICER
	To act as, and exercise the functions of, the Money Laundering Compliance Officer.	Assistant Chief Executive Legal and Democratic Services and Monitoring Officer.
	To act as, and exercise the functions of, the Money Laundering Reporting Officer (MLRO).	Head of Internal Audit.
	To act as, and exercise <u>the</u> functions of, the Deputy Money Laundering Reporting Officer (Deputy MLRO).	Internal Audit Officer.

(j) the Building Act 1984

SECTION	DUTIES	PROPER OFFICER
	The Proper Officer functions set out in the Building Act 1984.	Corporate Director of Community Development.

Where any other legislation enables or requires the Council to appoint a Proper Officer for any purpose or function, the Assistant Chief Executive Legal and Democratic Services is the designated Proper Officer.



## **12.07 Conduct**

Staff will comply with the Employees' Standards of Conduct Policy (Code of Conduct) published on the Council's Intranet and the Protocol for Member/Employee Relations set out in Part 5 of this Constitution.

## **12.08 Employment**

The recruitment, selection and dismissal of staff will comply with the Staff Employment Procedure Rules set out in Part 4 of this Constitution.

# Article 13 - Decision Making

## 13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

## 13.02 Principles of Decision Making

All decisions made by or on behalf of the Council will be made in accordance with the following principles:

- ◆ Respect for human rights and equality of opportunity
- ◆ Presumption of openness
- ◆ Clarity of aims and desired outcomes
- ◆ Decisions will be proportionate to the intended objective
- ◆ Having regard to relevant facts and considerations, and disregarding irrelevant ones
- ◆ Due consultation and taking professional advice from Officers
- ◆ Explaining options considered and giving reasons

The Council operates a Local Code of Corporate Governance, the operation of which is overseen by the Audit Committee.

## 13.03 Types of Decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions.
  - (i) A key decision means a decision made in connection with the discharge of a function which is the responsibility of the Executive and which is likely:
    - (aa) to result in the Council incurring expenditure, or making savings, which are significant having regard to the Council's budget for the service or function to which the decision relates; or
    - (bb) to be significant in terms of its effects on more than one community.
  - (ii) For the purposes of (i)(aa) above, savings or expenditure are significant if they are equal to or greater than £500,000 or 20% of the gross expenditure of the relevant budget service area (as explained in the Financial Procedure Rules relating to virement) whichever is the less, but, subject to (i)(bb) above, does not include:
    - ◆ a decision concerning a bid for funding;
    - ◆ a decision taken on expenditure specifically identified within budget approved by Council on items necessary for normal operational service delivery.

NB: Where the decision will also have a significant impact on more than one community (as well as the significant financial impact) then the above exclusions should not generally be relied upon.

- (iii) For the purposes of (i)(aa) and (bb) above, a key decision does not include:
- ♦ a decision taken for the purpose of implementing an earlier key decision.

Access to information legislation sets out additional requirements upon local authority decision-making in relation to key decisions. These are incorporated in the Council's Access to Information Procedure Rules in Part 4 of the Constitution.

- (iv) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### **13.04 Decision making by the full Council**

The Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.05 Decision making by the Executive**

The Executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.06 Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.07 Decision making by other committees and sub-committees established by the Council**

Other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **13.08 Decision making by individuals**

Where decisions are delegated to individual Councillors or Officers, the individual concerned will respect the principles set out in Article 13.02 in taking such decisions.

#### **13.09 Conflicts of interest**

Subject to any right to speak under the Members' Code of Conduct and/or dispensation obtained from the Standards and Governance Committee or Monitoring Officer, no Councillor will take, or participate in, a decision in which they have an interest precluding participation under the Members' Code of Conduct; and where an individual Executive member has delegated power to take a decision, but, has such an interest, the matter will be referred to the Executive for a decision.

# **Article 14 - Finance, Contracts and Legal Matters**

## **14.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

## **14.02 Contracts**

Every contract made by the Council will comply either with the Procurement and Contract Procedure Rules or Property Procedure Rules (set out in Part 4 of this Constitution) as appropriate.

## **14.03 Legal proceedings**

The Assistant Chief Executive Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Chief Executive Legal and Democratic Services considers that such action is necessary to protect the Council's interests.

## **14.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Chief Executive Legal and Democratic Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

## **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Chief Executive Legal and Democratic Services. A decision of the Council, or of any person or body exercising delegated power, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Chief Executive Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Assistant Chief Executive Legal and Democratic Services or some other person authorised by them.

# Article 15 - Review and Revision of the Constitution

## 15.01 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Monitoring Officer will undertake a formal review of the whole Constitution every four years, and present a report to the Council.

## 15.02 Changes to the Constitution

- (a) **Approval.** Subject to (c) below changes to the Constitution will only be approved by the full Council.
- (b) **Councillors.** Any Councillor who wishes to propose a change to the Constitution shall consult the Monitoring Officer, who may report to the Council in relation to the proposed amendment.
- (c) The Assistant Chief Executive Legal and Democratic Services may amend this 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.

# Article 16 - Suspension, Interpretation and Publication of the Constitution

## 16.01 Suspension of the Constitution

- (a) The Articles of this Constitution may not be suspended.
- (b) Parts 3, 5 and 6 of this Constitution may not be suspended.
- (c) Procedure Rules in Part 4 of this Constitution may be suspended by the Council or (in relation to its own business) by the Executive or by a committee, but only to the extent permitted by law, and the extent and duration of any suspension must be proportionate to the result to be achieved.
- (d) A motion to suspend any Procedure Rule(s) will not be moved unless either:
  - ♦ the motion is included on the agenda for the meeting; or
  - ♦ the suspension is proposed in a written report which relates to an item on the agenda for the meeting; or
  - ♦ at least half of the number of Councillors entitled to be present at the meeting are present when the proposal is made.

## 16.02 Interpretation

The ruling of the Chair of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## 16.03 Publication

- (a) The Assistant Chief Executive Legal and Democratic Services will maintain the Constitution of the authority at County Hall, and will ensure that copies are maintained on the Council's Intranet and its website.
- (b) The Assistant Chief Executive Legal and Democratic Services will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and that hard copies can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Assistant Chief Executive Legal and Democratic Services will ensure that the summary and explanation of the Constitution is made widely available within the area and is updated as necessary.

# Part 3

## Responsibility for Functions

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## **Explanatory Introduction**

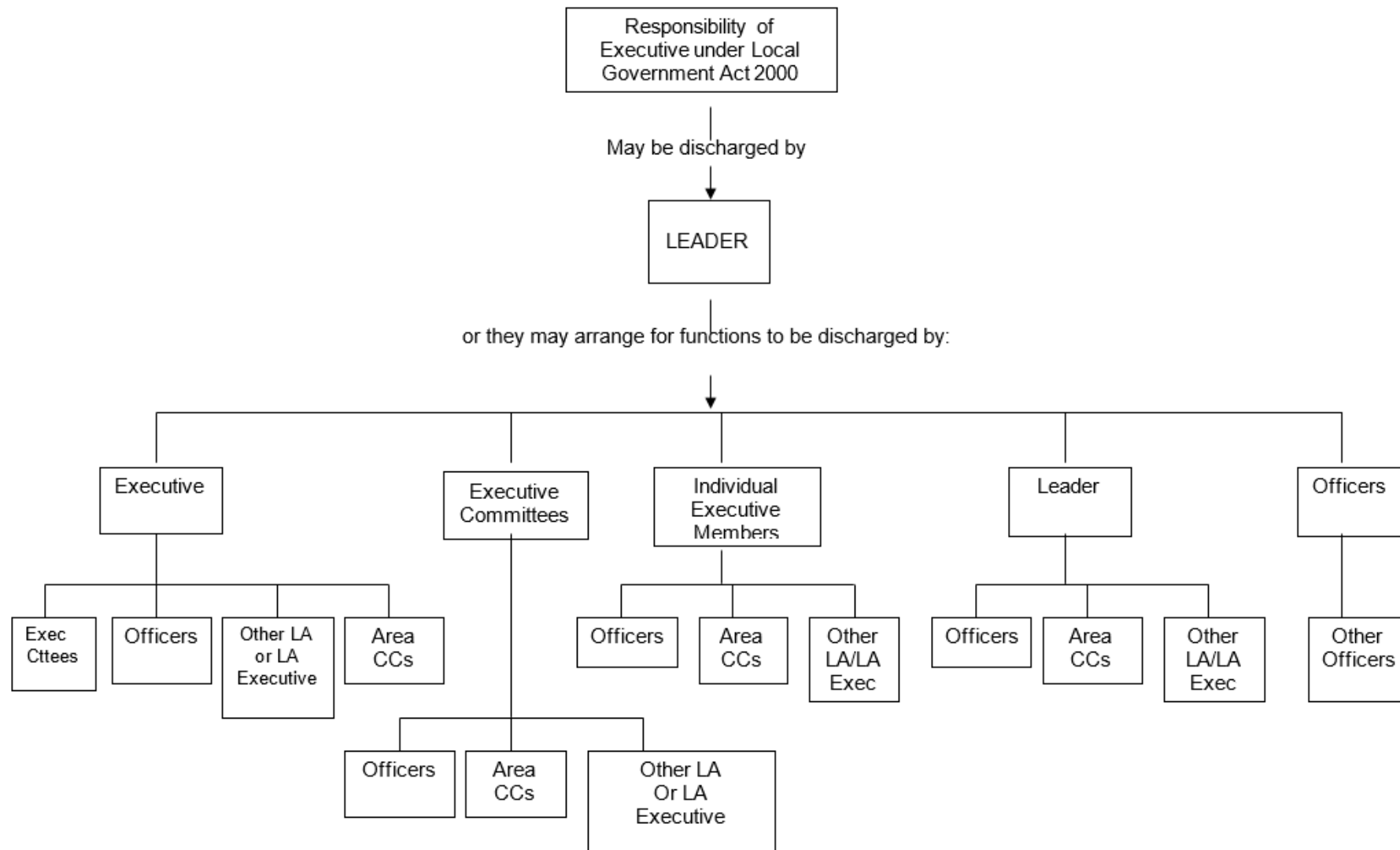
*[This note does not itself form part of the Constitution]*

1. *This note provides a brief introduction to Part 3 of the Constitution, which deals with responsibility for functions: that is, what persons in the organisation have what powers of decision making. Part 3 sets out terms of reference/delegated powers for all bodies and persons except full Council (whose powers are contained in Article 4 of the Constitution) and Overview and Scrutiny Committees (whose powers are set out in Article 6)).*
2. *Prior to the Local Government Act 2000 (as amended), the legal framework in relation to delegation of powers was relatively simple. Legally, all powers were given to local authorities which had the power to delegate the exercise of these powers to committees, sub-committees or officers. Within this simple structure, was scope for sub-delegation (for example by a committee to an Officer), and also scope for powers to be delegated to other local authorities. All of this framework is based on Section 101 of the Local Government Act 1972.*
3. *The Local Government Act 2000 (as amended) allows for the operation of an executive structure, which the Council has chosen to operate. Now, the decision making framework is not so simple. Instead of all functions being those of the Council, there is a fundamental division of functions between those which are the responsibility of the Executive, and those which are not. The functions which are not the responsibility of the Executive remain subject to the decision making framework set out in the Local Government Act 1972, as explained in the previous paragraph. The functions which are the responsibility of the Executive will be covered in "Executive Arrangements", and which the Leader can either exercise personally or allocate to the Executive itself, committees of the Executive, individual Executive members, or Officers. Again there is a structure of sub-delegation whereby, for example, an individual Executive member who is given powers by the Leader may (unless the Leader otherwise directs) delegate to an Officer.*
4. *The attached flowcharts set out the above framework.*
5. *Local authorities operating executive arrangements must divide all of their functions between those which are the responsibility of the Executive and those which are not. In large part, this is done by legislation. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) lists powers of local authorities which are not the responsibility of the Executive. A separate list in the same Regulations contains local authority powers which councils may decide either to give to the Executive or not: these are referred to as "local choice functions". It is open to local authorities to choose locally whether to allocate them to the Executive or not. The Government has provided detailed guidance to local authorities on the allocation of these powers. Paragraph 4 of Part 3 deals with local choice functions.*
6. *Apart from the specific matters referred to above, together with determination of the budget and Policy Framework, all local authority functions are the responsibility of the Executive.*

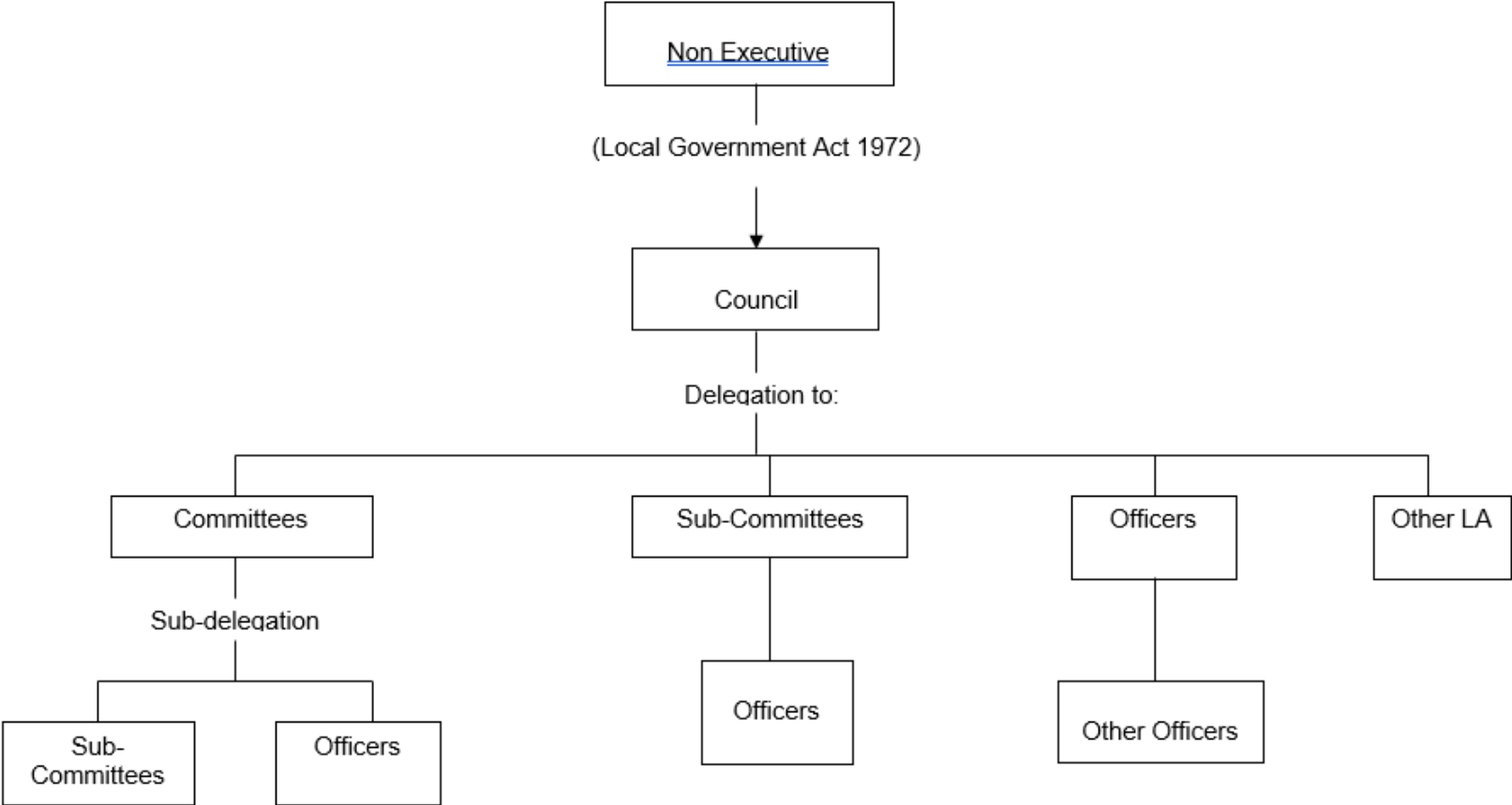


7. *The legislation in relation to delegation of powers is very complex, with many detailed and prescriptive rules. Part 3 of the Constitution observes these rules, whilst seeking to create a framework for decision making which is as manageable as possible. One example of this is that Area Constituency Committees may have delegated to them by the Council various functions which are not the responsibility of the Executive; and may have delegated to them through the executive arrangements functions which are the responsibility of the Executive. Area Constituency Committee agendas must distinguish between items which are the responsibility of the Executive and those which are not. Rather than have two separate lists of powers delegated to Area Constituency Committees, this is set out as a single list, with powers delegated by the Council marked with an asterisk.*
  
8. *The main text of Part 3 is contained in paragraphs 1-6. Schedule 1 then deals with the various committees established to perform non-executive functions. Schedule 3 uses the same format to set out the membership of Overview and Scrutiny Committees. The terms of reference of these committees are not contained in Part 3, because they are fully set out in Article 6. Schedule 2 to Part 3 deals with the Executive, and in particular with the delegation of Executive functions. Schedule 4 contains the Officers' Delegation Scheme, and Schedule 5 deals with appointments to outside bodies.*

## Executive Functions



**Non-Executive Functions**



# Responsibility for Functions

*The North Yorkshire (Structural Changes) Order 2022 came into force on 18 March 2022 and facilitated the transition from the existing two tier system of county council and district/borough councils in North Yorkshire to a single unitary council from 1 April 2023.*

## 1. GENERAL

1.1 All of the Council's functions are the responsibility of either:

- ♦ Full Council; or
- ♦ The Executive

1.2 Functions which are the responsibility of full Council may be delegated to a committee, (including an Area Constituency Committee), a sub-committee, an Officer or another local authority, or to a member of the Council (to the extent that the function is exercisable in relation to the electoral division for which the member is elected), and in accordance with arrangements made by the Council.

1.3 Functions which are the responsibility of the Executive may be discharged by the Leader or allocated by the Leader to the Executive, a committee of the Executive, an individual member of the Executive, or an Officer. Executive functions may also be delegated to an Area Constituency Committee, to a member of the authority under arrangements made by the Leader (to the extent that the function is exercisable in relation to the electoral division for which the member is elected), or another local authority or its executive, or joint arrangements entered into, in accordance with the relevant statutory requirements.

1.4 The law provides a framework under which:

- ♦ some functions must be the responsibility of the Executive
- ♦ some functions must not be the responsibility of the Executive
- ♦ some functions may or may not be the responsibility of the Executive

The latter are known as "local choice functions", and it is a requirement that this Constitution sets out in detail who is responsible for them.

1.5 Any reference in this part of the Constitution to any function, and any delegation of power includes all action associated with that function or power and all related enforcement action.

1.6 This part of the Constitution defines the respective responsibilities of the Council and the Executive, and explains the arrangements for delegation of these responsibilities.

## 2. FUNCTIONS OF THE FULL COUNCIL

2.1 The Council is responsible for determination of

- ♦ the budget, as defined in Article 4.01(b)
- ♦ the Policy Framework, as defined in Article 4.01(a)
- ♦ the constitutional and related functions set out in Article 4.02.

2.2 Under Article 6 of this Constitution, the Council's Overview and Scrutiny Committees have important roles in relation to review and scrutiny of decisions, call in of executive decisions, and scrutiny reviews. These roles are set out in Articles 6.02 and 6.03, and include assisting the Council and the Executive in the development of the budget and of the Policy Framework.

2.3 Functions which involve:

- ♦ determining applications for licences, approvals, consents, permissions or registration
- ♦ direct regulation of persons or activities
- ♦ enforcement action related to the above
- ♦ approving the Council's statement of accounts, income and expenditure and balance sheet;

may not, by law, be the responsibility of the Executive. The Council delegates these functions to the relevant Committees as set out in Schedule 1. Responsibility for local choice functions is set out in section 4 below, under which some of these functions are the responsibility of full Council or a committee appointed by it.

2.4 Issues related to ethics, conduct, elections, community governance, making recommendations on Honorary Aldermen/women and residual powers in relation to consultation on personal Bills are matters for the Standards and Governance Committee. The terms of reference of the Standards and Governance Committee are set out in Part 3 Schedule 1.

2.5 In accordance with the Human Rights Act 1998, the Council has established an Appeals Committee (Home to School Transport) and an Employment Appeals Committee, with the functions set out in Schedule 1 in order to ensure that no one who was involved in making a decision is involved in the determination of an appeal against that decision.

2.6 The Council is administering authority for the North Yorkshire Pension Fund. The Council delegates these functions to the Pension Fund Committee, as set out in Schedule 1.

2.7 Appointment of Chief Officers is dealt with by the Chief Officers Appointments and Disciplinary Committee, as set out in Schedule 1 and appointment of other staff is dealt with as set out in the Staff Employment Procedure Rules.

2.8 Certain powers of the Council in relation to highways, common land and other environmental issues are delegated to Area Constituency Committees and the Area Constituency Planning Committees as set out in Schedule 1 (the powers in question are those marked \* ).

2.9 Functions of the Council relating to police accountability under the Police Reform and Social Responsibility Act 2011 including the establishment and maintenance of, and membership of, the police, fire and crime panel for the North Yorkshire police force area (as a joint committee of the Council and the City of York Council), as set out in Schedule 1.

2.10 Certain powers of the Council in relation to licensing and registration are delegated to the Statutory Licensing Committee and Sub-Committees and General Licensing and Registration Committee and Sub-Committees as set out in Schedule 1.

### **3. FUNCTIONS OF THE EXECUTIVE**

3.1 All functions of North Yorkshire Council not referred to in paragraph 2 above or delegated to Officers by the Council under 5.3 below are the responsibility of the Executive. Such functions are not to be discharged (or delegated) by full Council.

3.2 Without limiting the scope of 3.1 above, the Executive (directly or by delegating its powers as described below) has the following functions and responsibilities:

- (a) proposing the budget to full Council, including preparation of estimates and the amount of the proposed precept, and any reconsideration or revision of those estimates and amounts;
- (b) proposing to full Council new policies (or amendments to existing policies) which fall within the Policy Framework as defined in Article 4.01(a);
- (c) adopting on behalf of the Council any plans or strategies which do not form part of the Policy Framework;
- (d) implementing and delivering the agreed budget and Policy Framework;
- (e) taking all decisions other than those referred to in paragraph 2 above;
- (f) responsibility for local choice functions to the extent indicated in the table below;
- (g) discharging the Council's responsibilities as an employer for health and safety; and
- (h) making appointments to outside bodies in connection with functions which are the responsibility of the Executive;

3.3 All plans and strategies falling within the Policy Framework shall be considered by the Executive, who shall make recommendations thereon to full Council. However, it is for full Council to:

- ♦ instruct the Executive to reconsider any draft plan or strategy;
- ♦ amend any draft plan or strategy submitted by the Executive;
- ♦ approve for public consultation proposals for alterations to, or the replacement of, the Development Plan;
- ♦ approve any plan or strategy for submission to government (where required);
- ♦ adopt any plan or strategy with or without modification.

Apart from the above, all functions in relation to developing plans and strategies falling within the Policy Framework shall be performed by the Executive.

3.4 The function of amending, modifying, varying or revoking any plan or strategy falling within the Policy Framework shall be performed by the Executive:

- ♦ if it is required for giving effect to governmental requirement; or
- ♦ if it was authorised by full Council when approving or adopting the plan or strategy;

but otherwise that function shall be performed by the Council.

#### 4. TABLE: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Decision making body	Extent of responsibility
1. Functions under the North Yorkshire County Council Act 1991.	General Licensing and Registration Committee  The Executive	Functions which involve either determining an application for a licence, approval, consent, permission or registration; direct regulation of a person; or any related enforcement actions.  All other functions.
2. Functions under the Harrogate Stray Act 1985	The Executive	All functions
3. Functions under the Harrogate Borough Council Act 1986	The Executive	All functions
4. Whitby Piers and Harbour Act 1827	The Executive	All functions
5. Whitby Improvement Act 1841	The Executive	All functions
6. Local Government Board's Provisional Orders Confirmation Act 1874 (No.3)	The Executive	All functions
7. Whitby Port and Harbour Act 1879	The Executive	All functions
8. Pier and Harbour Orders Confirmation Act 1881	The Executive	All functions
9. Pier and Harbour Orders Confirmation (No.2) Act 1883	The Executive	All functions
10. Whitby Urban District Council Act 1905	The Executive	All functions

Function	Decision making body	Extent of responsibility
11. Local Government Board's Provisional Orders Confirmation (No.12) Act 1914	The Executive	All functions
12. Scarborough Harbour Act 1843	The Executive	All functions
13. Scarborough Harbour Act 1846	The Executive	All functions
14. Scarborough Improvement Act 1889	The Executive	All functions
15. Scarborough Corporation Act 1900	The Executive	All functions
16. Local Government Board's Provisional Orders Confirmation (No 8) Act 1905	The Executive	All functions
17. Pier and Harbour Orders Confirmation Act 1918	The Executive	All functions
18. Scarborough Corporation Act 1925	The Executive	All functions
19. Scarborough Corporation Act 1931	The Executive	All functions
20. Pier and Harbour Order (Scarborough) Confirmation Act 1935	The Executive	All functions
21. Scarborough Harbour Order 1952	The Executive	All functions
22. Scarborough Harbour Revision Order 1969	The Executive	All functions
23. Scarborough Borough Council Act 1985	The Executive	All functions
24. Filey Improvement Act 1904	The Executive	All functions
25. Filey Urban District Council Act 1920	The Executive	All functions
26. The determination of an appeal against any decision made by or on behalf of the Council.	<p>Appeals Committee (Home to School Transport)</p> <p>Employment Appeals Committee</p> <p>The Executive</p>	<p>To the extent set out in the terms of reference of the Appeals Committee (Home to School Transport).</p> <p>To the extent set out in the terms of reference of the Employment Appeals Committee.</p> <p>All other appeals.</p>



<b>Function</b>	<b>Decision making body</b>	<b>Extent of responsibility</b>
27. The making of arrangements for appeals against the exclusion of pupils from schools.	Appeals Committee (Home to School Transport)	NB that the appeals themselves are heard by independent panel members appointed by the Appeals Committee (Home to School Transport).
28. The making of arrangements in relation to school admission appeals.	Appeals Committee (Home to School Transport)	NB that the appeals themselves are heard by independent panel members appointed by the Appeals Committee (Home to School Transport).
29. The making of arrangements in relation to appeals by Governing Bodies.	Appeals Committee (Home to School Transport)  Employment Appeals Committee	To the extent set out in the terms of reference of the Employment Appeals Committee.
30. Any function relating to contaminated land.	Executive	All functions
31. The discharge of any function relating to the control of pollution or the management of air quality.	General Licensing and Registration Committee  The Executive	Functions which involve determining an application for a licence, approval, consent, permission or registration, or direct regulation of a person, together with any related enforcement action.  All other functions.
32. The service of an abatement notice in respect of a statutory nuisance.	Executive	All functions
33. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive	All functions

Function	Decision making body	Extent of responsibility
34. The inspection of the authority's area to detect any statutory nuisance.	Executive	All functions
35. The investigation of any complaint as to the existence of a statutory nuisance.	Executive	All functions
36. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Executive  General Licensing and Registration Committee	To the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders.  Exercise of the powers for all other purposes.
37. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Executive  General Licensing and Registration Committee	} Division of responsibility as for 36 above.
38. The making of agreements under Section 278 of the Highways Act 1980 for the execution of highway works.	The Executive	
39. The appointment (and the revocation of any such appointment) of any individual:  (a) to any office other than employment by the authority;  (b) to any body (or committee or sub-committee of such a body) other than the authority itself or a joint committee of two or more authorities.	The Executive  Full Council	In connection with functions which are the responsibility of the Executive.  All other appointments.
40. Making agreements with other local authorities for the placing of staff at the disposal of those other authorities.	The Executive  Full Council	In connection with functions which are the responsibility of the Executive.  In all other cases.

Function	Decision making body	Extent of responsibility
41. Any function of a local authority in its capacity as a statutory Harbour Authority for Scarborough Harbour, the Port and Harbour of Whitby and Filey Coble Landing (to the extent that the function is not covered by a local act).	The Harbour Master  The Executive	To the extent set out in the Officers' Delegation Scheme.  All other functions.

## 5. DELEGATION OF FUNCTIONS BY THE COUNCIL

- 5.1 The Council delegates to the Strategic Planning Committee, the Area Constituency Planning Committees, the Statutory Licensing Committee and Sub-Committees, the General Licensing and Registration Committee and Sub-Committees, the Standards and Governance Committee, the Audit Committee, the Appeals Committee (Home to School Transport), the Employment Appeals Committee the Chief Officers Appointments and Disciplinary Committee and the Pension Fund Committee the powers set out as the delegated powers of those committees in Part 3 of this Constitution.
- 5.2 The Council delegates to the Area Constituency Committees named in Article 10 the non-executive functions which are contained in the delegated powers of Area Constituency Committees in Part 3 of this Constitution and marked \*. (This marking is to distinguish executive and non-executive functions in the delegated powers of Area Constituency Committees).
- 5.3 The Council delegates to Officers the non-executive functions which are contained in the Officers Delegation Scheme and marked \*. (This marking is to distinguish executive and non-executive functions in the Officers' Delegation Scheme).
- 5.4 The Council delegates its powers to create, stop up and divert footpaths, bridleways and byways open to all traffic, and those other powers specified in agreements between the Council and the Authorities concerned, to the North York Moors National Park Authority and the Yorkshire Dales National Park Authority within the respective geographical boundaries of those Authorities.
- 5.5 Functions of the Council relating to police accountability under the Police Reform and Social Responsibility Act 2011, including the functions of the police, fire and crime panel for the North Yorkshire police force area, are delegated to the North Yorkshire Police, Fire and Crime Panel (as a joint committee of the Council and the City of York Council), as set out in Schedule 1.
- 5.6 The delegation of these powers operates under Section 101 of the Local Government Act 1972 and all other powers enabling the Council.
- 5.7 Functions of health and wellbeing boards under the Health and Social Care Act 2012 and related regulations are undertaken by the Health and Wellbeing Board as set out in Schedule 1.

5.8 The non-executive powers delegated to Officers are subject to the general provisions in the Officers' Delegation Scheme.

5.9 Insofar as the making of appointments to outside bodies is a function of full Council, the Council agrees that those appointments should be made as set out in Schedule 5.

## **6. DELEGATION OF FUNCTIONS BY THE EXECUTIVE**

6.1 The delegation of functions by the Executive is set out in Schedule 2 to this Part of the Constitution.

# Schedule 1

Council Committees: their membership and their powers

1. [Strategic Planning Committee](#)
2. Area Constituency [Planning Committees](#)
3. [Statutory Licensing Committee](#)
4. Statutory Licensing Sub-Committees
5. General Licensing and Registration Committee
6. General Licensing and Registration Sub-Committees
7. [Standards and Governance Committee](#)
8. Standards and Governance Committee Hearings Panel
9. [Audit Committee](#)
10. [Appeals Committee](#) (Home to School Transport)
11. [Employment Appeals Committee](#)
12. [Chief Officers Appointments and Disciplinary Committee](#)
13. [Chief Officers Appointments Sub-Committee](#)
14. [Chief Officers Disciplinary Panel](#)
15. [Pension Fund Committee](#)
16. [Pension Board](#)
17. [Area Constituency Committees](#)
18. Health and Wellbeing Board
19. North Yorkshire Police, Fire and Crime Panel

# Strategic Planning Committee

Members must have received planning training before attending the Committee to taking an active part in the meeting/voting.

## Membership

	<b>Councillors Names</b>	<b>Political Group</b>
1	FOSTER, Richard	Conservative
2	HUGILL, David	Conservative
3	JONES, Tom	Conservative
4	LEE, Andrew	Conservative
5	MANN, John	Conservative
6	PARASKOS, Andy Chair	Conservative
7	PEACOCK, Yvonne	Conservative
8	SWIERS, Roberta	Conservative
9	BROWN, Andy	Green Party
10	VACANCY	North Yorkshire Independent
11	PACKHAM, Bob Vice Chair	Labour
12	SWANNICK, Neil	Labour
13	GOSTLOW, Hannah	Liberal Democrats and Liberal
14	TIMOTHY, Andrew	Liberal Democrats and Liberal
15	MCCARTNEY, John	North Yorkshire Independent

## Delegated Powers

The Strategic Planning Committee is responsible for the following except where delegated to an Officer:

\*(a) to exercise the powers and duties of the Council as Planning Authority in relation to all functions relating to town and country planning and development management as specified in, but not limited to Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in relation to the following matters:

- Significant planning applications relating to minerals or waste.
- Significant planning applications relating to energy or physical infrastructure accompanied by an Environmental Impact Statement and where it is intended to recommend approval.
- Planning applications for more than 500 houses and where it is intended to recommend approval.
- Planning applications which are defined as a departure from the adopted Development Plan for which the Secretary of State must be consulted and where it is intended to recommend approval.
- Planning applications where the Corporate Director of Community Development considers the application to raise significant planning issues or to raise significant strategic planning issues that affect more than one area committee geography.

- (b) Responses as a statutory consultee to Nationally Significant Infrastructure Project for which a development consent order is being sought under the Planning Act 2008.

There shall be no referral down of applications from Strategic Planning Committee to Area Constituency Planning Committees.

# Area Constituency Planning Committees

There are six Area Constituency Planning Committees which reflect the parliamentary constituencies:

- Comprising Skipton and Ripon
- Comprising Richmond (Yorks)
- Comprising Harrogate and Knaresborough
- Comprising Thirsk and Malton
- Comprising Scarborough and Whitby
- Comprising Selby & Ainsty

Each Committee to be made up of 7 Members. Each Area Constituency Planning Committee to have named substitutes from the relevant Area Constituency Committee.

Quorum – 3 Members

Members shall not participate as members of the Area Constituency Planning Committee until they have received appropriate training.

## Terms of Reference

Except where delegated to an Officer, Area Constituency Planning Committees will have the following functions for their areas:

- \* (a) to exercise the powers and duties of the Council as Planning Authority in relation to all functions relating to town and country planning and development management as specified in, but not limited to Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 that do not fall within the remit of the Strategic Planning Committee.
- \* (b) to exercise the Council's functions as the Commons Registration Authority for common land and town/village greens.
- \* (c) to exercise powers relating to the protection of important hedgerows.
- \* (d) the power to make representations to the Secretary of State regarding Public Path Creation Orders to which a duly made objection has been received following public advertisement of the Order, subject to consultation with the relevant Executive Member(s) and local Member(s).



## Harrogate and Knaresborough Area Constituency Planning Committee

### Membership

	<b>Councillors Name</b>	<b>Political Group</b>
1	MANN, John (Chair)	Conservative
2	WINDASS, Robert	Conservative
3	ALDRED, Chris (Vice Chair)	Liberal Democrats and Liberal
4	BROADBANK, Philip	Liberal Democrats and Liberal
5	GOSTLOW, Hannah	Liberal Democrats and Liberal
6	LACEY, Peter	Liberal Democrats and Liberal
7	SCHOFIELD, Mike	North Yorkshire Independent

## Skipton and Ripon Area Constituency Planning Committee

### Membership

	<b>Councillors Name</b>	<b>Political Group</b>
1	HULL, Nathan (Chair)	Conservative
2	IRETON, David	Conservative
3	HESELTINE, Robert	Conservatives and Independents
4	WILLIAMS, Andrew	Conservatives and Independents
5	BROWN, Andy (Vice Chair)	Green Party
6	NOLAND, David	Green Party
7	BRODIGAN, Barbara	Liberal Democrats and Liberal

## Richmond (Yorks) Area Constituency Planning Committee

### Membership

	<b>Councillors Name</b>	<b>Political Group</b>
1	HUGILL, David	Conservative
2	MOORHOUSE, Heather (Vice Chair)	Conservative
3	SEDGWICK, Karin	Conservative
4	THOMPSON, Angus	Conservative
5	WATSON, Steve	Conservative
6	WEBSTER, David (Chair)	Conservative
7	FOSTER, Kevin	Green Party

**Substitute:** Cllr Bryn Griffiths (Liberal Democrat and Liberal) is the named substitute for Cllr Kevin Foster

## Selby and Ainsty Area Constituency Planning Committee

### Membership

	<b>Councillors Name</b>	<b>Political Group</b>
1	CRANE, Mark	Conservative
2	LUNN, Cliff	Conservative
3	WARNEKEN, Arnold	Green Party
4	JORDAN, Mike	North Yorkshire Independent
5	PACKHAM, Bob (Vice Chair)	Labour
6	SHAW-WRIGHT, Steve	Labour
7	CATTANCH, John (Chair)	North Yorkshire Independent

## Thirsk and Malton Area Constituency Planning Committee

### Membership

	<b>Councillors Name</b>	<b>Political Group</b>
1	BAKER, Alyson	Conservative
2	KNAPTON, Nigel	Conservative
3	TAYLOR, Malcolm	Conservative
4	GOODRICK, Caroline (Chair)	Conservatives and Independents
5	CROSS, Sam	Independent (Unaffiliated)
6	ANDREWS, Joy (Vice Chair)	Liberal Democrats and Liberal
7	BURR, Lindsay	North Yorkshire Independent

## Scarborough and Whitby Area Constituency Planning Committee

### Membership

	<b>Councillors Name</b>	<b>Political Group</b>
1	PEARSON, Clive	Conservative
2	PHILIPS, Heather	Conservative
3	TRUMPER, Phil (Chair)	Conservative
4	MAW, Rich	Independent Unaffiliated
5	BROADBENT, Eric	Labour
6	SHARMA, Subash (Vice Chair)	Labour
7	JEFFERSON, Janet	North Yorkshire Independent

# Development Plan Committee

## Membership

	Councillors Names				Political Group		
1	BAKER, Alyson				Conservatives and Independents		
2	CRANE, Mark			Chair	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	MANN, John				Conservatives and Independents		
10	PARASKOS, Andy				Conservatives and Independents		
11	PEACOCK, Yvonne				Conservatives and Independents		
12	TRUMPER, Phil				Conservatives and Independents		
13	WINDASS, Robert				Conservatives and Independents		
14	ANDREWS, Joy				Liberal Democrats and Liberals		
15	BROADBANK, Philip				Liberal Democrats and Liberals		
16	CUNLIFFE-LISTER, Felicity				Liberal Democrats and Liberals		
17	MASON, Steve				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		
<b>Total Membership – (24)</b>				<b>Quorum – (6)</b>			
<b>Con &amp; Ind</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>	
<b>13</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>24</b>	

## 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.

# Statutory Licensing Committee

## Membership

The Statutory Licensing Committee comprises 15 Members of the Council.

The Statutory Licensing Committee and its Sub-Committees are not required to be politically proportionate by virtue of the Licensing Act 2003.

Only Members who have received licensing training can sit on the Committee.

	<b>Councillors Name</b>	<b>Political Group</b>
<b>1</b>	BAKER, Alyson	Conservative
<b>2</b>	GROGAN, Tim (Chair)	Conservative
<b>3</b>	LEE, Andrew	Conservative
<b>4</b>	PARASKOS, Andy	Conservative
<b>5</b>	SWIERS, Roberta	Conservative
<b>6</b>	THOMPSON, Angus	Conservative
<b>7</b>	WILKINSON, Peter	Conservative
<b>8</b>	FOSTER, Kevin (Vice Chair)	Green Party
<b>9</b>	SCHOFIELD, Mike	North Yorkshire Independent
<b>10</b>	POSKITT, Kirsty	North Yorkshire Independent
<b>11</b>	DUCKETT, Stephanie	Labour
<b>12</b>	SHARMA, Subash	Labour
<b>13</b>	MASON, Steve	Liberal Democrats and Liberal
<b>14</b>	VACANCY	Liberal Democrats and Liberal
<b>15</b>	VACANCY	North Yorkshire Independent

## Quorum

The quorum will be at least one quarter of the membership but any case not less than 4 Members.

## Substitute Members

The appointment of substitute Members to the Statutory Licensing Committee is not permitted and any Sub-Committee Members must be appointed from the Statutory Licensing Committee Membership.

## Proceedings

The Council Procedure Rules as set out in the Constitution shall apply to the Statutory Licensing Committee meetings. Procedural requirements for meetings of the Statutory Licensing Sub-Committees are set out below.

## Terms of Reference

- (i) To exercise all the functions of the 'Licensing Authority' under the Licensing Act 2003 and Gambling Act 2005, except for the approval of the Statement of Licensing Policy and the Gambling Act Statement of Principles.

- (ii) To determine the terms of reference and delegated powers of the Statutory Licensing Sub-Committee as required by the Licensing Act 2003, Gambling Act 2005.
- (iii) To determine which functions under the Licensing Act 2003 and Gambling Act 2005 should be delegated to Officers.
- (iv) To receive regular reports on decisions made by Officers under delegated powers with regard to applications under the Licensing Act 2003 and Gambling Act 2005, so that the Committee can maintain an overview of the general situation.

### **Delegated Powers**

1. To review and make recommendations to Council upon policies in relation to licensing functions under the Licensing Act 2003 and the Statement of Licensing Policy.
2. To discharge the Council's functions as a Licensing Authority pursuant to the Licensing Act 2003 within agreed Policy.
3. To review and make recommendations to Council upon policies in relation to licensing functions under the Gambling Act 2005 and the Statement of Principles.
4. To discharge the Council's functions as a Licensing Authority pursuant to the Gambling Act 2005 within agreed Policy.
5. To arrange for the discharge of any of the licensing functions exercisable by the Committee or by an Officer of the Licensing Authority subject to the limitations set out in section 10 of the Licensing Act 2003 and section 154 of the Gambling Act 2005.
6. To determine, in accordance with the relevant legislation, the procedures to be followed at Statutory Licensing Sub-Committee hearings when hearing applications made under the Licensing Act 2003 and the Gambling Act 2005.

# Statutory Licensing Sub-Committees

There are three Statutory Licensing Sub-Committees. Each Sub-Committee shall comprise three Members drawn down from the full Statutory Licensing Committee.

The quorum is three Members.

The provisions of the Licensing Act 2003 (Hearings) Regulations 2005 shall apply to hearings conducted in relation to functions exercised under the Licensing Act 2003.

The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to hearings conducted in relation to the exercise of functions under section 162(1) and (2) and section 204(4) of the Gambling Act 2005.

Otherwise meetings of the Committee and Sub-Committees will be conducted in accordance with the Council Procedure Rules and the Access to Information Procedure Rules contained in the Constitution. In the event of any conflict between the relevant Regulations and the Council Procedure Rules and Access to Information Procedure Rules in relation to the exercise of such functions identified above the provisions of the relevant Regulations shall prevail.

## Delegated Powers

1. Each Statutory Licensing Sub-Committee will discharge all of the functions of the Statutory Licensing Committee except policy development and matters otherwise reserved to officers or another Committee or Council.
2. To determine applications under the Licensing Act 2003 as set out below:

Application for personal licence	If a relevant representation is made and not withdrawn.
Application for personal licence with relevant unspent convictions	Where an objection notice has been received and not withdrawn.
Application for premises licence/club premises certificate	If a relevant representation is made and not withdrawn.
Application for provisional statement	If a relevant representation is made and not withdrawn.
Application to vary premises licence/club premises certificate	If a relevant representation is made and not withdrawn.
Application to vary a premises licence to specify an individual as a designated premises licence holder	If a relevant representation is made and not withdrawn.
Application for transfer of premises licence	If a relevant representation is made and not withdrawn.
Determination of an interim authority notice	If a relevant representation is made and not withdrawn.

Application to review premises licence/club premises certificate	All cases.
Application for summary review	All cases.
Determination of a Temporary Event Notice	If a valid objection notice has been received and the notice has not been withdrawn.
Determination of application to vary premises licence at community premises to include alternative licence condition	If a relevant representation is made not withdrawn.

3. To determine applications under the Gambling Act 2005 as set out below:

Application for premises licence	If a relevant representation is made and not withdrawn or it is proposed to attach a condition under section 169(1)(a) of the Gambling Act 2005 or to exclude a condition under section 169(1) (b) of that Act.
Application for a provisional statement	If a relevant representation is made and not withdrawn or it is proposed to attach a condition under section 169(1)(a) of the Gambling Act 2005 or to exclude a condition under section 169(1) (b) of that Act.
Application to vary a premises licence	If a relevant representation is made and not withdrawn or it is proposed to attach a condition under section 169(1)(a) of the Gambling Act 2005 or to exclude a condition under section 169(1) (b) of that Act.
Application for the transfer of a premises licence	If a relevant representation is made and not withdrawn or it is proposed to attach a condition under section 169(1)(a) of the Gambling Act 2005 or to exclude a condition under section 169(1) (b) of that Act.
Application for the reinstatement of a lapsed licence	If a relevant representation is made and not withdrawn.
Review of a premises licence - section 201	All cases.
Consideration of a temporary use notice	If an objection is made and not withdrawn.
Application for a club gaming/club machine permits	Where objections have been made and not withdrawn.
Cancellations of club gaming/club machine permits	Where a hearing has been requested in accordance with paragraph 21, Schedule 12 of the Gambling Act 2005.



<p>Application for registration as a small society lottery</p>	<p>Where officers are not satisfied that the applicant is a non-commercial society; or a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or information provided in the application for registration or in support of the application for registration is false or misleading in accordance with paragraph 48, Schedule 11 of the Gambling Act 2005.</p>
<p>Revocation of a registration as a small society lottery</p>	<p>Where the registered society has made representations against a proposal to revoke the registration.</p>
<p>To make an order under Section 284 of the Gambling Act 2005 removing the exemption of either the right to provide equal chance gaming in 'on sale' alcohol licensed premises or the entitlement to provide two gaming machines in 'on sale' alcohol licensed premises</p>	<p>Where a hearing has been requested in accordance with section 284(3) of the Gambling Act 2005.</p>

# General Licensing and Registration Committee

## Membership

The General Licensing and Registration Committee comprises 25 Members of the Council. Of the 25 Members, 15 of those Members will comprise the membership of the Statutory Licensing Committee. Only Members who have received licensing training can sit on the Committee.

	<b>Councillors Name</b>	<b>Political Group</b>
1	BAKER, Alyson	Conservative
2	FOSTER, Richard	Conservative
3	GROGAN, Tim (Chair)	Conservative
4	Vacancy	Conservative
5	JONES, Tom	Conservative
6	LEE, Andrew	Conservative
7	MANN, John	Conservative
8	PARASKOS, Andy	Conservative
9	SWIERS, Roberta	Conservative
10	THOMPSON, Angus	Conservative
11	WILKINSON, Peter	Conservative
12	HESELTINE, Robert	Conservatives and Independents
13	FOSTER, Kevin (Vice Chair)	Green Party
14	SCHOFIELD, Mike	North Yorkshire Independent
15	HASLAM, Paul	Independent (Unaffiliated)
16	SOLLOWAY, Andy	Independent (Unaffiliated)
17	DUCKETT, Stephanie	Labour
18	PROUD, Jack	Labour
19	SHARMA, Subash	Labour
20	ANDREWS, Joy	Liberal Democrats and Liberal
21	BROADBANK, Philip	Liberal Democrats and Liberal
22	BRODIGAN, Barbara	Liberal Democrats and Liberal
23	CUNLIFFE-LISTER, Felicity	Liberal Democrats and Liberal
24	VACANCY	North Yorkshire Independent
25	CATTANACH, John	North Yorkshire Independent

## Quorum

The quorum will be at least one quarter of the membership but in any case not less than 5 Members.

## Substitute Members

The General Licensing and Registration Committee shall have a list of named substitute Members. Those named substitutes can also be appointed to the General Licensing and Registration Sub-Committees. Substitutes must have received licensing training prior to sitting on the Committee.

## Proceedings

The Council Procedure Rules as set out in the Constitution shall apply. However the Committee will determine its own hearings procedures.

### **Delegated Powers**

1. To review and make recommendations to Council upon policies in relation to licensing functions set out below.
2. To discharge all the Council's licensing and registration functions as set out in Schedule 1, Part B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except where those matters are reserved to full Council, another committee, or delegated to an Officer.
3. To discharge the Council's other powers or duties set out in Schedule 1, parts B, F and G of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except where those matters are reserved to full Council, another committee, or delegated to an Officer and including but not limited to the power to:
  - (a) Keep a list of persons entitled to sell non-medicinal poisons under Section 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (C.66).
  - (b) Make, amend, revoke or re-enact byelaws, except making and enforcing new street byelaws under any provision of any enactment (including a local Act), whenever passed, and Section 14 of the Interpretation Act 1978 (c.30).
  - (c) Promote or oppose local or personal Bills under Section 239 of the Local Government Act 1972.
  - (d) Carry out functions under the North Yorkshire County Council Act 1991 which involve an application for a licence, approval, consent, permission or regulation; direct regulation of a person; or any related enforcement actions.
4. To exercise the Council's functions in relation to contaminated land, control of pollution and the management of air quality except where those matters are delegated to an Officer.
5. To exercise all the functions of the 'appropriate authority' under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, except the approval of any policies relating to the licensing of establishments under the 1982 Act, as amended.
6. Any other licensing matter as may from time-to-time require determination by the Council except where those matters are reserved to Council, another committee, or delegated to an Officer.
7. The General Licensing and Registration Committee will determine the Sub-Committees' hearings procedures.

# General Licensing and Registration Sub-Committees

There are 3 General Licensing and Registration Sub-Committees. Each Sub-Committee shall comprise 3 Members drawn down from the full General Licensing and Registration Committee. Only Members who have received licensing training can sit on the Sub Committees.

The quorum is 3 Members.

## Delegated Powers

1. Each General Licensing and Registration Sub-Committee will discharge all of the functions of the General Licensing and Registration Committee except policy development and matters otherwise reserved to Officers or another Committee or Council.
2. To consider and determine the issue, refusal or repeal of, or attachment of conditions to, all individual approvals, consents, licences, permissions or registrations, included in Part B of the Schedule 1, Part B of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as set out in the below table and which have not otherwise been determined by an Officer under delegated powers where public safety is deemed to be at risk.
3. To determine all applications referred to the Sub-Committee for sexual entertainment venues by virtue of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) and any regulations or guidance issued under that Act, as set out in the below table and which have not otherwise been determined by an Officer under delegated powers where public safety is deemed to be at risk.
4. If consideration is being given to the revocation of any licence, registration or permit then this will usually be referred to the General Licensing and Registration Sub-Committee for determination, save and except where an urgent decision is required in the interests of public safety and which warrants the exercise of the powers delegated to Corporate Director of Environment.

<b>Matter to be determined</b>	<b>Circumstances where the matter will be referred to the General Licensing and Registration Sub-Committee for determination</b>
Application for the grant of a licence, approval, permission, consent or registration of the functions listed in paragraphs 2 and 3 above.	Where an objection or relevant representation is received (and not withdrawn) or where the Corporate Director for Environment has concerns in respect of the application.
Application for the renewal of a licence approval, permission, consent or registration of the functions listed in paragraphs 2 and 3 above.	Where an objection or relevant representation is received (and not withdrawn) or where the Corporate Director for Environment has concerns in respect of the application.

Application for the transfer of a licence approval, permission, consent or registration of the functions listed in paragraphs 2 and 3 above.	Where an objection or relevant representation is received (and not withdrawn) or where the Corporate Director for Environment has concerns in respect of the application.
Application for a variation to a licence approval, permission, consent or registration of the functions listed in paragraphs 2 and 3 above.	Where an objection or relevant representation is received (and not withdrawn) or where the Corporate Director for Environment has concerns in respect of the application.
Application for waiver of a licence approval, permission, consent or registration of the functions listed in paragraphs 2 and 3 above.	All cases.
Where conditions allow written consent to amend restrictions in relation to opening hours, external appearance, etc.	Where an objection or relevant representation is received (and not withdrawn) or where the Corporate Director for Environment has concerns in respect of the application.
Revocation of a licence approval, permission, consent or registration of the functions listed in paragraphs 2 and 3 above.	All cases.

#### General Licensing and Registration Committee and Sub-Committee Procedure Rules

The Sub-Committees are not politically proportionate by resolution of the Council at its Annual Meeting. This decision is reconsidered at each Annual Meeting.

Meetings of the Committee and Sub-Committees will be conducted in accordance with the Council Procedure Rules and the Access to Information Rules contained in the Constitution. The General Licensing and Registration Committee will determine the Sub-Committees' hearings procedures.

# STANDARDS AND GOVERNANCE COMMITTEE

## 1. Membership

Councillors (10)						
	Councillors Names				Political Group	
1	BROWN, Nick				Conservative	
2	KNAPTON, Nigel				Conservative	
3	IRETON, David				Conservative	
4	PEARSON, Clive		Chair		Conservative	
5	PHILLIPS, Heather				Conservative	
6	WILKINSON, Peter				Conservative	
7	CROSS, Sam				Independent (Unaffiliated)	
8	DAVIS, Melanie				Labour	
9	SLATER, Monika				Liberal Democrats and Liberal	
10	SOLLOWAY, Andy				North Yorkshire Independent	
<b>Total Membership – (10)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
6	1	1	1	1	0	10

## 2. Substitute Members

Conservative		Liberal Democrats and Liberal	
	Councillors Names		Councillors Names
1		1	MASON, Steve
2		2	
3		3	
4		4	
5		5	
Labour			
	Councillors Names		Councillors Names
1		1	
2		2	
3		3	
4		4	
5		5	

Note:

- (i) The Standards and Governance Committee is subject to the rules on political balance.
- (ii) The Independent Persons for Standards are Gillian Baker, Hilary Gilbertson MBE, Louise Holroyd, Roy Martin, James Nelson and Richinda Taylor.

# STANDARDS AND GOVERNANCE COMMITTEE

## TERMS OF REFERENCE

The Standards and Governance Committee will have as its terms of reference, exercising the following roles and functions:

*[\* denotes non-executive functions]*

### \* Standards Functions

- \* (a) all functions of the Council under the Localism Act 2011 relating to ethical standards including but not limited to:
  - \* (i) exercising all functions in respect of the publication of Independent Person for standards' vacancies (sub-delegated to the Monitoring Officer, in consultation with the Chair of the Committee);
  - \* (ii) assisting in the recruitment of Independent Persons for standards (but not approving individual appointments);
  - \* (iii) assisting, where requested, in the designation and handling of persistent and/or vexatious complaints and complainants against Members and Officers;
  - \* (iv) granting dispensations to Members and voting co-opted Members. This power is sub-delegated to the Monitoring Officer, in consultation with the Independent Persons, where the timescales are such that a Standards and Governance Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards and Governance Committee, all of whom consent to the granting of the dispensation.

### \* Governance Functions

- \* (b) making temporary appointments to parish councils under Section 91 of the Local Government Act 1972.
- \* (c) making recommendations to Council in relation to Community Governance reviews.
- \* (d) recommending to Council the appointment of an Electoral Registration Officer and the appointment of a Returning Officer for local government elections under the Representation of the People Act 1983.
- \* (e) dividing Parliamentary constituencies into polling districts and dividing electoral divisions into polling districts at local government elections under the Representation of the People Act 1983.
- \* (f) such other election functions which it is necessary for the Council to decide (excluding those delegated directly by statute to the Returning Officer or Electoral Registration Officer or those functions delegated elsewhere in the Constitution).

- \* (g) All other matters relating to elections, including all powers of the authority listed in Parts D, E and EB of Schedule 1 to the Local Authorities (Functions and Responsibilities)(England)(Regulations) 2001.
- \* (h) recommending to Council the conferring of the title of Honorary Alderman or Alderwoman.
- \* (i) recommending to Council the opposition or approval of local or personal Bills under Section 239 of the Local Government Act 1972 to the extent that the power is not delegated to another Committee or Sub Committee or Officer.



# STANDARDS AND GOVERNANCE COMMITTEE HEARINGS PANEL

## 1. Membership

Councillors						
	<i>Councillors Names</i>				<i>Political Group</i>	
1						
2						
3						
4						
5						
6						
7						
8						
Total Membership				Quorum – (TBC) including one Independent		
Con	Lib Dem and Lib	NY Ind	Labour	Ind	Green Party	Total

## 2. Substitute Members

Conservative		North Yorkshire Independents	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1		1	
2		2	
Labour		Liberal Democrats and Liberal	
	<i>Councillors Names</i>		<i>Councillor Names</i>
1		1	
2		2	
Green Party			
1	<i>Councillors Names</i>		
2			

NOTE – The appointments to this Panel are made by the Standards and Governance Committee. When the Panel is considering a complaint that a parish/town council Member has breached a parish/town council’s code of conduct for Members, the Panel must contain a parish council representative selected from a pool of parish/town council representatives who have received appropriate training.

# **STANDARDS AND GOVERNANCE COMMITTEE HEARINGS PANEL**

## **TERMS OF REFERENCE**

- ◆ To undertake all functions of the Standards and Governance Committee, in consultation with the Independent Person for standards, in relation to the consideration of complaint investigation reports and the holding of complaint determination hearings regarding matters referred by the Monitoring Officer, including (but not limited to) the making of findings and the imposition of sanctions (if appropriate) in respect of complaints that Members have breached the relevant Code of Conduct for Members, as set out in the Localism Act 2011 as amended and associated legislation.

# AUDIT COMMITTEE

## 1. Membership

<b>Councillors (10)</b>						
	<i>Councillors Names</i>				<i>Political Group</i>	
1	BAKER, Alyson				Conservative	
2	CHANCE, David				Conservative	
3	JABBOUR, George		Vice Chair		Conservative	
4	LUNN, Cliff		Chair		Conservative	
5	SEDGWICK, Karin				Conservative	
6	WILKINSON, Peter				Conservative	
7	SWANNICK, Neil				Labour	
8	BROADBANK, Philip				Liberal Democrats and Liberal	
9	WALKER, Matt				Liberal Democrats and Liberal	
10	JORDAN, Mike				North Yorkshire Independent	
<b>Members other than Councillors (Non-voting) (3)</b>						
1	VACANCY					
2	MARSH, David					
3	PORTLOCK, David					
<b>Total Membership – (13)</b>				<b>Quorum – (3) Councillors</b>		
Con	Lib Dem and Lib	NY Ind	Labour	Ind	Green Party	Total
6	2	1	1	0	0	10

## 2. Substitute Members

<b>Conservative</b>		<b>North Yorkshire Independents</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1		1	
2		2	
3		3	
4		4	
5		5	
<b>Labour</b>		<b>Liberal Democrats and Liberal</b>	
	<i>Councillors Names</i>		<i>Councillor Names</i>
1		1	BRODIGAN, Barbara
2		2	GOSTLOW, Hannah
3		3	
4		4	
5		5	

The current term of appointment of David Marsh and David Portlock as Independent Members to the Audit Committee ends 30 November 2023. Thereafter, the term of appointment shall be four years from 31 July during the year which follows a Council election in order to provide consistency during the period for production, and subsequent approval of, the Statement of Final Accounts.

# AUDIT COMMITTEE

## TERMS OF REFERENCE

1. In respect of **Internal Audit**

- ♦ to approve the Internal Audit Charter, Annual Audit Plan and performance criteria for the Internal Audit Service.
- ♦ to review summary findings and the main issues arising from internal audit reports and seek assurance that management action has been taken where necessary.
- ♦ to review the effectiveness of the anti-fraud and corruption arrangements throughout the Council.
- ♦ consider the annual report from the Head of Internal Audit.
- ♦ to obtain assurance that the work of internal audit conforms to the Public Sector Internal Audit Standards.

2. In respect of **External Audit**

- ♦ to ensure the independence of External Audit is maintained.
- ♦ to review the annual audit plan and monitor its delivery.

3. To review, and recommend to the Executive, changes to Procurement and Contract, Finance and Property Procedure Rules.

4. In respect of **financial statements**

For both the Council and the North Yorkshire Pension Fund

- ♦ to approve the respective annual Statements of Final Accounts.
- ♦ to receive and review the Annual Audit Letters and associated documents issued by the External Auditor.
- ♦ to review changes in accounting policy.

5. In respect of **Corporate Governance**

- ♦ to assess the effectiveness of the Council's Corporate Governance arrangements.
- ♦ to review progress on the implementation of Corporate Governance arrangements throughout the Council.
- ♦ to approve Annual Governance Statements for both the Council and the North Yorkshire Pension Fund.
- ♦ to liaise, as necessary, with the Standards and Governance Committee on any matter(s) relating to the Codes of Conduct for both Members and Officers.
- ♦ to work with the Standards and Governance Committee to promote good ethical standards within the Council.
- ♦ to review the arrangements in place for ensuring good governance in the Council's key partnerships and owned companies.

6. In respect of **Risk Management**
  - ♦ to assess the effectiveness of the Council's Risk Management arrangements.
  - ♦ to review progress on the implementation of Risk Management throughout the Council.
7. In respect of **Information Governance**
  - ♦ to review all corporate policies and procedures in relation to Information Governance.
  - ♦ to oversee the implementation of Information Governance policies and procedures throughout the Council.
8. In respect of **Treasury Management**
  - ♦ to be responsible for ensuring effective scrutiny of the Council's Treasury Management strategy and policies as required by the CIPFA Treasury Management Code of Practice.
  - ♦ to review these Treasury Management strategies, policies and arrangements and make appropriate recommendations to the Executive.
9. In respect of **Value for Money**
  - ♦ to have oversight of the arrangements across the Council in securing Value for Money.
10. To consider any other relevant matter referred to it by the Council, Executive or any other Committee. In addition any matter of concern can be raised by this Committee to the full Council, Executive or any other Member body.
11. To exercise all functions in relation to the making and changing of policy relating to such audit and counter-fraud matters which fall within the remit of the Committee (save as may be delegated otherwise).
12. To periodically review the effectiveness of the Audit Committee itself.
13. To meet not less than four times a year on normal business and review its Terms of Reference on an annual basis.

# APPEALS COMMITTEE (Home to School Transport)

## 1. Membership

<b>Councillors (5)</b>						
	<i>Councillors Names</i>				<i>Political Group</i>	
<b>1</b>	GOODRICK, Caroline				Conservative and Independents	
<b>2</b>	KNAPTON, Nigel				Conservative	
<b>3</b>	WINDASS, Robert		Chair		Conservative	
<b>4</b>	DUCKETT, Stephanie		Vice-Chair		Labour	
<b>5</b>	BRODIGAN, Barbara				Liberal Democrats and Liberal	
<b>Total Membership – (5)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>5</b>

## 2. Substitute Members

<b>Conservative</b>		<b>Labour</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
<b>1</b>	PEACOCK, Yvonne	<b>1</b>	
<b>2</b>		<b>2</b>	
<b>3</b>		<b>3</b>	
<b>4</b>		<b>4</b>	
<b>5</b>		<b>5</b>	
<b>6</b>			

# APPEALS COMMITTEE (Home to School Transport)

## TERMS OF REFERENCE

1. To hear and determine home to school transport appeals as the stage 2 review by an independent Appeal Panel, in accordance with the Department for Education (DfE) Home to School Travel and Transport Guidance.
2. To hear and determine appeals for support for Post 16 transport to education and training, as the stage 2 review by an independent Appeal Panel, in accordance with the Department for Education (DfE) Statutory Guidance.
3. To hear and determine appeals in respect of other grants to students, where provision exists for appeals to a Member level body.
4. The making of arrangements for school admission appeals and independent exclusion reviews.
5. To hear and determine appeals against decisions of the Executive, where provision exists in law or in this Constitution for such an appeal. *(NB: No Member of the Executive may sit on the Appeals Committee (Home to School Transport) when it is exercising this function).*

# EMPLOYMENT APPEALS COMMITTEE

## 1. Membership

<b>Councillors (5)</b>						
	<i>Councillors Names</i>				<i>Political Group</i>	
1	HULL, Nathan			Chair	Conservative	
2	LUNN, Cliff				Conservative	
3	TAYLOR, Malcolm				Conservative	
4	ALDRED, Chris				Liberal Democrats and Liberal	
5	Vacancy				Liberal Democrats and Liberal	
<b>Total Membership – (5)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
3	2	0	0	0	0	5

## 2. Substitute Members

<b>Conservative</b>		<b>Liberal Democrats and Liberal</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1		1	
2		2	
3		3	
4		4	
5		5	
<b>Labour</b>			
	<i>Councillors Names</i>		
1			
2			
3			
4			
5			

*NOTE – A group of about 12 Members should develop particular expertise and experience on appeals matters, but only five Members should sit on the committee at any one time. It is intended, therefore, that the Substitution Scheme should be used to vary membership of the committee in order to ensure that the expertise and experience of all Members of the committee, including all Substitute Members, is developed.*



# EMPLOYMENT APPEALS COMMITTEE

## TERMS OF REFERENCE OF THE EMPLOYMENT APPEALS COMMITTEE

1. To hear and determine appeals against decisions of Officers of the Council, where provision exists for appeals to a Member level body, or in the event of suspension of delegated budget for Community, Voluntary Controlled, Community Special and maintained nursery schools, to hear and determine appeals for staff of that school.
  - ◆ Exceptions:-
    - (a) appeals against dismissals on the ground of redundancy and against selection for redundancy, which shall be determined by a Chief Officer or Senior Manager they have authorised to act in their place in consultation with an HR adviser, and
    - (b) appeals against dismissals under the Council's Attendance Management Policy shall be determined, in consultation with a Member to be drawn from the Appeals Committee, by a senior manager who has not previously been involved in the matter, and who is duly authorised to determine the appeal in accordance with paragraph 4.1 of the Officers' Delegation Scheme. The appeal will be advised by an HR adviser who has had no previous involvement in the case and who will have no role in decision-making and
    - (c) appeals against dismissals under the Council's Capability or Disciplinary Policies shall be determined, in consultation with a Member to be drawn from the Appeals Committee, by a Corporate Director/Assistant Chief Executive who has not been previously involved in the matter and who is duly authorised to determine the appeal in accordance with the Officers' Delegation Scheme. The appeal panel will be advised by the Head of HR/Principal Adviser who has had no previous involvement in the case, and who will not take part in decision-making.
2. To exercise all functions (including, but not limited to, hearing and determination) in relation to appeals by the Chief Executive Officer against decisions of the Chief Officers Appointments and Disciplinary Committee to take disciplinary action against them short of dismissal.
3. To exercise all functions (including, but not limited to, hearing and determination) in relation to appeals by the Chief Executive Officer against decisions of the Leader and/or the Chief Officers Appointments and Disciplinary Committee, on appraisal of the Chief Executive Officer, not to award an increment.
4. To hear disciplinary/capability appeals against dismissal by Officers line managed by the Chief Executive Officer where the Chief Executive Officer has been involved in the dismissal process and it would be inappropriate for Members of Management Board, who also report to the Chief Executive Officer, to hear the appeal.

Notes:

*No member of the Chief Officers Appointments and Disciplinary Committee shall sit on the Employment Appeals Committee when the Employment Appeals Committee is hearing*

*appeals by the Chief Executive Officer against decisions of the Chief Officers Appointments and Disciplinary Committee to take disciplinary action against them short of dismissal.*

# CHIEF OFFICERS APPOINTMENTS AND DISCIPLINARY COMMITTEE

## 1. Membership

<b>Councillors (10)</b>						
	<i>Councillors Names</i>				<i>Political Group</i>	
1	CRANE, Mark				Conservative	
2	DADD, Gareth				Conservative	
3	HARRISON, Michael				Conservative	
4	LES OBE, Carl		Chair		Conservative	
5	SANDERSON, Janet				Conservative	
6	WEIGHELL OBE, John				Conservative	
7	FOSTER, Kevin				Green Party	
8	SHAW-WRIGHT, Steve				Labour	
9	GRIFFITHS, Bryn				Liberal Democrats and Liberal	
10	PARSONS, Stuart				North Yorkshire Independent	
<b>Total Membership – (10)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
6	1	1	1	0	1	10

## 2. Substitute Members

<b>Conservative</b>		<b>North Yorkshire Independents</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1		1	
2		2	
3		3	
<b>Labour</b>		<b>Liberal Democrats and Liberal</b>	
	<i>Councillors Names</i>		<i>Councillor Names</i>
1		1	BROADBANK, Philip
2		2	
3		3	
<b>Green Party</b>			
1			
2			
3			

*Note: This Committee (and any Sub-Committee) must include at least one Member of the Executive.*

# CHIEF OFFICERS APPOINTMENTS AND DISCIPLINARY COMMITTEE

## Delegated Powers

### Appointments

1. Where a vacancy occurs in the position of Chief Executive Officer, to:
  - (a) interview all qualified applicants for the post; or
  - (b) select a shortlist of such qualified applicants and interview those on the shortlist;and (in either case)
  - (c) having carried out such interviews, either appoint (*NB Note 1 below*) one of the candidates to the vacancy, or decide not to appoint any of the candidates, but instead to take such further action in relation to the filling of the post as the committee may determine.
2. Where a vacancy occurs in the position of any Chief Officer other than the Chief Executive Officer, to appoint a sub-committee (*NB Note 4 below*) to perform the functions set out at 1 (a)-(c) above in relation to that vacant post.
3. To consider the outcome of the annual appraisal of the performance of the Chief Executive Officer by the Leader of the Council where the outcome will affect the terms and conditions of the Chief Executive Officer and to determine any necessary changes to such terms and conditions. Where, on appraisal of the Chief Executive Officer, the Leader and/or the Chief Officers Appointments and Disciplinary Committee determines that an increment should not be awarded, the Chief Executive Officer will have a right of appeal to the Employment Appeals Committee.

*Note: for the avoidance of doubt, issues such as the award (or non-award) of an increment within the grade band of the Chief Executive Officer will not amount to a change in their terms and conditions necessitating a referral to this Committee.*
4. Subject to the sub-paragraphs below, to consider from time to time the terms and conditions of Chief Officers and make necessary changes to them:
  - (a) The determination of the remuneration and other terms and conditions which shall apply to a Chief Officer post on appointment must comply with the Pay Policy Statement, provided that if it is proposed to make an appointment on terms and conditions which do not comply, the matter shall be referred to full Council for consideration as to whether the Pay Policy Statement should be amended prior to a final offer being made to any candidate.
  - (b) Any amendments proposed to Chief Officer remuneration and other terms and conditions, which would comprise an amendment to the Pay Policy Statement, shall be considered by the Chief Officers Appointments and Disciplinary Committee (or, in the case of Assistant Directors and Assistant Chief Executives, by the Chief Executive Officer), and recommended by them to full Council for approval.

Notes:

1. *Full Council must approve, in advance, any offer of appointment as, or any notice of dismissal to, the Chief Executive Officer.*
2. *Action under 2 above is to be reported to full Council at the first available opportunity.*
3. *NB also Rules 5 and 6 of the Staff Employment Procedure Rules.*
4. *Any Sub-Committee must include at least one member of the Executive.*

### **Chief Executive Officer and Statutory Officer Disciplinary and Capability**

5. To exercise all functions (save as may be delegated elsewhere) of investigating and disciplinary committee as prescribed in the Joint Negotiating Committee National Salary Framework & Conditions of Service for Local Authority Chief Executives, in relation to disciplinary action in respect of the Chief Executive Officer, the Monitoring Officer or the Section 151 Officer, on the grounds of conduct, capability or for other substantial reasons (and where, in the case of the Monitoring Officer or Section 151 Officer, the likely outcome is dismissal; in this regard such delegation including, but not limited to:
  - (a) the initial investigation and consideration of allegation(s) relating to the conduct or capability of the Chief Executive Officer, Monitoring Officer or Section 151 Officer, or other substantial issue(s) which may require investigation;
  - (b) the determination of whether the allegation(s) require any informal or formal action and whether the appointment of an Independent Investigator to investigate the allegation(s) is required;
  - (c) where necessary, the appointment of an Independent Investigator to investigate the allegation(s);
  - (d) the consideration of whether precautionary action is required (including the power to suspend the Chief Executive Officer, Monitoring Officer or Section 151 Officer, subject always to the legal requirements regarding such suspension) and, if so, the determination of the extent and terms of such precautionary action;
  - (e) the receipt and consideration of Independent Investigator reports;
  - (f) where appropriate, the referral of the matter back to the Independent Investigator for further investigation and report;
  - (g) the hearing and determination of the allegation(s) at a disciplinary hearing, including the decision as to whether any disciplinary action (including dismissal) is necessary after consideration of the Independent Investigator's report.
6. Where there is a proposal to dismiss the Chief Executive Officer, the Monitoring Officer or the Section 151 Officer, then the matter must be referred to a Chief Officers Disciplinary Panel, including at least two Independent Persons appointed under section 28(7) of the Localism Act 2011, for the Panel's views and recommendations, which must be taken into account by full Council in determining the matter.

## **Chief Officers Disciplinary and Capability**

7. To hear and determine all appeals made by Chief Officers who are not covered by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, of the Council, against decisions made by the Chief Executive Officer in respect of:
- (a) Disciplinary and capability action (up to and including dismissal),
  - (b) Redundancy and sickness absence/ill health dismissals
  - (c) Dismissals for some other substantial reason.
  - (d) Grievance/Resolving Issues at Work issues

The Committee will be advised by a Head of HR not previously involved.

To hear and determine all appeals made by Statutory Chief Officers of the Council, against decisions made by the Chief Executive Officer in respect of:

- (a) Capability action (less than dismissal)
- (b) Disciplinary action (less than dismissal)
- (c) Redundancy and sickness absence/ill health dismissals
- (d) Grievance/Resolving Issues at Work issues

The Committee will be advised by a Head of HR not previously involved.

# CHIEF OFFICERS APPOINTMENTS SUB-COMMITTEE

## 1. Membership

<b>Councillors (10)</b>						
	<i>Councillors Names</i>				<i>Political Group</i>	
1	CRANE, Mark				Conservative	
2	DADD, Gareth				Conservative	
3	HARRISON, Michael				Conservative	
4	LES OBE, Carl		Chair		Conservative	
5	SANDERSON, Janet				Conservative	
6	WEIGHELL OBE, John				Conservative	
7	FOSTER, Kevin				Green Party	
8	SHAW-WRIGHT, Steve				Labour	
9	GRIFFITHS, Bryn				Liberal Democrats and Liberal	
10	PARSONS, Stuart				North Yorkshire Independent	
<b>Total Membership – (10)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
6	1	1	1	0	1	10

## 2. Substitute Members

<b>Conservative</b>		<b>North Yorkshire Independents</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1		1	
2		2	
<b>Labour</b>		<b>Liberal Democrats and Liberal</b>	
	<i>Councillors Names</i>		<i>Councillor Names</i>
1		1	BROADBANK, Philip
2		2	
<b>Green Party</b>			
1			
2			

Note:

1. Where a vacancy occurs in the position of any Chief Officer other than the Chief Executive Officer, to appoint a sub-committee (NB Notes 2-5 below).
2. Full Council must approve, in advance, any offer of appointment as, or any notice of dismissal to, the Chief Executive Officer.
3. Action under 2 above is to be reported to full Council at the first available opportunity.
4. NB also Rules 5 and 6 of the Staff Employment Procedure Rules.
5. Any Sub-Committee must include at least one member of the Executive.

# CHIEF OFFICERS DISCIPLINARY PANEL

## Membership

Councillors/Independent Persons ( )							
	Names				Political Group		
1							
2							
3							
4							
5							
6							
7							
8							
Total Membership – ( )				Quorum – (3)			
Con	Lib Dem and Lib	NY Ind	Labour	Ind	Green Party	Total	

NOTE – Where there is a proposal to dismiss the Chief Executive Officer, the Monitoring Officer or the Section 151 Officer, then the matter must be referred to a Chief Officers Disciplinary Panel, including at least two Independent Persons appointed under section 28(7) of the Localism Act 2011, for the Panel's views and recommendations, which must be taken into account by full Council in determining the matter.

The Assistant Chief Executive HR and Business Support makes all appointments to the Chief Officers Disciplinary Panel.



# PENSION FUND COMMITTEE

## 1. Membership

<b>Councillors (10)</b>							
	<i>Councillors Names</i>				<i>Political Group</i>		
1	CRANE, Mark				Conservative		
2	GIBBS, Sam				Conservative		
3	JABBOUR, George		Vice Chair		Conservative		
4	LUNN, Cliff				Conservative		
5	THOMPSON, Angus		Chair		Conservative		
6	WILKINSON, Peter				Conservative		
7	NOLAND, David				Green Party		
8	SWANNICK, Neil				Labour		
9	SLADDEN, Dan				Liberal Democrats and Liberal		
10	CATTANACH, John				North Yorkshire Independent		
<b>Members other than Councillors (1 and 2) Voting (3) Non-voting</b>							
1	KILBANE, Peter				City of York		
2	PORTLOCK, David				Chair of the Pension Board		
<b>Total Membership – (10)</b>				<b>Quorum – (3) Councillors</b>			
Con	Lib Dem and Lib	NY Ind	Labour	Ind	Green Party	Other Voting Members	Total
6	1	1	1	0	1	2	12

## 2. Substitute Members

<b>Conservative</b>		<b>North Yorkshire Independents</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1		1	
2		2	
3		3	
<b>Labour</b>		<b>Liberal Democrats and Liberal</b>	
	<i>Councillors Names</i>		<i>Councillor Names</i>
1		1	BROADBANK, Philip
2		2	
3		3	
<b>Green Party</b>			
1	FOSTER, Kevin		
2			
3			

## 3. Substitute Members

1		City of York
2	DALE, Angie	North Yorkshire District Councils
3		

# PENSION FUND COMMITTEE

## Delegated Powers

1. To exercise the powers of the Council to invest monies forming part of the North Yorkshire Pension Fund, including:-
  - ♦ to determine and periodically review the Investment Strategy, the Funding Strategy and other governance documents of the Pension Fund;
  - ♦ to appoint investment managers to manage and invest Pension Fund monies on the Council's behalf;
  - ♦ to determine what the Pension Fund requires its investment pooling provider Border to Coast Pensions Partnership to provide, in order to implement its investment strategy;
  - ♦ to receive reports from the appointed investment managers setting out the action they have taken under their appointment;
  - ♦ to receive reports from the Investment Adviser and the Investment Consultant regarding the investment performance of the appointed investment managers and the Pension Fund overall;
  - ♦ from time to time to consider the desirability of continuing or terminating the appointments of any organisations involved in the investment of the monies of the Pension Fund;
  - ♦ to receive regular reports on the budget and cash flow of the Pension Fund;
  - ♦ to receive regular reports on the administration of benefits of the Pension Fund covering member and employer issues;
  - ♦ to approve a Statement of Final Accounts and associated governance statements for submission to the Audit Committee;
  - ♦ to approve the Annual Report of the Pension Fund; and
  - ♦ from time to time reporting to the Executive.
  
2. To exercise all the Council's powers as administering authority for the North Yorkshire Pension Fund, subject to any specific instructions that might be given from time to time by the Council.
  - ♦ To carry out the Council's functions relating to local government pensions scheme (LGPS) under
  - ♦ The Local Government Pension Scheme Regulations 2013;
  - ♦ The Local Government Pension Scheme (Transitional Provisions, Savings and Amendments) Regulations 2014;
  - ♦ The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016;

and any other Regulations that relate specifically to the Council's responsibility to administer the Local Government Pension Scheme.

# PENSION BOARD

## Membership

<b>(9)</b>		
	<i>Names</i>	
<b>1</b>	PORTLOCK, David	Chair – Independent Member (Non-voting)
<b>2</b>	WATSON, Steve	Employer Representative
<b>3</b>	HOOK, Anne	Employer Representative
<b>4</b>	BARBERY, Emma	Employer Representative
<b>5</b>	Vacancy	Employer Representative
<b>6</b>	PURCELL, Simon	Scheme Member Representative
<b>7</b>	HOULGATE, David	Scheme Member Representative
<b>8</b>	THOMPSON, Sam	Scheme Member Representative
<b>9</b>	Vacancy	Scheme Member Representative
<p><b>Quorum</b> – The Board shall be quorate if the Chair, one scheme representative and one employer representative are present.</p>		

# Pension Board

## Terms of Reference and Delegated Authorities

### 1) Role of the Local Pension Board

The role of the local Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is

- to assist North Yorkshire Council (NYC) as Administering Authority in its role as Scheme Manager
  - to secure compliance with the Local Government Pension Scheme (LGPS) regulations and any other legislation relating to the governance and administration of the LGPS
  - to secure compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator
  - to secure the effective and efficient governance and administration of the LGPS for the North Yorkshire Pension Fund (NYPF, or the Fund)
  - in such other matters as the LGPS regulations may specify
- to provide the Scheme Manager with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest

The terms “Administering Authority” and “Scheme Manager” are used interchangeably in the Regulations but are separately defined in this document (see section 18). NYC as the Administering Authority has ultimate responsibility for the Fund and has delegated powers to manage the Fund to the Pension Fund Committee (PFC).

These Regulations provide that the Pension Board has the general power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Pension Board will also help ensure that the NYPF is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator, with due regard to guidance issued by Government, the Pensions Regulator and the National Scheme Advisory Board.

The Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively, but not less than four times in any year.

The Pension Board will determine the precise timing of its own meetings, which will take place at suitable intervals between PFC meetings so that PFC activity relevant to the Board can be considered and responses to recommendations reviewed prior to the next meeting of the PFC.

The Pension Board will undertake formal meetings remotely, through an appropriate media platform, and subject to the relevant live broadcast requirements, when circumstances arise

that prevent physical meetings from taking place. The Meetings should be wholly remote or physical and should not be undertaken in a hybrid manner.

## **2) Membership and Appointment Process**

The Pension Board shall consist of 9 members and be constituted as follows:

- i) 4 scheme member representatives, of whom
  - a. 2 shall represent and be drawn from active members of the Fund
  - b. 1 shall represent and be drawn from pensioner and deferred pensioner members of the Fund
  - c. 1 shall represent and be drawn from either the active or deferred/pensioner members of the Fund
- ii) 4 employer representatives, of whom
  - a. 1 shall be nominated by NYC who shall meet the requirements of the relevant regulations in relation to avoidance of conflict with the Council's role as Administering Authority
  - b. 1 shall be nominated by the City, the Police and Fire bodies and the National Parks which are employers within the Fund
  - c. 1 shall be nominated by all other employers within the Fund
  - d. 1 shall be nominated by any employer other than NYC
- iii) 1 independent member, who shall be appointed as Chair of the Pension Board

Elected Members and officers involved in the management and administration of the Fund are not permitted to become Pension Board members.

The Administering Authority will contact employers and members of the Fund to inform them of the Pension Board arrangements and to canvass interest whenever appointments to the Pension Board are required. Active, pensioner and deferred pensioner members will be eligible to nominate themselves as "scheme member representatives". Individuals put forward by the Fund's employers, whether or not those individuals are members of the Fund, will be eligible to stand as "employer representatives".

The position of independent member will be advertised publicly. The Administering Authority will seek an independently minded individual with a track record of dealing with governance issues.

Following receipt of nominations/applications the Administering Authority will arrange an independent as possible appointment process. This process will include assessing information supplied by candidates in support of their nomination/application and may be supplemented by interviews as appropriate.

Members in all categories will only be appointed to the Pension Board by the Administering Authority if they either meet the knowledge and skills requirements set out in the relevant regulations and guidance (see Section 7) or commit to do so within 3 months of the appointment date.

Members of the Pension Board will serve for a term of 4 years following which they may either retire from the Board or seek nomination for an additional term. The term of office may otherwise come to an end

- i. for scheme member representatives if they cease to be a member of the relevant group
- ii. for employer representatives who are councillors if they cease to hold office as a councillor
- iii. for employer representatives who are not councillors when they cease to be employed by their nominating employer
- iv. for a councillor member who is appointed to the PFC
- v. for a scheme member or employer representative who is appointed to a role with responsibility for the management or administration of the Fund
- vi. where there is a conflict of interest which cannot be managed in accordance with the Pension Board's Conflicts of Interest Policy
- vii. where a member fails to attend meetings, undertake training or otherwise comply with the requirements of being a Pension Board member

Each Pension Board member should endeavour to attend all Board meetings during the year and is expected to attend at least 3 meetings each year. The chair of the Board is also expected to attend the quarterly meetings of the PFC.

Given the nature of the Pension Board as a supervisory body and the need for appropriate knowledge and skills and the clear avoidance of conflicts of interest, substitute members are not permitted.

In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Administering Authority.

Other than by ceasing to be eligible as set out above, a Board member may also be removed from office during a term of appointment by the unanimous agreement of all of the other members. The removal of the independent member requires the consent of the Administering Authority.

### **3) Conflicts of Interest**

The policy for identifying, monitoring and managing conflicts of interest is set out in a separate policy document, which should be regularly reviewed by the Pension Board.

### **4) Standards of Conduct**

The role of Pension Board members requires the highest standards of conduct and therefore the "seven principles of public life" will be applied to all Pension Board members and embodied in their code of conduct.

These are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership

## **5) Knowledge and Skills**

A member of the Pension Board must be conversant with:

1. The legislation and associated guidance of the LGPS
2. Any document recording policy about the administration of the LGPS which is for the time being adopted by the NYPF

A member of the Pension Board must have knowledge and understanding of:

- a. the law relating to pensions, and
- b. any other matters which are prescribed in the regulations

Individual Pension Board members must satisfy themselves that they have the appropriate degree of local knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board. This includes being fully aware of all requirements detailed in these terms of reference for example on standards of conduct and conflicts of interest, and being conversant with the investment strategy of the Fund.

In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

## **6) Board Review Process**

The Board will undertake each year a formal review process to assess how well it and its members are performing with a view to seeking continuous improvement in the Board's performance.

## **7) Accountability**

The Pension Board will be collectively and individually accountable to the Administering Authority.

## **8) Remit of the Board**

The Pension Board must assist the Administering Authority with such matters as the scheme regulations may specify. It is for scheme regulations and the Administering Authority to determine precisely what the Pension Board's role entails. Examples of activity include, inter alia:

- reviewing the Fund’s governance and policy documents, such as the Governance Compliance Statement and the Communications Policy Statement
- reviewing the Fund’s Annual Report
- reviewing the administrative performance of the Fund
- reviewing shareholder voting and engagement arrangements
- reviewing the Fund’s Risk Register
- reviewing the NYPF website
- supporting and challenging PFC actions as a critical friend
- reviewing the governance of the new pooling arrangements, to assist in ensuring compliance, effective and efficient reporting, and the monitoring of investment management.

#### **9) Decision making**

Each Pension Board member who is a scheme member or employer representative will have an individual voting right but it is expected that the Pension Board will as far as possible reach a consensus. The Chair of the Pension Board will not be entitled to vote.

#### **10) Quorum**

The Board shall be quorate if the Chair, 1 scheme member representative and 1 employer representative are present.

#### **11) Board Meetings – Notice, Minutes and Reporting**

The Administering Authority shall give notice to all Pension Board members of every meeting of the Pension Board and shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board, they shall be circulated to all Pension Board members.

The Pension Board is a committee of the Council and as such the Council’s rules on notice of meetings, publishing agendas, reports and minutes and that meetings and papers (unless exempt) are open to the public will apply. At the discretion of the Administering Authority items may be edited or excluded on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

The Pension Board shall annually report to the Administering Authority on its nature and activities. The precise content of this report will be subject to consideration and agreement at a meeting of the Board but as a minimum should include



- a. details of members attendance at meetings of the Pension Board
- b. details of training and development activities made available to Pension Board members and attendance at such activities
- c. details of any recommendations made by the Pension Board to the Scheme Manager and the Scheme Manager's response to those recommendations
- d. details of costs incurred in the operation of the Pension Board
- e. a review of the effectiveness of the Board (see Section 6)

In consideration of items of business at its ordinary meetings the Pension Board shall determine whether it wishes to make recommendations to the Scheme Manager, to which the Scheme Manager shall respond at the subsequent meeting.

The Pension board shall also report as required by the regulations to the Pensions Regulator and the National Scheme Advisory Board.

## **12) Reporting Breaches**

Any breach brought to the attention of the Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in the draft code of practice 14 issued by the Pensions Regulator, *Governance and Administration of Public Service Pension Schemes*.

## **13) Escalation of matters of serious concern**

Where a matter of serious concern arises regarding compliance or a potential breach of the regulations, the Pension Board must inform the Scheme Manager immediately, and may escalate reporting to the Monitoring Officer, to the National Scheme Advisory Board and the Pensions Regulator if considered necessary and appropriate.

## **14) Publication of Pension Board information**

Scheme members and other interested parties will want to know that the NYPF is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, and to carry out its role in relation to the governance and administration of the scheme and requirements of the Pension Regulator.

Up to date information will be posted on the NYPF website showing:

- the names of the Pension Board members and other relevant information
- how the scheme members are represented on the Pension Board
- the responsibilities of the Pension Board as a whole
- the full terms of reference and policies of the Pension Board and how they operate
- the Pension Board appointment process
- any specific roles and responsibilities of individual Pension Board members

The Administering Authority will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

#### **15) Advice to the Board**

The Board will be supported in its role and responsibilities by the Administering Authority through advice and support as appropriate.

#### **16) Expense Reimbursement, remuneration and allowances**

The Administering Authority will determine remuneration and allowances to be paid to Pension Board members based on recommendations made by the Independent Panel on Members Remuneration. These arrangements are reviewed annually.

Expenses in connection with fulfilling Pension Board responsibilities will be met by the Fund based on the Council's Members Scheme of Allowances and officers Travel and Expenses Policy as appropriate. The costs of appropriate training will also be met by the Fund.

#### **17) Insurance**

The Council's Public Liability Insurance applies to members of the Pension Board.

#### **18) Updating the Pension Board Terms of Reference**

Approval for significant amendments must be pursued through the Council's Constitution Working Group. General updating or housekeeping can be carried out without the need to seek formal approval.

#### **19) Definitions**

The undernoted terms shall have the following meaning when used in this document:

<i>"Pension Board" or "Board"</i>	Means the Pension Board for the Council as the Administering Authority of the NYPF as required under the Public Service Pensions Act 2013
<i>"Administering Authority"</i>	Means the Council
<i>"Scheme Manager"</i>	Means the PFC of the Council
<i>"Chair"</i>	The individual responsible for chairing meetings of the Pension Board and guiding its debates

*“LGPS”*

The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and the The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009

*“Scheme”*

Means the Local Government Pension Scheme as defined under “LGPS”

# AREA CONSTITUENCY COMMITTEES

## HARROGATE AND KNARESBOROUGH AREA CONSTITUENCY COMMITTEE

### Membership

<b>Councillors (13)</b>			
	<i>Councillors Name</i>	<i>Political Group</i>	<i>Electoral Division</i>
<b>1</b>	GIBBS, Sam	Conservative	Valley Gardens and Central Harrogate
<b>2</b>	HARRISON, Michael	Conservative	Killinghall, Hampsthwaite and Saltergate
<b>3</b>	MANN, John	Conservative	Oatlands and Pannal
<b>4</b>	WINDASS, Robert	Conservative	Boroughbridge and Claro
<b>5</b>	HASLAM, Paul	Independent Unaffiliated	Bilton and Nidd Gorge
<b>6</b>	ALDRED, Chris	Liberal Democrats and Liberal	High Harrogate and Kingsley
<b>7</b>	BROADBANK, Philip	Liberal Democrats and Liberal	Fairfax and Starbeck
<b>8</b>	GOSTLOW, Hannah	Liberal Democrats and Liberal	Knaresborough East
<b>9</b>	LACEY, Peter	Liberal Democrats and Liberal	Coppice Valley and Duchy
<b>10</b>	TIMOTHY, Andrew	Liberal Democrats and Liberal	Stray, Woodlands and Hookstone
<b>11</b>	SLATER, Monika                      Vice Chair	Liberal Democrats and Liberal	Bilton Grange and New Park
<b>12</b>	WALKER, Matt	Liberal Democrats and Liberal	Knaresborough West
<b>13</b>	SCHOFIELD, Mike	North Yorkshire Independent	Harlow and St Georges
<b>Total Membership – (13)</b>		<b>Quorum – (3)</b>	

# RICHMOND (YORKS) AREA CONSTITUENCY COMMITTEE

## Membership

<b>Councillors (16)</b>			
	<i>Councillors Name</i>	<i>Political Group</i>	<i>Electoral Division</i>
<b>1</b>	DICKINSON, Caroline	Conservative	Northallerton South
<b>2</b>	HUGILL, David	Conservative	Hutton Rudby and Osmotherley
<b>3</b>	JONES, Tom	Conservative	Scotton and Lower Wensleydale
<b>4</b>	LES OBE, Carl	Conservative	Catterick Village and Brompton-on-Swale
<b>5</b>	MOORHOUSE, Heather	Conservative	Great Ayton
<b>6</b>	PEACOCK, Yvonne                      Chair	Conservative	Upper Dales
<b>7</b>	SEDGWICK, Karin	Conservative	Leyburn and Middleham
<b>8</b>	THOMPSON, Angus	Conservative	North Richmondshire
<b>9</b>	WATSON, Steve	Conservative	Northallerton North and Brompton
<b>10</b>	WEBSTER, David	Conservative	Bedale
<b>11</b>	WEIGHELL OBE, John	Conservative	Aiskew and Leeming
<b>12</b>	WILKINSON, Annabel	Conservative	Morton-on-Swale and Appleton Wiske
<b>13</b>	WILKINSON, Peter                      Vice Chair	Conservative	Romanby
<b>14</b>	FOSTER, Kevin	Green Party	Hipswell and Colburn
<b>15</b>	GRIFFITHS, Bryn	Liberal Democrats and Liberal	Stokesley
<b>16</b>	PARSONS, Stuart	North Yorkshire Independent	Richmond
<b>Total Membership – (16)</b>		<b>Quorum – (3)</b>	

# SCARBOROUGH AND WHITBY AREA CONSTITUENCY COMMITTEE

## Membership

<b>Councillors (15)</b>			
	<i>Councillors Name</i>	<i>Political Group</i>	<i>Electoral Division</i>
<b>1</b>	BASTIMAN, Derek	Conservative	Scalby and the Coast
<b>2</b>	CHANCE, David	Conservative	Danby and Mulgrave
<b>3</b>	JEFFELS, David	Conservative	Derwent Valley and Moor
<b>4</b>	PEARSON, Clive                      Chair	Conservative	Esk Valley and Coast
<b>5</b>	PHILLIPS, Heather	Conservative	Seamer
<b>6</b>	SWIERS, Roberta	Conservative	Cayton
<b>7</b>	TRUMPER, Phil	Conservative	Whitby West
<b>8</b>	MAW, Rich	Independent (Unaffiliated)	Weaponnes and Ramshill
<b>9</b>	RANDERSON, Tony	Independent (Unaffiliated)	Eastfield
<b>10</b>	BROADBENT, Eric	Labour	Northstead
<b>11</b>	COLLING, Liz                      Vice Chair	Labour	Falsgrave and Stepney
<b>12</b>	RITCHIE, John	Labour	Woodlands
<b>13</b>	SHARMA, Subash	Labour	Newby
<b>14</b>	SWANNICK, Neil	Labour	Whitby and Streonshalh
<b>15</b>	JEFFERSON, Janet	North Yorkshire Independent	Castle
<b>Total Membership – (15)</b>		<b>Quorum – (3)</b>	

# SELBY AND AINSTY AREA CONSTITUENCY COMMITTEE

## Membership

<b>Councillors (16)</b>			
	<i>Councillors Name</i>	<i>Political Group</i>	<i>Electoral Division</i>
<b>1</b>	ARTHUR, Karl	Conservative	Cliffe and North Duffield
<b>2</b>	CRANE, Mark	Conservative	Brayton and Barlow
<b>3</b>	GROGAN, Tim	Conservative	Monk Fryston and South Milford
<b>4</b>	LEE, Andrew	Conservative	Appleton Roebuck and Church Fenton
<b>5</b>	LUNN, Cliff	Conservative	Thorpe Willoughby and Hambleton
<b>6</b>	PARASKOS, Andy	Conservative	Spofforth with Lower Wharfedale and Tockwith
<b>7</b>	WARNEKEN, Arnold	Green	Ouseburn
<b>8</b>	DAVIS, Melanie <span style="float: right;">Chair</span>	Labour	Selby West
<b>9</b>	DUCKETT, Stephanie	Labour	Barlby and Riccall
<b>10</b>	PACKHAM, Bob	Labour	Sherburn in Elmet
<b>11</b>	PROUD, Jack	Labour	Selby East
<b>12</b>	SHAW-WRIGHT, Steve	Labour	Selby West
<b>13</b>	CATTANACH, John	North Yorkshire Independent	Cawood and Escrick
<b>14</b>	JORDAN, Mike	North Yorkshire Independent	Camblesforth and Carlton
<b>15</b>	McCARTNEY, John	North Yorkshire Independent	Osgoldcross
<b>16</b>	POSKITT, Kirsty <span style="float: right;">Vice Chair</span>	North Yorkshire Independent	Tadcaster
<b>Total Membership – (16)</b>		<b>Quorum – (3)</b>	

# SKIPTON AND RIPON AREA CONSTITUENCY COMMITTEE

## Membership

<b>Councillors (15)</b>			
	<i>Councillors Name</i>	<i>Political Group</i>	<i>Electoral Division</i>
<b>1</b>	BROWN, Nick	Conservative	Wathvale and Bishop Monkton
<b>2</b>	FOSTER, Richard                      Chair	Conservative	Wharfedale
<b>3</b>	HULL, Nathan	Conservative	Washburn and Birstwith
<b>4</b>	IRETON, David	Conservative	Bentham and Ingleton
<b>5</b>	MYERS, Simon	Conservative	Mid Craven
<b>6</b>	STAVELEY, David	Conservative	Settle and Penyghent
<b>7</b>	HESELTINE, Robert	Conservatives and Independents	Skipton East and South
<b>8</b>	WILLIAMS, Andrew	Conservatives and Independents	Ripon Minster and Moorside
<b>9</b>	BROWN, Andy	Green Party	Aire Valley
<b>10</b>	NOLAND, David	Green Party	Skipton North and Embsay-with-Eastby
<b>11</b>	CUNLIFFE-LISTER, Felicity	Liberal Democrats and Liberal	Masham and Fountains
<b>12</b>	BRODIGAN, Barbara	Liberal Democrats and Liberal	Ripon Ure Bank and Spa
<b>13</b>	MURDAY, Andy	Liberal Democrats and Liberal	Pateley Bridge and Nidderdale
<b>14</b>	BARRETT, Philip	North Yorkshire Independent	Glusburn, Cross Hills and Sutton-in-Craven
<b>15</b>	SOLLOWAY, Andy                      Vice Chair	North Yorkshire Independent	Skipton West and West Craven
<b>Total Membership – (15)</b>		<b>Quorum – (3)</b>	



# THIRSK AND MALTON AREA CONSTITUENCY COMMITTEE

## Membership

<b>Councillors (15)</b>			
	<i>Councillors Name</i>	<i>Political Group</i>	<i>Electoral Division</i>
<b>1</b>	BAKER, Alyson	Conservative	Hillside and Raskelf
<b>2</b>	DADD, Gareth	Conservative	Thirsk
<b>3</b>	DUNCAN, Keane	Conservative	Norton
<b>4</b>	JABBOUR, George	Conservative	Helmsley and Sinnington
<b>5</b>	KNAPTON, Nigel                      Chair	Conservative	Easingwold
<b>6</b>	SANDERSON, Janet	Conservative	Thornton Dale and Wolds
<b>7</b>	TAYLOR, Malcolm	Conservative	Huby and Tollerton
<b>8</b>	WHITE, Greg	Conservative	Kirkbymoorside
<b>9</b>	GOODRICK, Caroline              Vice Chair	Conservatives and Independents	Sheriff Hutton and Derwent
<b>10</b>	CROSS, Sam	Independent (Unaffiliated)	Filey
<b>11</b>	DONOHUE-MONCRIEF, Michelle	Independent (Unaffiliated)	Hunmanby and Sherburn
<b>12</b>	ANDREWS, Joy	Liberal Democrats and Liberal	Pickering
<b>13</b>	MASON, Steve	Liberal Democrats and Liberal	Amotherby and Ampleforth
<b>14</b>	SLADDEN, Dan	Liberal Democrats and Liberal	Sowerby and Topcliffe
<b>15</b>	BURR, Lindsay MBE	North Yorkshire Independent	Malton
<b>Total Membership – (15)</b>		<b>Quorum – (3)</b>	

## **AREA CONSTITUENCY COMMITTEES**

### Membership

The Council will appoint the Area Constituency Committees in accordance with Article 10.

### Quorum

The quorum will be not less than 3 Members.

### Substitute Members

Substitute Members are not permitted on the Area Constituency Committees.

### **Terms of Reference**

1. In relation to Area Constituency Committees, see also Article 10 of the Constitution.
2. Area Constituency Committees should not make decisions which significantly affect parts of North Yorkshire outside the Committee's area.
3. Area Constituency Committees shall provide for visible local democracy and accountability for Division and Executive Members through public meetings held in each of the Constituency Committee areas.
4. The Area Constituency Committees shall act as a forum for local issues to be raised by the public and/or Community Networks through questions and statements.
5. The Area Constituency Committees shall empower and enable delivery of Community Area Action Plans and other local priorities brought to its attention by Division Members, Town and Parish Councils, Community Networks and members of the public.
6. The Area Constituency Committees shall engage in cross boundary discussions whenever appropriate.
7. To support and be consulted on development plan documents at formal decision making stages of the plan making process.
8. To support and be consulted in respect of Neighbourhood Plans within the constituency area

### **Delegated Powers**

1. To act as consultees in major decisions affecting their area and to influence policy development and the strategic agenda of the Council.
2. To provide meaningful scrutiny of local issues within their area, complementing the strategic work undertaken by the Council's six Overview and Scrutiny Committees.
3. To receive corporate performance information and to hold the Executive to account by constructively challenging performance data or service delivery in respect of issues with local significance.

4. To engage upon, receive reports and be consulted on, major educational health care and leisure issues affecting their locality.
5. To engage throughout the year with the 6 North Yorkshire MPs to develop a shared understanding of key local issues and opportunities affecting the area.
6. To engage with relevant partnerships and partner organisations in identifying potential areas for support and issues to challenge and to join up relevant partners in areas of shared interest.
7. To advise the Council on boundary consultations.
8. To monitor and act as a consultee in relation to major projects within the Area Constituency Committee boundary.
9. To make appointments to outside bodies in accordance with paragraphs 2 and 3 of Schedule 5 to Part 3 of the Constitution.
10. To exercise, within the approved budget and policy framework, the following powers and duties:
  - \*(a) aspects of the Private Street Works procedure for which objections have been received;
  - \*(b) the making and enforcement of new street Byelaws and Orders;
  - \*(c) the stopping up or diversion of highways (other than public rights of way) where an objection is received from any person or body entitled under the relevant statute;
  - \*(d) the stopping-up and provision of access to premises from highways;
  - (e) the promotion of road safety information, advice or training;
11. To act as a consultee on Traffic Regulation Orders where it is considered by the Corporate Director of Environment in consultation with the relevant Executive Member(s) that a proposed Traffic Regulation Order meets the criteria for having a wide area impact.
12. To respond to any consultation under the Local Government (Miscellaneous Provisions) Act 1982, Section 3.
13. To consider other matters referred to it by the Council, the Executive or overview and scrutiny committees.
14. To make recommendations to the Corporate Director of Community Development in respect of 'seed funding' or match funding for projects to be allocated from any delegated Area Constituency Committee Budget the Director may have.
15. To lead, consider and make recommendations concerning the promotion of economic development within the Area Constituency Committee area.

16. To promote and encourage enterprise and investment in the Area Constituency Committee area and to maintain and sustain the economic well-being and regeneration of the area.
17. To develop a climate where businesses and individuals can innovate, compete and contribute to the economic development and regeneration of the area, and excellence in local business.
18. To encourage the growth of existing businesses in the area and access to the skills and training necessary to support them.
19. To consider and make recommendations relating to the promotion, maintenance and enhancement of the vitality and viability of shopping centres / market towns within the area.
20. To make recommendations to the Corporate Director of Community Development on the expenditure of Community Infrastructure Levy and appropriate section 106 expenditure.
21. To consult with the Chamber of Commerce, Federation of Small Businesses, residents and other interested third parties.
22. To promote and encourage tourism and heritage, arts, leisure and culture, and to scrutinise progress of plans and proposals related to this and also decarbonisation, agriculture, transport and the care sector.
23. To consider making recommendations in relation to parking (off street provision in Council owned / leased off street parking places).
24. To consider and review crime and disorder and community safety.
25. To check upon the working of double devolution deals within the ACC boundary.
26. With the agreement of the Chair of the Area Constituency Committee, to make recommendations to the appropriate officer and/or body regarding the following matters as they affect the Area Constituency Committee's area:
  - a) Housing
  - b) Transport
  - c) Estate needs for North Yorkshire Council
  - d) Climate change and environmental issues

NB: Items marked \* are delegated to Area Constituency Committees by the Council; other items are delegated to Area Constituency Committees by the Executive.

# North Yorkshire Health and Wellbeing Board

## Membership

<b>Councillors (3)</b>		
1	HARRISON, Michael (Chair)	Executive Member for Health and Adult Services
2	MYERS, Simon	Executive Member for Culture, Arts and Housing
3	SANDERSON, Janet	Executive Member for Children and Families
<b>Local Authority Officers (5)</b>		
4	FLINTON, Richard	North Yorkshire Council, Chief Executive
5	WEBB, Richard	North Yorkshire Council, Corporate Director, Health and Adult Services
6	CARLTON, Stuart	North Yorkshire Council, Corporate Director, Children and Young People's Service
7	WALLACE, Louise	North Yorkshire Council, Director of Public Health
8	HARNE, Nic	North Yorkshire Council, Corporate Director of Community Development
<b>Integrated Care Boards (3)</b>		
9	HAIDER, Ali Jan	Director of Integrated Health and Care, Bradford District and Craven Health and Care Partnership (part of NHS West Yorkshire Integrated Care Board)
10	BLOOR, Amanda	Chief Operating Officer, NHS Humber and North Yorkshire Integrated Care Board
11	BALMAIN, Wendy	Place Director for North Yorkshire, NHS Humber and North Yorkshire Integrated Care Board
<b>Other Members (3)</b>		
12	JONES, Shaun	Interim Locality Director, NHS England and NHS Improvement (NE and Yorkshire)
13	GREEN, Ashley	Chief Executive Officer, Healthwatch, North Yorkshire
14	QUINN, Jill	Chief Executive of Dementia Forward (Voluntary Sector Representative)
<b>Co-opted Members (5) – Voting</b>		
15	CAMPBELL, Zoe	Managing Director, North Yorkshire, York and Selby Care Group, Tees, Esk and Wear Valleys NHS Foundation Trust (Mental Health Trust Representative)
16	COULTER, Jonathan	Chief Executive, Harrogate District NHS Foundation Trust
17	TYRER, Dr Sally	Chair of the North Yorkshire Branch, YORLMC (Primary Care Representative)
18	WINWARD, Lisa QPM	Chief Constable (Emergency Services Representative)
19	PADGHAM, Mike	Chief Executive, Independent Care Group (Care Providers Representative)
<b>Substitute Members</b>		
	AJAYI, Foluke	Chief Executive of Airedale NHS Foundation Trust
	CRANNA, Brian	North Yorkshire, York and Selby Director of Operations and Transformation, Tees, Esk and Wear Valleys NHS Foundation Trust
	DIXON, Catherine	YORLMC (Primary Care)
	DYSON, Jonathan	Chief Fire Officer, Emergency Services
	O'NEILL, Nancy MBE	Bradford and District and Craven Health Care Partnership (part of NHS West Yorkshire Integrated Care Board)
	PATTINSON, John	Operations Director, Independent Care Group
	WAUGH, Michelle	NHS England and NHS Improvement (NE and Yorkshire)

Notes:

1. The Health and Wellbeing Board is exempt from the requirements as to political balance set out in Sections 15-16, Schedule 1 Local Government Housing Act 1989.
2. The Councillor Membership of the Board is nominated by the Leader of the Council. In the event that the number of portfolio holders responsible for health and well related issues increases, the additional portfolio holders will also be a Member of the Board.
3. All members of the Health and Wellbeing Board or any sub committees of the Health and Wellbeing Board are voting Members unless the Council decides otherwise.

# North Yorkshire Health and Wellbeing Board

## Terms of Reference

### 1. Core Functions

- 1.1 The Health and Social Care Act 2012 requires the Council to establish a Health and Wellbeing Board (the Board) for its area to encourage the improvement and integration of working of health and social care for North Yorkshire.
- 1.2 To promote integration and partnership across the Council's area including promoting joined up commissioning plans across the NHS and Social Care.
- 1.3 To support joint commissioning and pooled budgets.
- 1.4 To assess the needs of the population in the Council's area and lead the statutory Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS).
- 1.5 To be a forum for discussions about strategic and operational co-ordination in the delivery of services already commissioned.

### 2. Key responsibilities

The main responsibilities of the Board are:

- (a) to actively participate in the development of Integrated Care Strategies of the Integrated Care Partnership (ICP) within North Yorkshire, by working with the ICPs collaboratively and iteratively;
- (b) to ensure the JSNA (including the Pharmaceutical Needs Assessment) based on the needs of the population in the Council's area, is prepared and implemented effectively with the aim of improving healthy life expectancy and reducing health inequalities and to undertake an annual review;
- (c) to determine priorities, prepare and publish the JHWS for North Yorkshire, and undertake an annual review;
- (d) to be mindful of, and include throughout its activities a concern for both adults' and children's health and wellbeing;
- (e) to encourage integrated working between health and social care commissioners including the provision of advice, assistance or other support to encourage arrangements under Section 75 of the National Health Service Act 2006, such as leading commissioning, pooling budgets and/or integrated provision in connection with the provision of Health and Social Care Services and to sign off the Integrated Better Care Fund submission annually;
- (f) to encourage closer working between the commissioners and providers of health-related services, with other local government services and the commissioners of health and social care services and, as part of that to

- advise relevant commissioners whether their plans observe the JHWS and to express concerns to the ICP and the Local Authority, respectively, if the content of their plans deviate from the JHWS;
  - ensure the effective commissioning of services to help to deliver the priorities of the JHWS and to achieve public health outcomes; and
  - provide advice to commissioners and providers of health related services on meeting the assessed needs of the population through effective interventions to improve health
- (g) to provide strong leadership, system leadership and direction to the health and wellbeing agenda by agreeing priority outcomes for the JHWS;
- (h) to provide a platform for partners to work together to ensure the people of North Yorkshire are able to benefit from improvements in health and wellbeing;
- (i) to undertake any of the other functions that are delegated to the Board by the Council under Section 196 (2) of the Health and Social Care Act 2012;
- (j) to advise all commissioners and providers of health and social care services as to whether their commissioning plans observe the JHWS and to express concerns to the ICP and the Local Authority, respectively, if the content of CCG commissioning plans deviate from the JHWS;
- (k) to engage with commissioners to ensure the effective commissioning of services to help to deliver the priorities of the JHWS and to achieve public health outcomes.
- (l) to provide advice to commissioners and providers of health-related services on meeting the assessed needs of the population through effective interventions to improve health:
- (m) to receive reports annually through arrangements agreed by the UK Health Security Agency/Office for Health Improvement and Disparities and the Director of Public Health on health protection arrangements, including the local agreement of health protection priorities;
- (n) to receive such other reports as are necessary for the reporting of serious incidents or areas of concern with a view to ensuring acute and longer term health protection responses and strategies delivered by the Office for Health Improvement and Disparities/the UK Health Security Agency are delivered to properly meet the health needs of the local population;
- (o) to report annually to NHS England, as part of their annual assessment of the ICSs, as to how the ICSs have helped to deliver the JHWS;
- (p) to receive the Annual Report of the Director of Public Health and to consider its recommendations in reviewing the priorities for improving population health and reducing health inequalities
- (q) to work with ICPs and Integrated Care Boards (ICB) to determine the integrated approach that will best deliver holistic care and prevention activities, including action on wider determinants in their communities;



- (h) to comment on the draft Five Year Forward Plan produced by each ICB in North Yorkshire.

### **3. Governance and Accountability**

- 3.1 The Board will be accountable for its actions to its individual member organisations.
- 3.2 The Board will liaise with key statutory and non-statutory national and local organisations which have a remit to improve health and wellbeing in North Yorkshire. These will include the Integrated Care Systems; North Yorkshire Safeguarding Adults Board and North Yorkshire Safeguarding Children's Partnership.
- 3.3 The representatives of the Board will be accountable through their own organisations decision making processes for the decisions they take. It is expected that Members of the Board will have delegated authority from their organisations to take decisions within the Terms of Reference of the Board.
- 3.4 Subject to 3.5 below, decisions within the Terms of Reference will be taken at meetings and will not normally be subject to ratification or a formal decision process by partner organisations (provided that at least 10 days notice of forthcoming decisions has been given). However, where decisions are not within the delegated authority of the Board Members, these will be subject to ratification by constituent bodies.
- 3.5 The JHWS will be referred to the Council for approval as part of the Council's Policy Framework.

### **4. Conduct of Meetings of the Board**

- 4.1 Meetings of the Board will, generally, take place six times each year, to transact formal business and will normally be conducted in public subject to the provisions as to exempt information. Additional meetings of the Board may be called if agreed by the Chair to be essential to the effective transaction of business. Prior to or following the formal meetings, the Board may hold Workshop/Development Sessions. These are informal and not open to the public.
- 4.2 The meetings will be chaired by the Leader of the Council, or the relevant portfolio holder nominated by him/her. The Deputy Chair will be appointed by the Board and should be from the NHS.
- 4.3 The quorum for meetings shall be 50% of its statutory membership.
- 4.4 Any elected Member of North Yorkshire Council can substitute for one of the elected Member representatives on the Board, should they not be able to attend. A substitute for other Members of the Board, by someone from their organisation, is also permissible.
- 4.5 It will invariably be clear that a consensus has been reached and the Chair will seek confirmation that Members agree with the recommendations. A formal vote will be taken where this consensus is not evident.
- 4.6 Each meeting will have an open forum session where members of the public may ask questions. In accordance with the Council's Constitution, notice of these questions will normally be required three days prior to the meeting.
- 4.7 The Chair shall sign the Minutes as a true and accurate record of the meeting.

- 4.8 The Board may establish sub committees to undertake any of their functions.
- 4.9 The Board may set up strategy groups or task groups to assist in the undertaking of its functions, but such strategy or task groups will not have decision making powers, and Terms of Reference for each group will be agreed.

## 5. **Codes of Conduct and Conflicts of Interest**

- 5.1 All non-Councillor Members of the Board who are entitled to vote are governed by the Council's Members' Code of Conduct and will be required to sign an undertaking to comply with the Code and complete a register of interests, and observe requirements as to the disclosure of pecuniary and other interests. Members of the Board are prohibited from participating in discussion or voting on any matter relating to an interest contained in their register of interests.

## 6. **Scrutiny**

- 6.1 The discharge of functions by the Board falls within the remit of scrutiny, but the core functions are not subject to call-in as they are not Executive functions.
- 6.2 The review and scrutiny of decisions made or other action taken by the Board in connection with discharge of the functions of the Local Authority should not be undertaken by any Member who is involved in the decision making or actions of the Board. Accordingly Members of the Board should not also be Members of any Overview and Scrutiny Committee(s) undertaking scrutiny of the work and decisions of the Board.

# North Yorkshire Police, Fire and Crime Panel

## MEMBERSHIP (10)

Councillors Name	Council		Political Group
GROGAN, Tim	North Yorkshire Council		Conservative
MOORHOUSE, Heather	North Yorkshire Council		Conservative
TAYLOR, Malcolm	North Yorkshire Council		Conservative
WILKINSON, Peter	North Yorkshire Council		Conservative
ALRED, Chris	North Yorkshire Council		Liberal Democrats and Liberal
SHAW-WRIGHT, Steve	North Yorkshire Council		Labour
BURR MBE, Lindsay	North Yorkshire Council		North Yorkshire Independent
KNIGHT, Emilie	City of York Council		Liberal Democrats
MYERS, Danny	City of York Council		Labour
PAVLOVIC, Michael	City of York Council		Labour

## VOTING

### CO-OPTED MEMBERS (3)

1. FORSYTH, Fraser
2. GODDERIDGE, Mags
3. WALKER, Martin

### SUBSTITUTES

CUNLIFFE-LISTER, Felicity North Yorkshire Council      Liberal Democrats and Liberal

## TERMS OF REFERENCE

*The detailed Terms of Reference for the North Yorkshire Police, Fire and Crime Panel are outlined in the 'Rules of Procedure' and 'Panel Arrangements' documents. These have been agreed between the local authorities in the police force area and a copy of both of these documents can be accessed upon request from North Yorkshire Council Democratic Services.*

# Schedule 2

## The Executive

1. [Executive Members and their Responsibilities.](#)
2. [Register of Executive Committees.](#)
  - Shareholder Committee
  - York and North Yorkshire Joint Devolution Committee
3. [Delegation of Executive Functions.](#)
4. [Executive Members Delegation Scheme](#)
5. Member Champions

## Executive Members and their Responsibilities

The following Councillors are members of the Executive. All Executive Members in carrying out their duties as a portfolio holder are responsible for equality, diversity and inclusion:

Name	Telephone Number Email address	Electoral Division	Areas of Responsibility
LES OBE, Carl	Tel: 07860 639600 Email: <a href="mailto:cllr.carl.les@northyorks.gov.uk">cllr.carl.les@northyorks.gov.uk</a>	Catterick Village and Brompton-on-Swale	<b>Leader of the Council</b>  Communications and emergency planning
DADD, Gareth	Tel: 01845 501222 Email: <a href="mailto:cllr.gareth.dadd@northyorks.gov.uk">cllr.gareth.dadd@northyorks.gov.uk</a>	Thirsk	<b>Deputy Leader of the Council</b>  Finance, Assets including Pension Fund, Property, Procurement and Commercial, Technology, Transformation, Revenue and Benefits and HR
CRANE, Mark	Tel: 01757 210933 Email: <a href="mailto:cllr.mark.crane@northyorks.gov.uk">cllr.mark.crane@northyorks.gov.uk</a>	Brayton and Barlow	<b>Open to Business</b>  Including Planning, Policy and Local Plan development, economic development and regeneration, Visitor Economy, Broadband, Harbours, relationship with the MCA Business Board
DUNCAN, Keane	Tel: 07794 451202 Email: <a href="mailto:cllr.keane.duncan@northyorks.gov.uk">cllr.keane.duncan@northyorks.gov.uk</a>	Norton	<b>Highways and Transportation</b>  Including Parking Services, Street Scene, Parks and Grounds, Integrated Passenger Transport, Public Rights of Way and Coastal Protection and Flooding
HARRISON, Michael	Tel: 01423 536157 Email: <a href="mailto:cllr.michael.harrison@northyorks.gov.uk">cllr.michael.harrison@northyorks.gov.uk</a>	Killinghall, Hampsthwaite and Saltergate	<b>Health and Adult Services</b>  Including Public Health and Prevention and Service Development
MYERS, Simon	Tel: 07801 310126 Email: <a href="mailto:cllr.simon.myers@northyorks.gov.uk">cllr.simon.myers@northyorks.gov.uk</a>	Mid Craven	<b>Culture, Arts and Housing</b>  Including Culture, Arts, Libraries, Museums, Archives, Key venues, Leisure and Housing

Name	Telephone Number Email address	Electoral Division	Areas of Responsibility
PHILLIPS, Heather	Tel: 07985 732593 Email: <a href="mailto:cllr.heather.phillips@northyorks.gov.uk">cllr.heather.phillips@northyorks.gov.uk</a>	Seamer	<p><b>Corporate Services</b></p> <p>Including locality working and structures, including Stronger Communities, Policy and Performance, Refugee and Asylum issues, Community Safety including CCTV, operational planning committees, Legal and Democratic Services, Members support, Customer Contact, community networks and parish liaison, Locality Budgets, NYLAF &amp; Household Support and Gypsy and Traveller issues</p>
SANDERSON, Janet	Tel: 01751 474516 Email: <a href="mailto:cllr.janet.sanderson@northyorks.gov.uk">cllr.janet.sanderson@northyorks.gov.uk</a>	Thornton Dale and The Wolds County	<p><b>Children and Families</b></p> <p>Including Inclusion, fostering and adoption, children's social care, safeguarding and prevention</p>
WHITE, Greg	Tel: 01751 242400 Email: <a href="mailto:cllr.greg.white@northyorks.gov.uk">cllr.greg.white@northyorks.gov.uk</a>	Kirkbymoorside and Dales	<p><b>Managing our Environment</b></p> <p>Covering Natural Capital, which includes Climate Change, Carbon Reduction and Bio-diversity, Waste Collection and Disposal, Regulatory Services which includes Environmental Health, Trading Standards and Licensing, Bereavement Services, Registrars and Coroners</p>
WILKINSON, Annabel	Tel: 01677 426744 Email: <a href="mailto:cllr.annabel.wilkinson@northyorks.gov.uk">cllr.annabel.wilkinson@northyorks.gov.uk</a>	Morton-on-Swale and Appleton Wiske	<p><b>Education, Learning and Skills</b></p> <p>Including school improvement, early years, apprenticeships, further and adult education, FE colleges and UTCs, relationship with LEP skills board, music service, outdoor education, school admissions, organisation and transport</p>

# Register of Executive Committees

*There is currently one Committee of the Executive – the Shareholder Committee.*

*The Executive has established a joint committee with the City of York Council – the York and North Yorkshire Joint Committee. The Joint Committee is established under Section 101(5) of the Local Government Act 1972, as applied by Section 9EB of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 by the Executives of City of York Council and North Yorkshire County Council (North Yorkshire Council from 1 April 2023).*

# Shareholder Committee

## 1. Membership

<b>Councillors (3)</b>			
	Councillors Name	Chair/Vice Chair	Political Group
<b>1</b>	LES OBE, Carl	Chair	Conservative
<b>2</b>	DADD, Gareth	Vice Chair	Conservative
<b>3</b>	CRANE, Mark		Conservative

NOTE – appointments are made by and from the Executive



## **DELEGATION OF DECISION-MAKING POWERS FOR COMPANIES**

The Council has shares in or is a member of a number of companies (including but not limited to Companies Limited by Shares and Companies Limited by Guarantee). The Council will exercise its powers and responsibilities as shareholder or member in accordance with the provisions set out below.

### **Shareholder Committee**

The Shareholder Committee is a committee of the Executive established to provide oversight of the Council's company interests in accordance with any principles agreed by Council and provisions contained within any shareholder and company member agreement.

The Shareholder Committee will:

- ◆ review and approve business plans and project plans as prepared by the companies' boards of directors, ensure the business plans are reviewed on a regular basis and contain key performance targets and milestones for the year, all in accordance with any objectives or investment criteria as agreed by Council;
- ◆ monitor the performance of Council companies against the targets and milestones set;
- ◆ approve or make amendments to the strategic or business plans of the companies.

As it is a Committee of the Executive the same rules of procedure apply to its meetings as apply to the Executive.

### **Shareholder Representative**

As the Council is an organisation rather than an individual, it has appointed the Chief Executive Officer as the Shareholder Representative. The Shareholder Representative is authorised on behalf of the Shareholder Committee and Executive to sign documents on behalf of the Shareholder or Member in the case of companies limited by guarantee so long as the decision process is in accordance with this scheme of delegation.

This includes the power of the Shareholder Representative to approve and sign shareholder resolutions.

Companies are required to have Articles of Association and may also have other governance documents. These documents may set out a list of Reserved Matters which are items that may only be decided on or approved by the Council as shareholder or member of the company. The approval of the Council for these Reserved Matters will be sought in accordance with the Council's scheme of delegation including the following specific delegations:

#### **Decisions reserved to the Executive**

1. Setting up a new company in which the Council is to be a member or shareholder.
2. Approving steps to wind up a company of which the Council is a member or shareholder.

3. The company making loans in excess of (£500k) other than by way of normal trade credit.

#### **Decisions which would fall within the remit of the Shareholder Committee**

4. Changes to company governance e.g. changes to Articles, Shareholder Agreements.
5. Approving or making amendments to the strategic or business plans of the companies.
6. Monitoring the strategic and business plans annually or as required by the Shareholder Representative.
7. Acquiring shares in another company, entering into a formal Joint Venture arrangement or merging with any other company or business undertaking.
8. Establishing subsidiary companies or changes to the company structures.
9. Approving disposals of assets valued over (£500k) [subject to the Company's articles of association/governance documents].
10. Approving borrowing in excess of (£500k) [subject to the Company's articles of association/governance documents].
11. Entering, amending or terminating any agreements which create a potential liability for the company in excess of £500k [subject to the Company's articles of association/governance documents].
12. Making changes to the nature of the company's business.
13. Matters relating to the approval of dividends requiring Shareholder consent.
14. Reviewing the decisions of the Chief Executive Officer of NYC and Group (Shareholder Representative) and holding the decisions and that individual to account. Formal decisions made by the Shareholder Representative will be reported back to the Shareholder Committee.

#### **Decisions which fall within the remit of the Chief Executive Officer of NYC as Group (Shareholder Representative)**

The Shareholder Representative may refer any matters delegated to them to the Shareholder Committee or Executive if they deem this appropriate in the circumstances.

15. General monitoring of the strategic and business plans and approving emergency amendments.
16. Approving the appointment or dismissal of company Directors including the Chair.
17. Matters relating to the terms and conditions of company Directors, including changes to terms and conditions and/or benefits.
18. Matters relating to the entering into of any contracts with company Directors.
19. Matters relating to the employment of the senior management team of the company.

20. Changes to share capital and admission of shareholders or agreeing any rights or restrictions attaching to any shares or memberships allocated to new shareholders or options in relation to share capital.
21. Approving changes to the geographical area in which the company works.
22. Altering the company's name or registered office.
23. Where required giving any further specific approval to a matter provided for within the approved business plan.
24. To take appropriate action and decisions as the Shareholder/Member as directed by the Shareholder Committee.
25. To take all other decisions as the Shareholder/Member as provided for by legislation or the company's governance documents.
26. To report back to the Shareholder Committee from time to time on formal decisions made.
27. The approval of an appointment of any agent (not being a subcontractor) to conduct the whole or any part of the business of the company.
28. Entering, amending or terminating any agreements which create a potential liability for the company below £500k [subject to the Company's articles of association/governance documents].
29. Entering into any borrowing, credit facility or investment arrangement (other than in the normal course of trading) below £500k from any third party that is not the Council.
30. Creating or agreeing to create a charge, security or encumbrance below £500k over the company's assets, shares or income.
31. Approving any matter that is reasonably likely to have an adverse effect on the reputation of the Council.
32. Settling any legal matters and insurance claims in excess of £50,000.
33. Any other matter which is not listed above and is a reserved matter (shareholder decision) of a company partly or wholly owned by NYC.

# York and North Yorkshire Joint Devolution Committee

## Membership

	<b>Councillors Name</b>	<b>Authority</b>
<b>1</b>	DOUGLAS, Claire	City of York Council
<b>2</b>	DADD, Gareth	North Yorkshire Council
<b>3</b>	KILBANE, Peter	City of York Council
<b>3</b>	LES OBE, Carl	North Yorkshire Council
<b>Substitutes</b>		
	LOMAS, Katie	City of York Council
	PAVLOVIC, Michael	City of York Council
	WILKINSON, Annabel	North Yorkshire Council

## JOINT DEVOLUTION COMMITTEE – TERMS OF REFERENCE

### Summary of the York and North Yorkshire Joint Devolution Committee Functions

The York and North Yorkshire Joint Committee is established under Section 101(5) of the Local Government Act 1972, as applied by Section 9EB of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 by the Executives of City of York Council and North Yorkshire Council.

The Joint Committee will oversee and make decisions as required to ensure that stages of considering a Devolution deal prior to a potential creation of a mayoral combined authority is considered jointly by members of North Yorkshire Council and the City of York. The Joint Committee will provide a venue to review collaboratively the provisions of implementing the Deal and collaborating on projects that benefit the region through Devolution.

### Membership

The Joint Committee will comprise of:

- Two Executive Members appointed from City of York Council; and
- Two Executive Members appointed from North Yorkshire Council

The Executives of the two Constituent Councils have resolved to establish joint arrangements to carry out the functions of the Joint Committee. Membership of the joint committee does not need to reflect the political composition of the Council.

The following shall be invited to attend and participate in formal meetings of the Joint Committee however they will not have voting rights and they will not have the right to receive any confidential information pursuant to Schedule 12A of the Local Government Act 1972 which may from time to time be part of a formal agenda:

- The Police, Fire and Crime Commissioner
- A nominated representative of the LEP Substitutes

### Substitutes

Each Constituent Council may appoint substitute members to attend formal meetings of the joint committee.

### Appointment of Co-Chairs

The Joint Committee, at its first meeting, resolved to appoint Co-Chairs from amongst its constituent members. The Co-Chairs are to be the Leaders of the two constituent councils. The Chairing is to be determined by where the meeting is held, with the City of York Council Leader chairing meetings in York and the North Yorkshire Council Leader chairing meetings in North Yorkshire. In the absence of the scheduled Co-Chair, the remaining Co-Chair will chair the meeting.

### Quoracy

The four Members appointed to the Joint Committee will constitute a quorum.

### Voting

Decisions will be made by majority vote. In the event of a vote being required, each Member (or substitute Member) will have the ability to cast one vote.

Decisions made will be binding on both Constituent Councils.

### Rules of Procedure

The Standing Orders for North Yorkshire Council will be the relevant Standing Orders for Rules of Procedure for formal meetings.

### Frequency of Meetings

The Joint Committee shall meet as and when required to do so either at the request of the respective Leaders of the Constituent Councils and or at the request of the Chief Operating Officer of City of York Council and or the Chief Executive of North Yorkshire Council. Each meeting shall be classed as a formal meeting supported by agenda, reports and minutes.

### Administration of the York and North Yorkshire Joint Committee

North Yorkshire Council will take responsibility for the administration and support for the delivery of meetings for the Joint Committee. This includes production and publication of agendas, hosting of meetings and as such the Standing Orders as they relate to North Yorkshire Council will be adopted for the purposes of supporting the Joint Committee.

### Access to Information

Its access to information regime is the same as that applied to the Executive of the relevant Constituent Council.

### Review of the terms of reference for the Joint Committee

In the event that the terms of reference for the Joint Committee require review and or amendment, this will be delegated to the Monitoring Officer in consultation with the Leader of

the respective Council and the Chief Executive/Chief Operating Officer of the respective Council.

## **FUNCTIONS**

The Joint Committee will have oversight of the development of the York and North Yorkshire Combined Authority and ensure that it is able to be launched in accordance with the Statutory Orders issued by Government.

The Joint Committee will ensure that sufficient resources are made available to support the creation and implementation of the York and North Yorkshire Combined Authority which includes financial management and oversight, securing of appropriate resources (officers, technical and otherwise) to enable delivery and the development of governance and a policy framework.

The Joint Committee will exercise the ability to approve or adopt any policy or policy framework which is solely and directly relevant to the development and implementation of the York and North Yorkshire Combined Authority.

It is noted that any reference to North Yorkshire County Council above will be a reference to North Yorkshire Council from t<sup>he</sup> 1<sup>st</sup> April 2023.

# Delegation of Executive Functions

Any functions which, under Executive arrangements, are the responsibility of the Executive, may be discharged by the Leader personally or allocated by the Leader to the Executive, individual Executive Members, Executive Committees or Officers. Sub-delegations may also be made, e.g to Area Constituency Committees.

This list is maintained under Article 7.06 of the Constitution, and records delegation of executive functions to:

- ♦ committees of the Executive
- ♦ individual Executive Members
- ♦ Area Constituency Committees
- ♦ joint committees
- ♦ officers
- ♦ other local authorities
- ♦ the Appeals Committee (Home to School Transport)

This section also deals with the role of the Corporate Parenting Members' Group.

## **1. Committees of the Executive**

- 1.1 The Council's Executive arrangements delegate to the committees set out in the Register of Executive Committees the executive functions there specified.

## **2. Individual Executive Members**

- 2.1 The Council's Executive arrangements delegate to individual Executive Members the Executive functions set out in the Executive Members' Delegation Scheme.
- 2.2 Before taking decisions within their delegated authority, individual Executive Members will seek advice from relevant Officers.
- 2.3 Individual Executive Members exercising decision making powers will ensure that proper records are kept of all decisions they take, in accordance with legal requirements.
- 2.4 Where an individual Executive Member has an interest precluding participation (as set out in the Members' Code of Conduct) in relation to any decision, the Member will not take that decision, but will ask the relevant Officer to refer the matter to the Executive for determination.
- 2.5 Individual Executive Members with decision making powers may delegate decisions to Area Constituency Committees, or to Officers.

## **2A Leader**

- 2A.1 On an annual basis a formal appraisal of the Chief Executive Officer shall be carried out by the Leader of the Council. The appraisal shall be conducted following consultation by the Leader with the members of the Executive and the leaders of the political groups upon the Council.
- 2A.1.1 Where the outcome of the appraisal will affect the terms and conditions of the Chief Executive Officer, the matter will be referred to the Chief Officers Appointments and Disciplinary Committee for it to determine any necessary changes to such terms and

conditions (as the power to determine the terms and conditions on which staff hold office is a non-executive function).

*Note: for the avoidance of doubt, issues such as the award (or non-award) of an increment within the grade band of the Chief Executive Officer will not amount to a change in their terms and conditions necessitating a referral to the Chief Officers Appointments and Disciplinary Committee.*

2A.1.2 Where, on appraisal of the Chief Executive Officer, the Leader and/or the Chief Officers Appointments and Disciplinary Committee determines that an increment should not be awarded, the Chief Executive Officer will have a right of appeal to the Employment Appeals Committee.

### **3. Area Constituency Committees**

3.1 The Executive delegates to the Area Constituency Committees named in Article 10 the executive functions listed in the delegated powers of Area Constituency Committees in Part 3 of this Constitution and not marked \*. (This marking is to distinguish executive and non-executive functions in the Area Constituency Committees' powers).

3.2 The delegation of these powers operates under Section 9E of the Local Government Act 2000 and all other powers enabling the Executive.

3.3 When Area Constituency Committees are discharging functions which are the responsibility of the Executive, they must do so within the Budget and Policy Framework set by full Council.

### **4. Officers**

4.1 The Council's Executive arrangements delegate to Officers the executive functions which are contained in the Officers' Delegation Scheme and not marked \*. (This marking is to distinguish executive and non-executive functions in the Officers' Delegation Scheme).

4.2 The delegation of these powers operates under Section 9E of the Local Government Act 2000 and all other powers enabling the Executive.

4.3 The Executive powers delegated to Officers are subject to the general provisions in the Officers' Delegation Scheme.

### **5. Other local authorities**

5.1 The Executive delegates to the Yorkshire Dales National Park Authority and the North York Moors National Park Authority certain functions in relation to public rights of way which are functions of the Executive. This delegation operates within the areas of the National Parks and in relation to the powers specified in agreement between the Council and the National Park Authorities.

### **6. Outside Body Appointments**

6.1 Insofar as the making of appointments to outside bodies is an executive function, the Executive agrees that those appointments should be made as set out in Schedule 5.



## **7. Adoption Panels**

- 7.1 The Executive delegates its statutory functions in relation to adoption panels pursuant to the Adoption Agencies Regulations 2005 to City of York Council as the host local authority for the Regional Adoption Agency “One Adoption North and Humber” in accordance with the terms of the “One Adoption North and Humber Partnership Agreement”.

## **8. Corporate Parenting Members’ Group**

- 8.1 The Corporate Parenting Members’ Group is not a Committee of the Executive but a non-decision making member working group responsible for supporting the Executive, and the Council as a whole, in its role as corporate parent. The group will regularly report to the Lead Executive Member for Children’s Services on a quarterly basis on corporate parenting issues, and at any stage, should any issues arise in the interim which they consider should be drawn to the attention of the Executive. The report of the Corporate Parenting Members’ Group shall be reported to the Executive and full Council as part of the quarterly monitoring process.
- 8.2 The Corporate Parenting Members’ Group may refer any issues directly to the Children and Families Overview and Scrutiny Committee.
- 8.3 The Corporate Parenting Members’ Group will present an annual report directly to the Council at the Annual Council meeting.
- 8.4 The Corporate Parenting Members’ Group will comprise between five and ten members, appointed annually by the Executive, and may include members and co-opted members from the Children and Families Overview and Scrutiny Committee. The quorum for this meeting will be three. *(Note that if an item of work for the Children and Families Overview and Scrutiny Committee involves scrutiny of a decision or work that has involved or been significantly influenced by the Corporate Parenting Members’ Group, those members of the Corporate Parenting Members’ Group who are also members of the Children and Families Overview and Scrutiny Committee will not be able to participate in the scrutiny process for that item).* The Chair of the Group will be appointed by the Executive.
- 8.5 The role of the Corporate Parenting Members’ Group will include providing advice on all aspects of the Council’s responsibilities as a Corporate Parent and in relation to looked after children on any specific issues they are required to consider. This includes:
- (a) educational attainment and the work of the “virtual” Head Teacher;
  - (b) health issues including the provision of advice and education on issues such as relationships, sexual education, teenage pregnancies and life style choices around levels of physical activity, diet, drugs and alcohol abuse and smoking;
  - (c) crime prevention programmes and the work of the Youth Offending Teams;
  - (d) safeguarding, sexual exploitation and radicalisation of children; including children missing from home and Looked after Children;
  - (e) performance against key indicators for the quality, stability and outcomes of Looked After arrangements for all children and young people in the preceding year;

- (f) issues affecting Looked after Children who are disabled;
- (g) the transition arrangements for all Looked after Children as they enter adulthood;
- (h) how the Council and partners engage with young people, for instance through groups such as Young Person's Council, Flying High;
- (i) the recruitment and retention of social workers and staff and the morale of all service staff and officers;
- (j) the work of the Young People's Champion;
- (k) any other relevant matter considered appropriate by the Lead Member for consideration by the Group.

8.6 The Corporate Parenting Members' Group will undertake inspections under **Regulations 44** of residential homes. This will involve reporting any concerns from the residential homes and receiving any concerns raised by officer inspections of residential schools.

# Executive Members' Delegation Scheme

**Each individual member of the Executive has the following responsibilities and powers:**

1. Developing a detailed understanding of the services which fall within their area of responsibility, and accounting to full Council for them (see Council Procedure Rules 2.3(x), 2.4, 9 and 10).
2. Working with the appropriate Chief Officer(s) to develop policy proposals for submission to the Executive (and subsequently to the Council if they relate to, or are intended to form part of, the Policy Framework approved by Council).
3. To authorise consultation on proposed new policies/policy changes.
4. To approve proposals for service development which relate to individual services, do not have wider implications for other Council services and are consistent with the Budget and Policy Framework.
5. To make a formal response on behalf of the Council, following appropriate consultation, to any White Papers, Green Papers, Government Consultation Papers or other consultative document where it is appropriate that the response should be a Member response. Where there is disagreement for responsibility for responding, the relevant Portfolio Holder(s) shall respond.
6. In respect of grant or other external funding:
  - (a) To be consulted, along with the Executive Member for Finance, regarding the submission of bids for grant or other external funding in excess 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; and
  - (b) Following consultation with the Chief Finance Officer and the Executive Member for Finance, to authorise the acceptance of any offer of new 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;
  - (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;

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.

7. Following consultation with the relevant Corporate Director and the Corporate Director of Resources, to authorise the disposal of any asset(s) for which the estimated disposal value is £100,001 to £200,000 (inclusive). (NB this excludes land and buildings ie "property" – please see the delegation to the Executive Member for Finance and Assets in relation to property matters set out below).

8. To receive reports from scrutiny reviews; to report to the Executive about such reviews (in the light also of Overview and Scrutiny Committee views) and to authorise such action in respect of those reviews as the Executive may direct.
9. To determine any action required following assessments of outcomes against standards and targets set out in Service Performance Plans.
10. Representing North Yorkshire Council on outside or joint bodies which are relevant to their area of responsibility.
11. The power to approve changes to children's centre provision (where no objections are received) is allocated to the appropriate Executive Member.
12. To authorise non-recovery of overpayments in respect of amounts of £5,000 and above.
13. After consultation with the relevant Chief Officer to determine any Executive matter which is of such urgency that it is not practicable to refer it to the Executive for determination.

**The following members of the Executive have the following specific responsibilities and powers:**

14. The Executive Member for Finance and Assets (or in their temporary absence such other member of the Executive as they may nominate) has the specific responsibilities and powers in relation to property set out in Council's Property Procedure Rules.
15. The Executive Member with responsibility for Stronger Communities (or in their temporary absence the Leader) has the power to determine Councillor Locality Budget grant recommendations.
16. The Executive Member with responsibility for Education, Learning and Skills, in consultation with the Executive Member for Children and Young People's Services, the Corporate Director for Children and Young People's Service and the Assistant Chief Executive Legal and Democratic Services, has the power to take decisions in relation to school organisation proposals where there are no objections to the statutory notices (where there are such objections, the decision will be made by the Executive).

# Member Champions

## Member Champion Role

Member Champions are elected Members who act as an advocate or spokesperson for a specific area of the Council's business. The main responsibility of each Member Champion is to encourage communication and positive action over the issue they represent.

## Appointment of Member Champions

The Council may, from time to time, in cases where a Special Responsibility Allowance (SRA) is to be paid, appoint an elected Member as a Champion for a particular issue. Currently, such Member Champion positions attracting an SRA are:

- Young People's Champion
- Older People's Champion
- Climate Change Champion

The SRA based Member Champions are members of Scrutiny Board and take an annual report to the relevant Overview and Scrutiny Committee.

The Leader may, from time to time, in cases where no SRA is to be payable, designate an elected Member as a Champion for a particular issue. Currently, such Member Champions not attracting an SRA are:

- Armed Forces Champion – Councillor Kevin Foster
- Digital Champion – Councillor Gareth Dadd
- Flooding – Vacancy
- Cycling/Active Travel – Councillor Keane Duncan
- Road Safety – Councillor Steve Watson

A register of Member Champions will be kept by the Assistant Chief Executive Legal and Democratic Services.

There is no legal requirement to apply the political balance rules to the appointment of Member Champions and as such they will be made based on skills, knowledge and suitability for the role.

Should such Member Champions wish to issue a press release on matters relevant to their role, they should do so in accordance with the Council's Protocol for Official Press Releases in the Constitution.

## Responsibilities of each Member Champion

Each Member Champion will:

- a) represent their area of interest both within and outside the Council in line with Council policy;
- b) contribute to the review and development of policies pertaining to their area of interest;
- c) challenge and question the Council, the Executive Members and the Chairs of Committees on issues relevant to their area of responsibility;

- d) monitor the Forward Plan and seek information from the Leader, Committee Chairs and Officers about forthcoming business and exert influence on behalf of the interest;
- e) keep Members of all parties up to date with activities in relevant to the area of interest;
- f) provide positive support and on occasions constructive challenge to Officers on relevant issues; and
- g) act as the Council's representative on relevant external bodies where appointed to by the Council.

### **Scope of Member Champion role**

Member Champions are entitled to have appropriate access to information held by the Council relating to the interest being championed and also have access to support from senior Officers.

Officers will ensure there is appropriate engagement or consultation with the relevant Member Champion where the issue clearly relates to the interest.

The Member Champion's programme of activities should reflect the Council's overall priorities.

A Member Champion cannot make decisions which bind the Council and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice. They may however confirm a position as stated in a published policy.

The Council, Executive, Committee Chairs and Officers will take account of any views offered by the Member Champions prior to making decisions relating to their area of interest.

## **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

## 1. Membership

<b>Councillors (16)</b>						
	<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	KNAPTON, Nigel		Conservative	Easingwold		
4	MOORHOUSE, Heather		Conservative	Great Ayton		
5	PARASKOS, Andy		Conservative	Spofforth with Lower Wharfedale & Tockwith		
6	SEDGWICK, Karin	Chair	Conservative	Leyburn & Middleham		
7	SWIERS, Roberta		Conservative	Cayton		
8	WINDASS, Robert		Conservative	Boroughbridge & Claro		
9	HESELTINE, Robert		Conservative and Independents	Skipton East & South		
10	BROWN, Andy		Green Party	Aire Valley		
11	BROADBENT, Eric	Vice Chair	Labour	Northstead		
12	PROUD, Jack		Labour	Selby East		
13	ANDREWS, Joy		Liberal Democrats and Liberal	Pickering		
14	LACEY, Peter		Liberal Democrats and Liberal	Coppice Valley & Duchy		
15	SLATER, Monika		Liberal Democrats and Liberal	Bilton Grange & New Park		
16	Vacancy		North Yorkshire Independent	Glusburn, Cross Hills & Sutton-in Craven		
<b>Members other than Councillors – (3)</b>						
<b>Non Voting</b>						
	<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					
<b>Total Membership – (19)</b>			<b>Quorum – (4)</b>			
Con	Lib Dem and Lib	NY Ind	Labour	Ind	Green Party	Total
9	3	1	2	0	1	16



# Corporate and Partnerships Overview and Scrutiny Committee

## 1. Membership

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

# Scrutiny of Health Committee

## 1. Membership

<b>Councillors (16)</b>						
	<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	MAW, Rich			Independent (Unaffiliated)	Weaponness & Ramshill	
12	SOLLOWAY, Andy			Independent (Unaffiliated)	Skipton West & West Craven	
13	COLLING, Liz		Vice Chair	Labour	Falsgrave & Stepney	
14	LACEY, Peter			Liberal Democrats and Liberal	Coppice Valley & Duchy	
15	TIMOTHY, Andrew			Liberal Democrats and Liberal	Stray, Woodlands & Hookstone	
16	Vacancy			North Yorkshire Independent		
<b>Total Membership – (16)</b>				<b>Quorum – (4)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
<b>9</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>16</b>

# Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee

## 1. Membership

<b>Councillors (16)</b>						
	<i>Councillors Name</i>	<i>Chair/Vice Chair</i>	<i>Political Group</i>	<i>Electoral Division</i>		
<b>1</b>	BASTIMAN, Derek		Conservative	Scalby & The Coast		
<b>2</b>	IRETON, David		Conservative	Bentham & Ingleton		
<b>3</b>	JEFFELS, David		Conservative	Derwent Valley & Moor		
<b>4</b>	MOORHOUSE, Heather		Conservative	Great Ayton		
<b>5</b>	STAVELEY, David	Chair	Conservative	Settle & Penyghent		
<b>6</b>	TRUMPER, Phil		Conservative	Whitby West		
<b>7</b>	WATSON, Steve		Conservative	Northallerton North & Brompton		
<b>8</b>	WINDASS, Robert		Conservative	Boroughbridge & Claro		
<b>9</b>	WILLIAMS, Andrew		Conservative and Independents	Ripon Minster & Moorside		
<b>10</b>	WARNEKEN, Arnold		Green Party	Ouseburn		
<b>11</b>	DAVIS, Melanie	Vice-Chair	Labour	Selby West		
<b>12</b>	SHARMA, Subash		Labour	Newby		
<b>13</b>	GOSTLOW, Hannah		Liberal Democrats and Liberal	Knaresborough East		
<b>14</b>	MASON, Steve		Liberal Democrats and Liberal	Amotherby & Ampleforth		
<b>15</b>	BARRETT, Philip		North Yorkshire Independent	Glusburn, Cross Hills and Sutton-in-Craven		
<b>16</b>	CATTANACH, John		North Yorkshire Independent	Cawood & Escrick		
<b>Total Membership – (16)</b>			<b>Quorum – (4)</b>			
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
<b>9</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>16</b>

# Children and Families Overview and Scrutiny Committee

## 1. Membership

<b>Councillors (16)</b>						
	<i>Councillors Name</i>	<i>Chair/Vice Chair</i>	<i>Political Group</i>	<i>Electoral Division</i>		
1	BAKER, Alyson		Conservative	Hillside & Raskelf		
2	HULL, Nathan		Conservative	Washburn & Birstwith		
3	JEFFELS, David		Conservative	Derwent Valley & Moor		
4	JONES, Tom		Conservative	Scotton & Lower Wensleydale		
5	LUNN, Cliff		Conservative	Thorpe Willoughby & Hambleton		
6	MANN, John		Conservative	Oatlands & Pannal		
7	PARASKOS, Andy		Conservative			
8	PEACOCK, Yvonne		Conservative	Upper Dales		
9	GOODRICK, Caroline	Vice Chair	Conservative and Independents	Sheriff Hutton & Derwent		
10	DUCKETT, Stephanie		Labour	Barlby & Riccall		
11	RITCHIE, John		Labour	Woodlands		
12	BRODIGAN, Barbara	Chair	Liberal Democrats and Liberal	Ripon Ure & Spa		
13	MASON, Steve		Liberal Democrats and Liberal	Amotherby & Ampleforth		
14	MURDAY, Andrew		Liberal Democrats and Liberal	Pateley Bridge & Nidderdale		
15	JEFFERSON, Janet		North Yorkshire Independent	Castle		
16	POSKITT, Kirsty		North Yorkshire Independent	Tadcaster		
<b>Members other than Councillors – ( ) Voting</b>						
	<i>Name of Member</i>	<i>Representation</i>				
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				
<b>Non Voting</b>						
1	STRACHAN, Ross	Secondary Teacher Representative				
2	MALTBY, Stephen	Primary Teacher Representative				
3	WATSON, David	Voluntary Sector				
4	SHARP, David	Voluntary Sector				
<b>Total Membership – ( )</b>				<b>Quorum – (4)</b>		
<b>Con</b>	<b>Lib Dem and Lib</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Green Party</b>	<b>Total</b>
<b>9</b>	<b>4</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>16</b>

# Housing and Leisure Overview and Scrutiny Committee

## 1. Membership

<b>Councillors (16)</b>							
	<i>Councillors Name</i>		<i>Chair/Vice Chair</i>	<i>Political Group</i>		<i>Electoral Division</i>	
<b>1</b>	ARTHUR, Karl			Conservative and Independents		Cliffe and North Duffield	
<b>2</b>	DICKINSON, Caroline			Conservative and Independents		Northallerton South	
<b>3</b>	FOSTER, Richard			Conservative and Independents		Wharfedale	
<b>4</b>	KNAPTON, Nigel			Conservative and Independents		Easingwold	
<b>5</b>	MANN, John			Conservative and Independents		Oatlands and Pannal	
<b>6</b>	PEACOCK, Yvonne			Conservative and Independents		Upper Dales	
<b>7</b>	PEARSON, Clive			Conservative and Independents		Esk Valley and Coast	
<b>8</b>	TAYLOR, Malcolm		Chair	Conservative and Independents		Huby and Tollerton	
<b>9</b>	TRUMPER, Phil			Conservatives and Independents		Whitby West	
<b>10</b>	FOSTER, Kevin			Green Party		Hipswell and Colburn	
<b>11</b>	PACKHAM, Bob			Labour		Sherburn in Elmet	
<b>12</b>	RITCHIE, John		Vice Chair	Labour		Woodlands	
<b>13</b>	MASON, Steve			Liberal Democrat and Liberal		Amotherby and Ampleforth	
<b>14</b>	SLADDEN, Dan			Liberal Democrat and Liberal		Sowerby and Topcliffe	
<b>15</b>	PARSONS, Stuart			North Yorkshire Independent		Richmond	
<b>16</b>	POSKITT, Kirsty			North Yorkshire Independent		Tadcaster	
	<b>Con</b>	<b>Lib Dem and Lib</b>	<b>Labour</b>	<b>NY Ind</b>	<b>Green Party</b>	<b>Ind</b>	<b>Total</b>
	<b>9</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>16</b>

## 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	

# Schedule 4

## Officers' Delegation Scheme

### 1. Introduction

- 1.1 Local authority decisions are made by elected members but in order for the Council to be able to function on a day to day basis the law enables the various executive and non-executive functions to be delegated to Officers. In addition there are some functions which the law says must be exercised by specific officers. These Officers are known as Statutory Officers or Proper Officers. Proper Officer functions are set out at Article 12.06.
- 1.2 This part of the Constitution sets out the ways in which Officers of the Council can make decisions and which decisions they have power to make. The powers in this Scheme are delegated to Officers referred to by title and they therefore apply to whoever holds that post at any time and the powers automatically transfer to any successor officers to the post.
- 1.3 Functions referred to in this Scheme are also to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
- 1.4 References in this Scheme to any legislation shall include a reference to any amendment or re-enactment of such legislation.
- 1.5 To indicate the origin of the delegation to Officers then an asterisk is used against all exclusively non-executive functions.

### 2. The Statutory Officers

By law, the Council must employ the following persons who are given certain powers and duties by statute.

#### 2.1 **The Head of Paid Service – The Chief Executive Officer**

Functions relating to the grant and supervision of exemptions from political restriction. (s3A Local Government and Housing Act 1989)

Duty to prepare a report regarding proposals as to the co-ordination of the authority's functions and the number and grades, the organisation, and the appointment and proper management of the authority's staff. (s4 Local Government Housing Act 1989)

#### 2.2 **The Monitoring Officer – The Assistant Chief Executive Legal and Democratic Services**

Duty to prepare a report if it appears to them that any proposal, decision or omission has or would give rise to any contravention of law or has caused any maladministration or injustice. (s5 and 5A Local Government and Housing Act 1989)

### 2.3 **The Chief Financial Officer – Corporate Director of Resources**

- (a) Responsibility for the administration of the authority's financial affairs.
- (b) Duty to prepare a report if it appears to them that any decision will incur unlawful expenditure or any course of action which if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency on the part of the authority.

(s151 Local Government Act 1972)

### 2.4 **The Director of Children Services – Corporate Director Children and Young People's Service**

- (a) The functions of the authority in its capacity as a local education authority;
- (b) social services functions so far as those functions relate to children;
- (c) the provision of accommodation and advice and assistance to children to under sections 23C to 24D of the Children Act 1989;
- (d) the functions conferred on the authority under sections 10 to 12 and 17 of Children Act 2004 to improve wellbeing and safeguard and promote the welfare of children and to prepare a Children and Young People Plan;
- (e) any functions exercisable by the authority on behalf of an NHS body under arrangements between NHS bodies and local authorities pursuant to section 31 of the Health Act 1999 so far as those functions relate to children.

(s18 Children Act 2004)

### 2.5 **The Director of Adult Social Services – Corporate Director of Health and Adult Services**

The functions of the local authority set out in Schedule 1 of the Local Authority Social Services Act 1970 other than those for which the authority's Director of Children's Services is responsible under section 18 of the Children Act 2004.

### 2.6 **The Scrutiny Officer – (Head of Democratic Services and Scrutiny)**

- (a) To promote the role of the authority's Overview and Scrutiny Committee or Committees;
- (b) to provide support to the authority's Overview and Scrutiny Committee or Committees and the members of that Committee or those Committees;
- (c) to provide support and guidance to –
  - (i) Members of the authority,
  - (ii) Members of the Executive of the authority, and
  - (iii) Officers of the authority,

in relation to the functions of the authority's Overview and Scrutiny Committee or Committees.



(Section 9FB Local Government Act 2000)

### **3. General Notes**

- 3.1 Delegated powers to all Officers must be exercised in accordance with:
- (a) Any statutory requirements and restrictions;
  - (b) the budget and policy framework set by Council, and other Council policies;
  - (c) any financial limits and procedures set out in the revenue or capital budgets and Financial, Procurement and Contract and Property Procedure Rules;
  - (d) the Codes of Member and Officer Conduct; and
  - (e) any provision contained in this Constitution.
- 3.2 Any delegation to an Officer does not include:
- (a) any matter specifically reserved to full Council;
  - (b) any matter which by law may not be delegated to an Officer.
- 3.3 Officers must keep Members properly informed of actions taken within the scope of these delegations in accordance with the Protocol for Member/Officer Relations set out in Part 5 of this Constitution.
- 3.4 In exercising delegated powers, Officers shall have regard to any report by the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer under their statutory obligations.
- 3.5 The Chief Executive Officer can at any time exercise the powers delegated to any Officer whether specified in this Scheme or otherwise unless expressly prohibited by law. At any time if the Chief Executive Officer is unavailable or absent then the Officer specified by the Chief Executive Officer can exercise the Chief Executive Officer's powers.

### **4 Delegation to All Chief Officers**

- 4.1 All Chief Officers must manage and promote the services for which they are responsible. This includes taking and implementing decisions which help to maintain the operational effectiveness of the services within their remit and which fall within a policy decision made by the Executive or the Council. It includes all powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation.
- 4.2 These powers are to be exercised:
- (a) in accordance with any instructions given by the Chief Executive Officer;
  - (b) within any budgets or policies approved by the Council, and not committing the Council's budget to growth for future financial years;

- (c) in accordance with the Financial, Procurement and Contract and Property Procedure Rules;
  - (d) having regard to any legal advice from the Assistant Chief Executive Legal and Democratic Services; and
  - (e) in accordance with any legal requirements and restrictions.
- 4.3 It shall always be open to an Officer to consult with the appropriate Executive Member(s) on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Council, Executive or the committee/sub-committee which has the necessary powers.
- 4.4 Subject to complying with the matters set out in paragraph 4.2 above, Chief Officers are authorised to enter into contracts to facilitate service delivery or to procure works, services and supplies which are incidental to service delivery.
- 4.5 The delegation includes authorisation of any document including those which require the common seal of the Council to be affixed.
- 4.6 A delegation to a Chief Officer includes authority for any Officer within their directorate to carry out the delegation of the function on behalf of the Chief Officer. Officers shall devolve responsibilities for service delivery and management to those staff who represent the nearest practicable point of delivery to the service user.
- 4.7 In exercising delegated powers, Chief Officers shall consult with such other Officers as they determine appropriate and shall have regard to any advice given.
- 4.8 The delegated authority includes management of the human, financial and material resources (subject to the Property Procedure Rules) made available for the functions allocated to business units.
- 4.9 Chief Officers are authorised to take any action with respect to the:
- (a) recruitment, appointment, promotion, training, grading, discipline and capability of staff;
  - (b) the authorisation of senior managers to determine appeals against dismissal under the Council's Attendance Management Policy (in consultation with a Member drawn from the Appeals Committee and an HR adviser);
  - (c) the determination of wages and salary scales, determination and application of conditions of service, and determination of the establishment of the Business Unit which they manage, subject to the Corporate Director of Resources being satisfied that adequate provision is made in the budget of the Business Unit and to the Assistant Chief Executive HR and Business Support raising no objection to proposals affecting the grading, determination of wages and salary scales, or determination and application of conditions of service.
- 4.10 To make a formal response on behalf of the Council, following appropriate consultation, to any White Papers, Green Papers, Government Consultation Papers or other consultative document, where it is appropriate that the response should be an Officer response. Chief Officers should firstly consult the relevant Executive Member(s) in order to determine whether an Officer or Member response is most appropriate. Where

there is disagreement for responsibility for responding, the relevant Portfolio Holder(s) shall respond.

- 4.11 To accept the terms and conditions and governance documentation for a partnership agreement in respect of a partnership involving the Council, subject to Rules 29 and 30 of the Financial Procedure Rules and to the implications for the Council of this partnership being consistent with the Budget and Policy Framework.
- 4.12 To accept the terms and conditions of an accountable body agreement in respect of a partnership involving the Council, subject to Rules 29 and 30 of the Financial Procedure Rules and subject to the implications for the Council of this Accountable Body status being consistent with the Budget and Policy Framework.
- 4.13 To agree that the Council shall undertake work on behalf of, and to provide services to, external bodies in accordance with the Council's legal powers and duties.

## **5. Delegation to the Chief Executive Officer**

- 5.1 To exercise the functions of the Head of the Paid Service.
- 5.2 To act as, and exercise the functions of, Electoral Registration Officer under the Representation of the People Act 1983.
- 5.3 To act as, and exercise the functions of, Returning Officer under the Representation of the People Act 1983 and to appoint such Deputy Returning Officers as the Chief Executive Officer requires to enable the proper exercise of their statutory duties as Returning Officer.
- \*5.4 To manage and co-ordinate budget processes, strategic planning and information.
- \*5.5 To authorise attendance at meetings by Members as an approved duty and the payment of Members' allowances.
- 5.6 To incur expenditure in the event of a civil emergency.
- 5.7 In cases of emergency to take any decision which could be taken by the Council, the Executive or a committee. This includes incurring expenditure from working balances or reserves subject to consultation with the Corporate Director of Resources if the Chief Executive Officer reasonably considers it appropriate and feasible and also to notifying any emergency to the Leader as soon as is reasonably practicable.
- 5.8 To exercise the functions of the Executive for civil aid and emergency planning.
- \*5.9 To make payments or provide other benefits in cases of maladministration under Section 92 of the Local Government Act 2000.
- \*5.10 To exercise all of the functions in relation to elections listed in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which are functions of the Council, to the extent that they are not delegated to a committee.
- \*5.11 To carry out the Council's functions relating to local government pensions under Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972.

- 5.12 In consultation with the Leader of the Council, the Corporate Director of Resources and the Assistant Chief Executive Legal and Democratic Services, to endorse the payment of indemnity to any Member or Officer, up to a maximum of £50,000, where such indemnity is not covered by insurance. Any sums above £50,000 are to be referred to the Executive.
- 5.13 To approve recommendations from external partnerships in relation to the distribution of funds overseen by those partnerships, in consultation with the relevant Executive Member.
- 5.14 Except in relation to those matters concerning employee terms and conditions which are decided in accordance with the statutory Pay Policy Statement agreed by full Council, the terms of reference of the Chief Officers' Appointments and Disciplinary Committee, and the Staff Employment Procedure Rules or are otherwise decided in accordance with the Constitution, the Chief Executive Officer, in consultation with the Leader of the Council, the appropriate Executive Member(s), the Corporate Director of Resources, the Assistant Chief Executive Legal and Democratic Services, and the Assistant Chief Executive HR and Business Support, shall have authority to agree the terms and conditions of employment of the Council's workforce, and any changes to them.
- 5.15 That the Chief Executive Officer, in consultation with the Leader of the Council, the appropriate Executive Member(s), the Corporate Director of Resources, and the Assistant Chief Executive Legal and Democratic Services, shall have authority to agree operational policies regulating the internal operations and working practices of the Council, which shall include, but not exclusively, policies in relation to health and safety, information governance, and IT policies.
- 5.16 To act as, and exercise all functions of, the Chief Executive Officer of NYC and Group (Shareholder Representative) in relation to the Council's companies and shareholders.
- 5.17 To exercise all functions in connection with the completion of ballot papers on behalf of the Council in relation to any Business Improvement District ballot.
- 5.18 To authorise covert activities by, and provide internal authorisations and renewal authorisations to, all appropriate officers for juvenile Covert Human Intelligence Sources (CHIS) covert investigations under the Regulation for Investigatory Powers Act 2000 (as amended) as required and to represent the Council in respect of such activities and/or authorisations when seeking judicial approval of them before the Magistrates' Court.
- 5.19 To exercise the Council's functions in relation to the issue of closure notices under the Anti-Social Behaviour Crime and Policing Act 2014.

## **6 Delegation to the Corporate Director Children and Young People's Service**

- 6.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Corporate Director Children and Young People's Service is responsible for the exercise of all powers, duties and functions of the authority in relation to the following:
- Adult Education
  - Children and Families
  - Inclusion

- Outdoor Education Services
- Schools

6.2 To the extent that any of these delegated functions are executive functions the Corporate Director will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

### 6.3 Specific Delegations

- (a) To exercise the functions of the Council as Local Education Authority and those functions relating to youth and community services, and sport and recreation policy.
- \* (b) To nominate appointments of local education authority school governors to the governing body of any of its maintained schools. The appointment is determined by the governing body.
- (c) To manage the provision of training services in relation to Learning and Skills Council work and vocational education. This power may be exercised in conjunction with the Corporate Director of Health and Adult Services, so far as it relates to adults.
- (d) To exercise the social services functions of the Council as defined in the Local Authority Social Services Act 1970 so far as those functions relate to children including youth justice.
- (e) The provision of accommodation and advice and assistance to children under sections 23C to 24D of the Children Act 1989.
- (f) The functions conferred on the authority under sections 10 to 12 and 17 of the Children Act 2004 to improve wellbeing and safeguard and promote the welfare of children and to prepare a Children and Young People Plan.
- (g) Any functions exercisable by the authority on behalf of an NHS body under arrangements between NHS bodies and local authorities pursuant to section 31 of the Health Act 1999 so far as those functions relate to children.
- (h) To exercise discretion to reopen the adopters' list, as necessary, the action taken to be reported to the Executive.
- (i) To approve, after consultation with the Executive Members for Children's Services with responsibility for children's social care, safeguarding and prevention, any notifications to the Department of Health to pool resources under the Health Act Flexibilities so far as they relate to Children.
- \* (j) To make representations under the Licensing Act 2003 and the Gambling Act 2005 to protect children from harm or being exploited by gambling.
- \* (k) To appoint local authority Members to the Management Committees of Pupil Referral Units on the nomination of the political group to whom the right of nomination has been allocated.
- (l) To appoint Interim Executive Boards to schools.

- (m) To appoint Members of Shadow Governing Bodies to Schools and to undertake all other functions of the Local Education Authority under the School Governance (Transition from an Interim Executive Board)(England) Regulations 2010.
- (n) To exercise or to delegate to a nominated Officer(s), the specified functions of the Council as set out in the Regional Adoption Agency “One Adoption North and Humber” partnership agreement and associated documents attached to/referenced within the agreement.

#### 6.4 Matters excluded from the delegation

The following matters are excluded from this delegation:

- (a) Major changes in the pattern of provision for meeting special educational needs and/or educational provision for all age groups falling within the Council’s statutory duties or permissive powers.
- (b) Making or terminating appointments to governing bodies of outdoor centres and to any outside bodies, except as may be set out elsewhere in this Scheme, unless such power is specifically delegated by the body empowered to make such appointments.
- (c) Responding to invitations to bid for education support grants and other specific external funding which do not comply with existing policy and priorities or which require additional expenditure not budgeted for.
- (d) Determining priorities for the Adult Learning and Skills Service.

### **7 Delegation to the Corporate Director of Health and Adult Services**

7.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Corporate Director of Health and Adult Services is responsible for the exercise of all powers, duties and functions of the authority in relation to the following:

- Adult Social Care
- Public Health
- Prevention and Service Development

7.2 To the extent that any of these delegated functions are executive functions the Corporate Director will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

#### 7.3 Specific Delegations

- (a) To exercise the social services functions of the Council as defined in the Local Authority Social Services Act 1970 other than those for which the authority’s Director of Children’s Services is responsible under section 18 of the Children Act 2004.
- (b) To exercise the Council’s powers and responsibilities relating to public health (other than those public health functions for which the authority’s Director of Public Health for

North Yorkshire is directly statutorily responsible under the NHS Act 2006, the Health and Social Care Act 2012 and related regulations); and the take up of welfare benefits.

- (c) To approve, after consultation with the Executive Members for Adult Social Services, any notifications to the Department of Health to pool resources under the Health Act Flexibilities other than those for which the authority's Director of Children's Services is responsible under section 18 of the Children Act 2004.
- (d) To act as accountable officer for the Joint Strategic Needs Assessment, pursuant to the Council's responsibilities set out in Section 116 Local Government and Public Involvement in Health Act 2007.
- (e) To authorise deprivation of liberty of a person in any case in which the Council is the supervisory body under the Mental Capacity Act 2005 or any successor legislation.

## **8 Delegation to the Corporate Director of Environment**

8.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or officer, the Corporate Director of Environment is responsible for the exercise of all powers, duties and functions of the authority in relation to the following:

- ◆ Allotments
- ◆ Bereavement services, crematoria, public and private burials, maintenance of closed churchyards and public health funerals
- ◆ Coastal management and protection
- ◆ Commons and village greens
- ◆ Contaminated land
- ◆ Control of pollution and air quality
- ◆ Coroners service
- ◆ Dog warden services
- ◆ Environmental health and protection
- ◆ Environmental services including low carbon and natural capital services
- ◆ Fleet operation
- ◆ Flood management
- ◆ Footpaths, Bridleways, Restricted Byways and Byways Open to all Traffic
- ◆ Harrogate Borough Council Act 1986 and Harrogate Stray Act 1985
- ◆ Harbour services for Scarborough, Whitby and Filey Coble Landing
- ◆ Highways, road safety, transportation and traffic regulation including winter maintenance and commercial services with the Highways teckal company
- ◆ Integrated Passenger Transport
- ◆ Licensing
- ◆ Managing economic crime unit
- ◆ Markets
- ◆ Parking Services including civil parking enforcement, penalty charge notices and permit administration
- ◆ Parks, playgrounds, public open spaces and grounds maintenance
- ◆ Public rights of way
- ◆ Registration of births, deaths and marriages
- ◆ Regulatory services (including trading standards, food hygiene, noise protection, pest control)
- ◆ Seashores and promenades
- ◆ Street Scene including street cleansing and litter
- ◆ Provision and cleaning of public conveniences

- ♦ Waste Services including collection, disposal, recycling, household waste recycling centres, commercial waste collection and closed landfill sites.

8.2 To the extent that any of these delegated functions are executive functions the Corporate Director will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

8.3 Specific Delegations

**(a) Highways and Transportation including Integrated Passenger Transport and Parking Services**

(i) The exercise of all of the functions of the Council in relation to highways, street works, traffic and vehicle regulation, public transport, car parking, street café licences, pavement licences, and road safety together with any related enforcement action, making and entering into agreements pursuant to the Highways Act 1980 and also including but not limited to those Council functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

(ii) This includes authorising (including where objections have been received from a person entitled under the relevant statute) traffic regulation orders under the Road Traffic Regulation Act 1984 including but not limited to pedestrian crossings, speed limits, waiting and loading restrictions, weight limits, prohibition of driving and one way traffic and the provision of parking places off and on the highway; provided always that where such an objection is received, the Corporate Director of Environment shall take the decision in consultation with the relevant Executive Member(s) and after consultation with the local Member(s) and that the matter be referred to the Executive for determination where there is an outstanding objection which is supported by a local Member(s).

(iii) Where it is considered by the Corporate Director of Environment in consultation with the relevant Executive Member(s) that a proposed Traffic Regulation Order meets the criteria for having a wide area impact, the Corporate Director of Environment will consult the relevant Area Constituency Committee(s) upon the proposed Order.

(iv) The following matters are excluded from this delegation: where objections have been received from a person entitled under the relevant statute in relation to:

- Stopping up or diversion of highways (excluding public rights of way); and
- Private street works.

**(b) Physical Environment including Public Rights of Way and Open Spaces**

(i) The exercise of all of the functions of the Council relating to the physical environment of the Council, rights of way and open spaces including but not limited to the Wildlife and Countryside Act 1981 the Highways Act 1980 the Town and Country Planning Act 1990;

(ii) The power to make representations to the Secretary of State regarding Definitive Map Modification Orders and Public Path Orders (with the exception of Creation Orders) to which a duly made objection has been received following public advertisement of the Order, subject to consultation with the relevant Executive Member(s) and local Member(s).



**\*(c) Commons Registration**

To determine all applications and exercise all functions of the Council in its role as Commons Registration Authority under Part 1 of the Commons Act 2006 and associated legislation (and any successor legislation).

**(d) Environmental Services including Low Carbon, Natural Capital and Waste Services**

(i) To exercise all functions of the Council in relation to environmental health and protection

(ii) To exercise the functions of the Council as Waste Collection and Disposal Authority under all legislation relating to waste management.

**\*(iii)** To exercise all of the functions of the Council under legislation relating to control of pollution and management of air quality (regulatory and licensing functions only).

**(e) Flood Management**

To exercise all functions of the Council as Lead Local Flood Authority under the Flood and Water Management Act 2010 and the Land Drainage Act 1991, including (but not limited to) the granting (or otherwise) of land drainage consents for ordinary watercourses.

**(f) Licensing**

(i) The development of the Council's licensing policies and the management of its licensing functions.

**\*(ii)** To exercise all powers and functions in relation to licensing and registration including but not limited to those Council functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (including any necessary enforcement action where this is considered expedient). This includes but is not limited to:

- Betting, lotteries, casinos and amusements;
- Caravan and camping sites and moveable dwellings;
- Charitable collections;
- Cinema, cinema clubs and theatres;
- Dangerous wild animals;
- Hackney carriage and private hire vehicles;
- Health and Safety at work;
- Licensing of employment of children
- Market and street trading
- Meat, fish, dairy and egg product establishments and butchers' shops;
- Motor salvage operations;
- Movement and sale of cattle and pigs;
- Movement and treatment of farm animals and livestock;
- Night cafes and take-away food shops;
- Operation of loudspeakers;
- Performances of hypnotism;
- Pet shops and the breeding and boarding of dogs or other animals;
- Pleasure boats and pleasure vessels;

- Premises licences and club premises certificates
  - Premises for the preparation of food;
  - Premises for acupuncture, tattooing, ear piercing and electrolysis;
  - Sale of non-medicinal poisons;
  - Scrap yards;
  - Smoke-free premises and vehicles;
  - Storage of celluloid;
  - Solarium sunbeds
- (iii) To approve all applications for statutory licences and consents falling within the scope of responsibilities of the General Licensing and Registration Committee where no objection has been submitted in writing by a consultee or a Member of the public.
- (iv) In consultation with the Chair or Vice Chair of the General Licensing and Registration Committee, to determine all immediate suspensions/revocations where public safety is deemed to be at risk.
- (v) In consultation with the Chairman or Vice Chairman of the General Licensing & Registration Committee, to end a suspension if it is discovered that an allegation is unfounded and no further formal action is taken by the relevant body, or the matter is successfully appealed at the Magistrates' Court, each case determined on its own merits.
- (vi) To determine applications under the Licensing Act 2003 and Gambling Act 2005 that are not reserved for the Statutory Licensing Sub-committee.

Matters excluded from the delegation:

The following matter is excluded from this delegation:

- (a) the issue of a new safety certificate in respect of a sports ground in North Yorkshire, or the withdrawal of an existing certificate.
- (g) **Harbours**
- (i) To exercise the Council's functions of Harbour Authority and Harbour Management, related to Scarborough Harbour, Whitby Harbour and Filey Coble Landing
- (ii) To appoint and/or remove the Harbour Master.
- (iii) To act as the Council's Duty Holder to ensure compliance with the Port Marine Safety Code, including, but not limited to, the exercise of the following functions:
- maintaining strategic oversight and direction of all aspects of the harbour operation including marine safety;
  - responsibility for the development of policies, plans, systems and procedures for safe navigation;
  - ensuring that assessments and reviews are undertaken as required, maintaining and improving marine safety;
  - ensuring that the Harbour Authority seeks and adopts appropriate powers for the effective enforcement of their regulations, and for setting dues at a level which adequately funds the discharge of all their duties.

**The Duty Holder functions may NOT be delegated to another officer.**

- (iv) To act in accordance with Harbour Master directions in relation to Scarborough Harbour, Whitby Harbour and Filey Coble Landing.

The following functions are statutory functions which are specifically conferred on the Harbour Master and cannot be exercised by any Officer other than the Harbour Master, Deputy Harbour Master or one of the Harbour Master's appointed assistants. They cannot be withdrawn by the Chief Executive Officer or any other Officer. The functions conferred on the Harbour Master by the local enactments for Scarborough Harbour, the Port and Harbour of Whitby, and Filey Coble Landing, including the Harbours, Docks and Piers Clauses Act 1847 and Harbours Act 1964. These include the power to make directions in relation to:

- regulating the time at which and the manner in which any vessel shall enter into, go out of, or lie in or at the harbour, dock, or pier, and within the prescribed limits, if any, and its position, mooring or unmooring, placing and removing, whilst therein;
- regulating the position in which any vessel shall take in or discharge its cargo or any part thereof, or shall take in or land its passengers, or shall take in or deliver ballast within or on the harbour, dock, or pier;
- regulating the manner in which any vessel entering the harbour or dock or coming to the pier shall be dismantled, for the safety of such vessel and for preventing injury to other vessels, the harbour, dock, or pier, and the moorings;
- removing unserviceable vessels and other obstructions from the harbour, dock, or pier, and keeping the same clear;
- regulating the quantity of ballast or dead weight in the hold of each vessel in or at the harbour, dock, or pier;
- removal of wrecks and obstruction to the harbour, dock or pier and recovery of the costs relating thereto from the vessel owners;
- for removal of unserviceable vessels from the harbour or docks at the expense of the owner.

The Harbour Master may also give directions:

- to moor, unmoor, place or remove vessels within the prescribed limits of the harbour as the Harbour Master shall think fit or if there is no person on board to attend to such directions, to cause the same to be carried out and to recover the costs thereof from the owner;
- for dismantling vessels;
- for vessels to have hawsers, towlines or fasts fixed to moorings;
- for the removal of vessels for the purpose of repairing, scouring or cleansing the harbour, dock or pier, and to remove the same if the master thereof neglects or refuses so to do;
- for the discharging of cargo and the placing of discharged vessels within the harbour, including the power to remove the same and recover the costs in the event that the direction is not followed;
- for removal of goods from the quays, in the event that the goods are left lying there longer than allowed by byelaws and to recover the costs thereof;
- for removal of combustible matter on the quays to a place of safety;
- for guarding combustible matter during the night on the quays or works connected with the harbour, docks or pier, and recovering the cost of the same from the owner;

- to enter vessels within the harbour, pier or dock to search for and extinguish fires or lights; to detain vessels of those answerable for damage done by a vessel;
- to erect lighthouses and lay down buoys; and
- to implement such terms and conditions as the Harbour Master thinks fit to regulate the use of services and facilities provided by the Harbour Authority which, in the exercise and performance of statutory powers and duties, they are engaged in improving, maintaining or managing.

(v) In relation to harbour powers and duties **The Assistant Director Integrated Passenger Transport, Licensing, Public Rights of Way and Harbours** has been appointed to act as the Council's Designated Person under the Port Marine Safety Code, in relation to: Scarborough Harbour, Whitby Harbour and Filey Coble Landing and to exercise the following Designated Person functions including, but not limited to:

- monitoring and auditing the thoroughness of the risk assessment process and the validity of the assessment conclusions;
- monitoring and auditing the thoroughness of the incident investigation process and the validity of the investigation conclusions;
- monitoring the application of lessons learnt from individual and industry experience and incident investigation;
- assessing and auditing the validity and effectiveness of indicators used to measure performance against the requirements and standards in the Port Marine Safety Code;
- assessing the validity and effectiveness of consultation processes used; consulting with external marine consultants to supplement their capabilities and qualities as necessary

**\* (h) Regulatory Services**

The exercise of all the functions of the Council as weights and measures and food authority and for trading standards and consumer protection, coronavirus, animal health, sports grounds and explosives licensing, including, but not limited to such of those functions as listed in of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the powers under any 'relevant statutory provision' within the meaning of Part 1 of (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974 to the extent that those functions are discharged otherwise than in the Council's capacity as an employer in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, together with the North Yorkshire County Council Act 1991.

**(i) Enforcement**

- ◆ To undertake enforcement activities in respect of all functions within the remit of the Corporate Director of Environment in order to regulate any actual, potential or perceived breach of legislation, authorisation, permit, licence, permission or document of a similar nature. This includes but is not limited to taking the following actions:
  - ◆ Carrying out inspections and/or examinations;
  - ◆ Exercising any powers of entry;
  - ◆ Serving any notice or document including penalty notices;
  - ◆ Undertaking any work in default;
  - ◆ Seeking a warrant or other order; and/or

- ◆ Making test purchases of goods and services.
- (ii) To appoint/authorise any Officer and any person undertaking that task for or on behalf of the Council to be:
- An inspector;
  - An authorised officer; and/or
  - An enforcement officer

This includes power to authorise any such Officer/person to undertake all action relevant to the performance of such a role in relation to any service or function of the Council provided that in all cases the appointment/authorisation relates wholly or partly to any services or function which the Corporate Director of Environment has responsibility for.

- (iii) To authorise covert activities by, and provide internal authorisations and renewal authorisations to, trading standards officers for covert investigations both under the Regulation for Investigatory Powers Act 2000 as amended and outwith that Act, and to represent the Council in respect of such activities and/or authorisations when seeking judicial approval of them before the Magistrates' Court.
- (iv) In consultation with the Assistant Chief Executive Legal and Democratic Services to authorise Officers to prosecute and to appear on the Council's behalf before a Court.
- (j) **Registration, Bereavement, Coroners' Service**
- (i) The exercise all of the functions of the Council relating to the Registration of Births, Deaths and Marriages, bereavement services, statutory public health funerals, public and private burials, and cremations and maintenance of closed churchyards.
- (ii) The power to approve premises for the solemnisation of marriages and civil partnerships and to exercise all functions of the Council.

Matters excluded from the delegation:

The following matters are excluded from this delegation:

- Major changes in the pattern of provision for the Registration Service or the Coroners' Service;
- Authorising the making of new byelaws and orders;
- Any other matter which has specifically been delegated for decision by an Area Constituency Committee;
- Approval of the consultation draft or final version of the Sub-Regional Investment Plan (SRIP);
- Response to consultations on relevant strategies from partners;
- Approval of capital programme projects;
- Policy and criteria for grant and loan schemes;
- Grants to outside bodies where no scheme is in place;
- Major changes in the pattern of provision for Trading Standards and Regulatory Services.

**9 To the Corporate Director of Community Development**

9.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Corporate Director of Community Development is responsible for the exercise of all powers, duties and functions of the Council in relation to the following:

- Archives
- Business Improvement Districts
- Building Control
- Conservation and archaeology
- Culture and Arts
- Economic Development, Regeneration and Skills
- Housing
- Key Venues – including Harrogate Convention Centre and Scarborough Open Air Theatre
- Leisure services and community sports facilities
- Libraries
- Local Land Charges
- Museums
- Planning and development
- Protection of hedgerows and preservation of trees
- Street naming & numbering
- Support and hosting the two AONB
- Tourism

9.2 To the extent that any of these delegated functions are executive functions the Corporate Director will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

### 9.3 Specific Delegations

#### (a) **Planning**

- (i) The exercise of all functions in relation to town and country planning (including minerals and waste planning) and development control including those Council functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (including any necessary enforcement action where this is considered expedient).
- (ii) The exercise of all functions of the Council in relation to the Planning (Hazardous Substances) Act 1990.
- (iii) To sign, on behalf of the authority, notices regarding periodic reviews of quarries after 15 years of the granting of planning permissions in accordance with Schedule 14 of the Environment Act 1995 (and supporting guidance).
- (iv) Powers relating to the protection of important hedgerows.
- (v) Powers relating to the preservation of trees.
- (vi) Powers relating to complaints about high hedges.

Matters excluded from the delegation:

The following matters are excluded from this delegation:-

- Matters with the remit of the Strategic Planning Committee;
- Planning applications submitted by or on behalf of the Council for development (excluding minor applications relating to schools or the curtilage of a property or external alterations where no significant extensions are proposed);
- Planning applications submitted by a Councillor or their spouse/partner, or on behalf of a Councillor or spouse/partner;
- Planning applications involving land/premises owned or controlled by a Councillor or spouse/partner;
- Where a senior officer (Corporate Director/Assistant Director/Head of Service or equivalent) of the Council has a pecuniary interest in the outcome of a planning application;
- Where the Corporate Director of Community Development considers a planning application to raise significant planning issues or significant planning issues that may affect more than one area committee geography such that it is to be considered by Committee;
- Planning applications required to be accompanied by an Environmental Impact Statement unless recommended for refusal;
- Planning applications on which a Member of the Council has made material planning representations in writing to the Corporate Director of Community Development within the publicity period and in consultation with the Chair the Corporate Director of Community Development is satisfied that it has been demonstrated that it raises significant material planning issues for the application to be considered by Committee.

(b) **Local Land Charges**

- (i) The exercise of all functions relating to local land charges including but not limited to the maintenance of the local land charges register; and the processing of local authority searches.

(c) **Economic Development, Regeneration and Tourism**

- (i) The exercise of all functions of the Council in relation to economic development and regeneration.
- (ii) To lead on setting up the infrastructure to support new tourism arrangements across the region including the creation, management and enhancement of visitor attractions and facilities.

(d) **Culture, Arts, Libraries, Museums, Archives, Key Venues and Leisure**

- (i) The exercise of all the functions of the Council, relating to culture, arts, libraries, museums, archives, and leisure including but not limited to:
- ◆ The operation, development and management of all leisure services (including leisure contracts with third parties and Council owned entities) and related matters including in consultation with the Corporate Director for Resources concessionary arrangements for the use of the Council's leisure facilities;
  - ◆ The operation, development and management of all Council's museums, galleries, public libraries, library services and the County Archives and the provision of schools' library services.
  - ◆ The exercise of all the functions of the Council relating to Key Venues.

Matters excluded from the delegation:

The following matters are excluded from this delegation:

- ◆ Major changes in the pattern of provision of any of the above services, including permanent closures.

(e) **Housing**

- (i) The development of the Council's Housing policies and management of all matters required to ensure the Council carries out its statutory duties as a local housing authority.
- (ii) In conjunction with the Corporate Director of Resources the maintenance of a Housing Revenue Account in accordance with the Local Government and Housing Act 1989 and any other legislation.
- (iii) The exercise of the Council's functions in respect of the preparation and development of appropriate strategies and plans for the Council's housing stock, including the Housing Investment Programme.
- (iv) The exercise of all functions of the Council relating to social and private housing including but not limited to:
- ◆ The provision of services in accordance with the Homeless Reduction Act 2017 and any other legislation relating to homeless prevention and relief of homelessness and the provision of temporary and interim accommodation for homeless people;
  - ◆ The discharge of the Council's housing duties through the Council's allocations scheme and nomination arrangements with both social and private sector landlords;
  - ◆ Housing enforcement action and regulation in accordance with the various statutory duties on the Council;
  - ◆ The licensing of Houses in Multiple Occupation (HMOs);



- ◆ The discretionary licensing of private rented sector dwellings;
  - ◆ Enforcement action relating to long term empty dwellings and properties and the security of unoccupied derelict buildings;
  - ◆ The discharge of the Council's duties associated with housing in relation to statutory nuisance, prevention of damage by pests, and issuing of statutory notices;
  - ◆ The provision of mandatory Disabled Facilities Grants;
  - ◆ The provision of discretionary grants to improve housing conditions;
  - ◆ Actions to enable the provision of affordable and supported housing, including but not limited to; liaison with housing associations, developers, government funders, community organisations and land owners and the provision of grants to enable the provision of affordable housing and supported housing;
  - ◆ All matters regarding garage tenancies;
  - ◆ Actions in relation to addressing breach of tenancy conditions in consultation with the Assistant Chief Executive Legal and Democratic Services;
  - ◆ Exercising the functions of the Council under the Protection from Eviction Act 1977, the Protection from Harassment Act 1997 and all other enabling powers to regulate and control private landlords;
  - ◆ Taking action to secure the eviction of trespassers.
- (v) To approve and refuse housing grants and approve loan applications and payments with consideration to the terms of the Council's Housing Assistance Policy.
- (vi) The service of notices, certificates of disrepair.
- (f) Enforcement**
- (i) To undertake enforcement activities in respect of all functions within the remit of the Corporate Director of Community Development in order to regulate any actual, potential or perceived breach of legislation, authorisation, permit, licence, permission or document of a similar nature including but not limited to
- Carrying out inspections and/or examinations;
  - Exercising any powers of entry;
  - Serving any notice or document;
  - Undertaking any work in default; and/or
  - Seeking a warrant or other order.
- (ii) To appoint/authorise any Officer and any person undertaking that task for or on behalf of the Council to be:
- An inspector;
  - An authorised officer; and/or
  - An enforcement officer

including power to authorise any such Officer/person to undertake all action relevant to the performance of such a role in relation to any service or function of the Council provided that in all cases the appointment/authorisation relates wholly or partly to any services or function which the Corporate Director of Community Development has responsibility for.

- (iii) In consultation with the Assistant Chief Executive Legal and Democratic Services to authorise Officers to prosecute and to appear on the Council's behalf before a Court.

## **10. Delegation to the Corporate Director of Resources**

10.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Corporate Director of Resources is responsible for the exercise of all powers, duties and functions of the Council in relation to the following:

- ◆ Commercial activities
- ◆ Council tax and business rates
- ◆ Customer contact including contact centres and the Council's website
- ◆ Data governance and security
- ◆ Facilities management
- ◆ Financial management
- ◆ Grants
- ◆ Housing and council tax benefit assessment, fraud and verification
- ◆ Procurement
- ◆ Property
- ◆ Revenue and Benefits
- ◆ Technology
- ◆ Transformation

10.2 To the extent that any of these delegated functions are executive functions the Corporate Director will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

### 10.3 Specific Delegations

#### (a) **Statutory duties**

To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.

#### (b) **Financial management**

To manage from day to day the:-

- (i) County Fund and all subsidiary accounts.
- (ii) Any earmarked or specific funds established from time to time by the Council.
- (iii) Pension Fund, including:

- ♦ The exercise of the Council's functions as administering authority, subject to any specific instructions that might be given from time to time by the Pension Fund Committee;
- ♦ The power to seek professional advice and to devolve day to day handling of the Pension Fund to professional advisors within the scope of the Pensions Regulations; and
- ♦ To change the mandate of or the monies allocated to a Pension Fund manager, in consultation with the Chairman and at least one other member of the Pension Fund Committee, in circumstances when not to do so would lead to a real or potential, loss in value of the Pension Fund's investments. Any such action to be reported to the Pension Fund Committee as soon as practicable.

(iv) The administration of revenue, benefits and housing rents including:

- Council tax processing and billing arrangements
- Local council tax support
- National non-domestic rates
- Hardship schemes
- Housing benefits
- Collection of housing rents
- Recovery of any over-payments

NOTE: The Corporate Director of Resources is not empowered to change the investment manager structure of the Pension Fund.

- \*(c) To operate the Local Government Pension Scheme Regulations and any other regulations that relate specifically to the Council's responsibility to administer the Scheme, including the exercise of discretions.
- \*(d) To implement increase payments under the Pension Increase Acts.
- (e) To implement national and local pay awards.
- \*(f) To borrow and lend money in accordance with the Treasury Management Statement and annual Strategy.
- (h) To manage the Housing Loan Scheme.
- (i) To make leasing arrangements.
- (j) To manage all insurance and related risk management issues, including insurance to cover liability under the indemnity policy for Members and officers.
- (k) To administer and oversee compliance with the Financial Procedure Rules.
- \*(l) To make in year adjustments to the Special Responsibility Allowances to reflect changes in the numerical strength of the individual groups with effect from the beginning of the month after such a change has taken place.
- (m) Under Regulation 7 of the Local Authorities (Contracts) Regulations 1997 to sign certificates under the Local Government (Contracts) Act 1997 and is indemnified against any liability, claims or costs arising out of the signature of any such contract.
- (n) To exercise the functions of the Council relating to its small holdings estate.

- (o) To authorise the acquisition, disposal or redeployment of property and assets as set out in the Property Procedure Rules and Financial Procedure Rules.
- (p) To authorise the submission of bids for grant or other external funding where the estimated value of the grant is £200,000 to £500,000 (in consultation with the relevant Executive Member(s)), and the acceptance of any grant or other external funding less than £200,000 in accordance with Rule 28 of the Financial Procedure Rules, and subject to the implications for the Council being consistent with the budget and policy framework.

## **11 Delegation to the Assistant Chief Executive Legal and Democratic Services**

11.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Assistant Chief Executive Legal and Democratic Services is responsible for the exercise of all powers, duties and functions of the Council in relation to the following:

- The Constitution
- Democratic Services
- Ethical and governance frameworks
- Electoral registration and elections
- Legal services

11.2 The Assistant Chief Executive Legal and Democratic Services will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

### **11.3 Specific Delegations**

- (a) To exercise the functions of Monitoring Officer.
- (b) To assist the Chief Executive Officer in delivering local elections and electoral matters.
- (c) To ensure the lawful, effective and sound decision-making and achievement of objectives by the Council and the promotion and maintenance of sound ethical and governance frameworks.
- (d) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal.
- (e) To authorise officers of the Council to represent the Council before any Court, Tribunal or Inquiry and to instruct Counsel or external legal advisers to undertake legal work, advise or represent the Council.
- (f) To make appointments, on the nomination of political groups, to Valuation Tribunals.
- (g) To maintain the list of politically restricted posts.
- \*(h) In relation to allegations made against the Chief Executive Officer relating to capability issues, disciplinary action and proposals for dismissal (for any reason other than redundancy, permanent ill health and, unless its renewal has been promised, failure to renew a fixed term contract).

- (i) To receive, in the first instance, such allegations against the Chief Executive Officer and to decide, in consultation with the Chair of the Chief Officers Appointments and Disciplinary Committee, whether the complaint is such that it should be referred to the Chief Officers Appointments and Disciplinary Committee for consideration;
- (j) Subject always to the legal requirements regarding such suspension, to suspend the Chief Executive Officer immediately in an emergency if an exceptional situation arises whereby such allegations against the Chief Executive Officer are such that their remaining presence at work poses a serious risk to the health and safety of others or to the resources, information or reputation of the Council, and/or where the circumstances are such that the issue of suspension needs to be addressed prior to any scheduled meeting of the Chief Officers Appointments and Disciplinary Committee and will not await the scheduling of a special meeting of that Committee;
- (k) Where the Chief Officers Appointments and Disciplinary Committee so directs, to agree the specific appointment of a named individual as Independent Investigator with the Chief Executive Officer;
- (l) To agree the terms of remuneration and working methods for the Independent Investigator with the individual appointed.
- (m) To exercise all functions in respect of the publication of Standards and Governance Committee Independent Person vacancies in consultation with the Chair of the Standards and Governance Committee.
- (n) To grant dispensations to Members and voting co-opted Members, after consultation with the Independent Person for Standards, where the timescales are such that a Standards and Governance Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards and Governance Committee, all of whom consent to the granting of the dispensation.
- (o) Establish and maintain registers of Members' Interests and Gifts and Hospitality;
- (p) To authorise covert activities by, and provide internal authorisations and renewal authorisations for, covert investigations by Veritau Limited and all directorate departments (with the exception of Trading Standards) both under the Regulation for Investigatory Powers Act 2000 as amended and outwith that Act, and to represent the Council in respect of such activities and/or authorisations when seeking judicial approval of them before the Magistrates' Court.
- (q) Following consultation with the Chair of the Appeals Committee (or another Member of that Committee nominated by the Chair), to appoint independent members to the panels of Members (from which they will be drawn by the Assistant Chief Executive Legal and Democratic Services) to consider appeals against decisions relating to admission of pupils to schools, and to conduct permanent exclusion reviews.
- (r) To take all decisions in relation to the Legal and Democratic Services Alternative Business Structure company, subject to the controls given to the Council by the Shareholders' agreement, and to exercise day to day control of the Alternative Business Structure attached to the company.
- (s) To exercise all necessary powers to implement the Executive's resolutions regarding the governance arrangements for the Council's companies and shareholdings, including reviewing the terms of the Companies governance documents.

- (t) In consultation with the Chief Executive Officer, to dismiss a volunteer or community member of a Council committee, panel or forum, in appropriate circumstances as determined by the Assistant Chief Executive Legal and Democratic Services in consultation with the Chief Executive Officer.

## **12 Delegation to the Assistant Chief Executive HR and Business Support**

12.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Assistant Chief Executive HR and Business Support is responsible for the exercise of all powers, duties and functions of the Council in relation to the following functions:

- Business Support across all directorates
- Directorate HR Teams
- Equality, Diversity & Inclusion for the workforce
- Health & Well Being for the workforce
- HR Shared Service Team
- Industrial relations (including collective bargaining, corporate collective bargaining and consultation structure and arrangements)
- Learning & development
- Organisational Development
- Pay & Reward
- Payroll
- Recruitment/Resourcing

12.2 The Assistant Chief Executive HR and Business Support will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

### **12.3 Specific Delegations**

(a) To manage the provision of training contracts awarded by the Learning & Development Service and those of a related nature aimed at skilling individuals for employment.

\*(b) To make all appointments to the Chief Officers Disciplinary Panel (the independent panel convened as and when required to consider and advise on proposals to dismiss the Chief Executive Officer, Monitoring Officer or Section 151 Officer).

## **13 Delegation to the Director of Public Health for North Yorkshire**

13.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Director of Public Health for North Yorkshire is responsible for the exercise of all powers, duties and functions of the Council in relation to the following functions:

- (a) The statutory functions of the Director of Public Health in relation to public health, including, but not limited to, those set out in the Public Health (Control of Disease) Act 1984, NHS Act 2006, Health and Social Care Act 2012 and related regulations; including, but not limited to:
- (b) Council health improvement functions under the Health and Social Care Act 2012;

- (c) the exercise by the Council of any public health functions of the Secretary of State which they require the local authority to exercise by regulations under section 6C of the NHS Act 2006 (this relates to functions outside England);
- (d) any public health activity undertaken by the Council in pursuance of arrangements with the Secretary of State;
- (e) Council functions that relate to planning for, or responding to, emergencies involving a risk to public health;
- (f) Council functions under section 325 of the Criminal Justice Act 2003 in relation to co-operating with police, probation and prison services in relation to assessing risks of violent or sexual offenders;
- (g) such other functions relating to public health as may be prescribed for the Director of Public Health by the Secretary of State (including, but not limited to, making representations about the grant of a licence to use premises for the supply of alcohol);
- (h) the provision of an annual report.

#### **14 Delegation to the Assistant Chief Executive Local Engagement**

14.1 To the extent that they are not specifically reserved to another Council/Executive body, Executive Member or Officer, the Assistant Chief Executive Local Engagement is responsible for the exercise of all powers, duties and functions of the Council in relation to the following functions:

- ◆ Communications
- ◆ Community Safety including CCTV
- ◆ Corporate policy including the Council Plan, the Sustainable community strategy, Community engagement, Equality and Diversity, the Compact and thriving voluntary and community sector, Localism and Environment sustainability and climate change
- ◆ Emergency Planning including emergency planning and service continuity
- ◆ Locality structure
- ◆ Policy and Performance
- ◆ Refugees & Asylum seekers

14.2 The Assistant Chief Executive Local Engagement will agree arrangements for consultation with the relevant Executive Member(s) and will refer to the Executive for consideration and decision those matters directed by the said Member(s).

#### 14.3 Specific Delegations

##### (a) **Communications**

The development, implementation and maintenance of a communications strategy for the Council.

##### (b) **Locality**

(i) The development, implementation and maintenance of the Council's strategy for Locality working.

- (ii) The promotion and development of collaborative working arrangements with stakeholders and partners in the voluntary sector.
- (iii) The registration and all of the processes for determining the community right to challenge and nominating assets of community value under the Localism Act 2011.
- (c) **Emergency Planning**
  - (i) The provision of support to the Chief Executive Officer in the exercise of civil aid and emergency planning and service continuity management capability functions in accordance with the Civil Contingencies Act 2004 and other relevant legislation.
  - (ii) The development, implementation and maintenance of the Council's Emergency Plan and Business Continuity Plans.
- (d) **Policy and Performance**
  - (i) The development of the Council's policy agenda.
  - (ii) The development of the Council's Council Plan setting out the Council's vision, values and key ambitions.
  - (iii) The development of the Council's use of evidence to generate insight and inform decision making and drive improvements across service delivery.
  - (iv) The development and implementation of the Council's performance framework including service key performance indicators and reporting thereon.
- (f) **Community Safety**
  - (i) All powers and duties conferred by legislation in connection with community safety functions which are not within the purview of any other Director including but not limited to:
    - ◆ The management and operation of Closed Circuit Television (CCTV).
    - ◆ The functions of the Council relating to anti-social behaviour, harassment and community protection including public spaces protection orders and identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.



# Schedule 5

## Appointment to Outside Bodies

### 1. PARTNER BODIES

Those appointed to these bodies should be Members of the Council.

- ◆ Appointments will be made corporately.
- ◆ Some Officer briefing or other support will be provided.
- ◆ There will be a requirement to report back, perhaps to an Officer who may report onwards.
- ◆ Expenses will be paid to Councillors unless they are payable by the body appointed to.

A	B	C	D	E	F
Outside Body	No of Seats	Appointed By	Appointed (Members and Subs)	Appointed until	Report back by/to
Airedale Internal Drainage Board	9	Executive	Cllr A Brown Brian Shuttleworth Victoria Oldham 6 vacancies	May 2027	
Airedale NHS Foundation Trust Council of Governors	1	Executive	Cllr R Foster	May 2027	
Border to Coast Pensions Partnership	1	Executive	Cllr G Jabbour	May 2027	
Bradford District Care Trust's Council of Governors	1	Executive	Cllr A Brown	May 2027	
Breckenbrough School Limited	2	Executive	Vacancy Cllr N Knapton	May 2027	
British Destinations	1	Executive	Cllr D Bastiman	May 2027	
British Ports Association	1	Executive	Cllr D Bastiman	May 2027	
Citizens Advice Mid-North Yorkshire	2	Executive	Cllr C Les Cllr C Goodrick	May 2027	
County Councils Network	4 (Leader, Deputy Leader,	Executive	Cllr C Les Cllr G Dadd Cllr J Sanderson Cllr M Harrison	May 2027	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
	Portfolio Holders for Children and Health Services)				
DANVM Drainage Board	5	Executive	Cllr M Crane Cllr M Jordan Cllr J McCartney Gillian Ivey Robert Tams	May 2027	
Doncaster/Sheffield Airport Consultative Committee	1 + Sub	Executive	Cllr J Cattanach Sub: Cllr M Jordan	May 2027	
Drax Power Station Consultative Committee *	4 + Subs (Nearest Divisional Members)	Executive	Cllr M Jordan Cllr C Lunn Cllr K Arthur Cllr T Grogan	May 2027	
Durham Tees Valley Airport Consultative Committee	1 + Sub	Executive	Cllr H Moorhouse Sub: Cllr D Chance	May 2027	
Eggborough Power Limited Consultative Committee	2 + Sub (Divisional Members)	Executive	Cllr C Lunn Cllr J McCartney Sub: Cllr M Jordan	May 2027	
First Ainsty Drainage Board	4	Executive	Cllr A Warneken Cllr A Paraskos Howard Ferguson 1 vacancy	May 2027	
Foster Panel (East)	1	Executive	Cllr J Jefferson	May 2027	
Foster Panel (West)	1	Executive	Vacancy	May 2027	
Harrogate and District Community Act-on - Board of Trustees	1	Executive	Cllr S Gibbs	May 2027	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
Harrogate and District NHS Foundation Trust	1	Executive	Cllr N Brown	May 2027	
Humber Coast and Vale Integrated Care System	1 (Portfolio Holder)	Executive	Cllr M Harrison	May 2027	
Humber Strategy Forum	1 (Portfolio Holder)	Executive	TBC	May 2027	
Kyle & Upper Ouse Drainage Board	2	Executive	Cllr J Cattanach Victoria Oldham	May 2027	
Leeds Bradford International Airport Cons Committee	1 + Sub	Executive	Cllr A Paraskos Sub: Cllr P Haslam	May 2027	
Local Government Association (LGA)	4 (Leader, Deputy Leader & Portfolio Holders for Business & Corporate Services)	Executive	Cllr C Les Cllr G Dadd Cllr D Bastiman Cllr D Chance	May 2027	
Local Government Grp - General Assembly	1	Executive	Cllr C Les	May 2027	
Local Government Grp - Rural Services Partnership	2	Executive	Cllr D Ireton Cllr R Foster	May 2027	
Local Government North Yorkshire and York	1 (Leader) + Sub	Executive	Cllr C Les Sub: Cllr G Dadd	May 2027	
Local Government North Yorkshire & York Transport and Planning Board	2	Executive	2 Vacancies	May 2027	
Local Government Yorkshire and Humber Employers' Committee	1 + Subs (Exec Member)	Executive	Cllr G Dadd Sub: Cllr C Lunn	May 2027	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
	for Finance)				
North Eastern Inshore Fisheries and Conservation Authority	2	Council	Cllr D Chance Cllr N Swannick	May 2027	
North York Moors Historical Railway Trust Limited	2	Executive	Cllr D Chance Cllr C Pearson	May 2027	
North York Moors National Park Authority	9	Council	Cllr D Jeffels Cllr H Moorhouse Cllr C Pearson Cllr J Ritchie Cllr G Jabbour Cllr D Hugill Cllr J Andrews Cllr M Donohue-Moncrieff Cllr A Warneken	May 2027	
North York Moors National Park Local Access Forum	1 + Sub	Executive	Cllr G Jabbour Sub: Cllr D Chance	May 2027	
North Yorkshire Local Access Forum	2	Executive	Cllr R Heseltine Cllr D Jeffels	May 2027	
North Yorkshire Youth Limited Board of Trustees	1	Executive	Cllr J Sanderson	May 2027	
North Yorkshire, York and East Riding Local Enterprise Partnership	1	Executive	Cllr C Les	May 2027	
NYNet Ltd Board and NYNet 100 Ltd	1 + 1 (Portfolio Holder) observer/ Sub	Executive	Cllr D Bastiman Observer: Cllr S Watson	May 2027	
Ouse and Derwent Internal Drainage Board	15	Executive	Cllr J Cattanach Cllr S Duckett Cllr K Arthur Juan Jose Brooks	May 2027	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
			Mike Baker Charles Richardson Kay McSherry Martin Grainger Victoria Oldham Howard Ferguson 5 vacancies		
PATROL (Parking and Traffic Regulations Outside London)	1	Executive	Cllr C Aldred	May 2027	
Rail North	2 (Leader & Portfolio Holder)	Executive	Cllr C Les (Director) Cllr K Duncan (Deputy Director)	May 2027	
Reserve Forces and Cadets Association for Yorkshire and the Humber	2	Executive	Cllr A Lee Cllr K Foster	May 2027	
Rural Services Network (SPARSE Rural Special Interest Group)	1 + 2 Subs	Executive	Cllr R Heseltine Sub: Cllr D Ireton Sub: Cllr Y Peacock	May 2027	
Scarborough Museums, Culture and Creative Trust	1 (Portfolio Holder)	Executive	Cllr S Myers		
Scarborough Theatre Trust	1 (+ 1 observer)	Executive	Cllr D Chance Observer: Stuart Clarke	May 2027	
Selby Area Internal Drainage Board	11	Executive	Cllr J Cattanach Cllr M Crane Cllr M Jordan John Mackman Chris Pearson Martin Grainger Gillian Ivey	May 2027	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
			Ian Chilvers Georgina Ashton Charles Richardson Jim Deans		
South Tees Hospitals NHS Foundation Trust	1	Executive	Cllr S Watson	May 2027	
St Camillus Trust	1 + officer	Executive	Cllr J Sanderson Officer: Janet Crawford	May 2027	
Staithe Harbour Commissioners	1 (Portfolio Holder)	Executive	Cllr D Bastiman		
Standing Advisory Council on Religious Education	5	Executive	Cllr J Jefferson Vacancy Cllr A Baker Cllr R Heseltine Cllr A Wilkinson	May 2027	
Swale & Ure Drainage Board	3	Executive	Cllr A Paraskos Cllr C Les Cllr A Baker	May 2027	
Tees, Esk and Wear Valleys NHS Foundation Trust Council of Governors	1	Executive	Cllr R Swiers	May 2027	
Trans-Pennine Trail Board	1	Executive	Cllr M Jordan	May 2027	
Transport for the North Board and Partnership Board	1 + Sub (Leader & Portfolio Holder)	Executive	Cllr C Les Sub: Cllr K Duncan	May 2027	
Transport for the North General Purposes Committee	1 (Leader)	Executive	Cllr C Les	May 2027	
Transport for the North Scrutiny Committee	1	Executive	Cllr P Haslam	May 2027	
University of Leeds - Court	1	Executive	Cllr P Haslam	May 2027	
University of York - Court	2 (Chairman of NYC)	Executive	Cllr R Swiers Cllr A Wilkinson	May 2027	

A	B	C	D	E	F
Outside Body	No of Seats	Appointed By	Appointed (Members and Subs)	Appointed until	Report back by/to
	and Exec Member for Ed)				
Vale of Pickering Internal Drainage Board	5	Executive	Cllr C Goodrick Cllr G Jabbour Steve Arnold Mike Potter 1 vacancy	May 2027	
Veritau Ltd (shared Internal Audit Service) Board of Directors	1 (Executive Member for Finance) + Sub	Executive	Cllr G Gadd Sub: Cllr D Chance	May 2027	
West Yorkshire Combined Authority – Business Innovation and Growth Panel	1	Executive	Cllr S Myers Cllr R Foster	May 2027	
West Yorkshire Combined Authority Partnership Committee	1 (Leader)	Executive	Cllr C Les	May 2027	
West Yorkshire Combined Authority - The Place Panel	1	Executive	Cllr M Crane	May 2027	
West Yorkshire Integrated Care System	1	Executive	Cllr A Solloway	May 2027	
York and North Yorkshire Combined Authority	2	Council	Cllr C Les (Lead Member) Cllr G Dadd Subs: Cllr M Harrison Cllr S Myers Cllr J Sanderson Cllr A Wilkinson	May 2027	
York and North Yorkshire Combined Authority Audit and Governance Committee	4	Council	Cllr P Broadbank Cllr C Lunn Cllr C Goodrick Cllr A Warneken	May 2027	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
York and North Yorkshire Combined Authority Overview and Scrutiny Committee	6	Council	Cllr L Burr Cllr R Foster Cllr C Pearson Cllr S Watson Cllr A Williams	May 2027	
York and North Yorkshire Combined Authority Skills and Employability Working Group	2	Council	Cllr M Crane Cllr A Wilkinson	May 2027	
York and North Yorkshire Economy and Skills Board	1 (Portfolio Holder)	Executive	Cllr A Wilkinson	May 2027	
York Archaeological Trust for Excavation and Research Limited	1	Executive	Cllr D Chance	May 2027	
York Teaching Hospitals NHS Foundation Trust	1	Executive	Cllr L Colling	May 2027	
York, North Yorkshire and East Riding Strategic Housing Partnership (nycyerhousing.co.uk)	1 (Portfolio Holder)	Executive	Cllr S Myers	May 2027	
Yorkshire Agricultural Society	1	Executive	Cllr C Les	May 2027	
Yorkshire and Humber Joint Scrutiny of Health Committee	1	Executive	Cllr A Lee	May 2027	
Yorkshire and Humber Strategic Migration Group 2023/24	1	Executive	Cllr D Chance	May 2027	
Yorkshire Coast and Ryedale Disability Forum	1	Executive	Cllr J Andrews	May 2027	
Yorkshire Coast Community Rail Partnership	1	Executive	Cllr N Swannick	May 2027	
Yorkshire Coast Tourism Advisory Board	1	Executive	Cllr P Trumper	May 2027	
Yorkshire Dales National Park Authority	10	Council	Cllr R Foster Cllr D Ireton Cllr A Murday Cllr Y Peacock Cllr K Sedgwick Cllr S Myers Cllr R Heseltine Cllr S Shaw-Wright Cllr S Parsons	May 2027	



<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Appointed (Members and Subs)</b>	<b>Appointed until</b>	<b>Report back by/to</b>
			Cllr D Noland		
Yorkshire Leaders' Board	1 (Leader)	Executive	Cllr C Les	May 2027	
Yorkshire Purchasing Organisation Management Committee	1 + Sub	Executive	Cllr G White Sub: Cllr A Thompson	May 2027	
Yorkshire Purchasing Organisation Procurement Holdings Ltd	1	Executive	Cllr G White	May 2027	
Yorkshire Regional Flood and Coastal Committee	1 + Sub	Executive	Cllr D Bastiman Sub: Cllr J Cattanach	May 2027	
Yorventure Management Group	1 + Sub	Executive	Cllr D Bastiman Sub: Cllr D Staveley	May 2027	
Yorwaste Limited and SJB Recycling Ltd	2	Executive	Cllr A Lee Cllr J Weighell OBE	May 2027	

\* In making appointments to Drax Power Station Consultative Committee, the Executive should ensure that the Chair or Vice-Chair and at least three Members of the Strategic Planning Committee be nominated to serve, and that there is representation from the local area.

## 2. LOCAL BODIES (appointments by Area Constituency Committees)

- ◆ Those appointed to these bodies should be Councillors.
- ◆ The appointments will be made by the Area Constituency Committee(s) concerned.
- ◆ Some Officer briefing or other support may be provided.
- ◆ Any report back will be to the Area Constituency Committee (which may report to the Executive on it, if appropriate).
- ◆ Expenses will be paid to Councillors unless they are payable by the body appointed to.

	No of seats	
Esk Valley Railway Development Company	1	Cllr N Swannick
Friends of Craven Museum	1	Vacancy
Forest of Bowland AONB Joint Advisory Committee	1 + Sub	Cllr S Myers Sub: Cllr D Ireton
Gouthwaite Reservoir Board of Management	1	Cllr A Murday
Harrogate and District Community Action	1	Cllr S Gibbs
Hartlepool Power Station Local Community Liaison Council	1	Cllr H Moorhouse
Heysham Power Station Local Liaison Council	1	Vacancy
Hospital of James Knowles Trust	1	Vacancy
Howardian Hills AONB Joint Advisory Committee	2 + Subs	Cllr C Goodrick Cllr G Jabbour
Leeds-Morecambe Community Rail Partnership	1	Cllr A Murday
Limited Liability Partnership	1	Cllr S Watson
National Coal Mining Museum for England Liaison Committee	1 (+1 sub)	Cllr S Shaw-Wright
National Park Management Plan Steering Group	1 + sub	Cllr Y Peacock Sub: Cllr C Sedgwick
Nidd Gorge Advisory Partnership	6	Cllr P Broadbank Cllr P Haslam Cllr A Warneken Cllr M Walker Cllr H Gostlow Cllr M Schofield
Nidderdale AONB Joint Advisory Committee	3 + Subs	Cllr Cunliffe-Lister Cllr A Murday Cllr N Hull Sub: Vacancy
North Yorkshire and Cleveland Coastal Forum Executive Committee	2	Cllr D Bastiman Cllr D Chance
Parishes Liaisons Group	TBC	Vacancy
Raincliffe Woods Community Enterprise	2	Cllr D Jeffels Cllr H Phillips
Richmondshire Leisure Trust Board	1	Officer appointment
Safer Craven Local Delivery Team	1	Cllr A Solloway
Selby and District Rail Users Group	1	Vacancy
Settle Area Swimming Pool Committee	1	Vacancy
The Local Fund	1	Cllr S Gibbs
The Scarborough Municipal Charity	4	Cllr E Broadbent Cllr R Maw Cllr J Jefferson

	<b>No of seats</b>	
		Cllr S Sharma

**3. LOCAL BODIES (appointee expected to be a member of the local community (but may be the local Member) nominated by the local Member)**

- ♦ The person appointed is expected to be a member of the local community, but may be the local Member.
- ♦ The local Member will make a nomination to the relevant Area Constituency Committee.
- ♦ The relevant Area Constituency Committee will make the appointment.
- ♦ There will be no Officer support.
- ♦ There will be no report back (unless the local Member deems it necessary). Any report back will be to the Corporate Director of Resources.
- ♦ Expenses will not be paid by the Council.

**NB: The following outside bodies are not Partnerships for the purpose of Partnership Governance as they do not meet the relevant criteria.**

	<b>No of seats</b>	
Appleton Wiske Educational Foundation	1	Cllr D Hugill
Lady Lumley's Educational Foundation (Pickering)	1	Cllr J Andrews
Thirsk and Sowerby Swimming Baths Charity Management Committee	1	Vacancy

**4. MECHANISMS FOR APPOINTMENTS/NOMINATIONS**

These are bodies in which the Council has no direct interest but is asked to make appointments or provide nominations. There will be no Officer support, no need for any report back and no expenses will be paid by the Council, though these may be paid by the body concerned. Appointments should be made by the Executive, except Valuation Tribunal appointments which are to be made jointly by the Assistant Chief Executive Legal and Democratic Services and the President of the Tribunal, in response to nominations from the Secretaries of the groups to which seats have been allocated.

There are none.

**5. SCHOOL GOVERNING BODIES**

Primary Schools/Nurseries (780 primary school and 6 nursery governorships)

Governing appointments to be made by the Corporate Director Children and Young People's Service, in response to nomination from the Secretary of the group to which the governorship has been allocated. No requirement to report back. No expenses will be paid by the Council. Governing bodies may consider paying out of pocket expenses to Governors.

Secondary Schools/Special Schools (203 secondary school and 28 special school governorships)

Governor appointments to be made by the Corporate Director Children and Young People's Service, in response to nominations from the Secretary of the group to which the governorship has been allocated. No requirement to report back. No expenses will be paid by the Council. Governing bodies may consider paying out of pocket expenses.

## **6. INSPECTIONS OF CHILDREN'S HOMES**

Corporate Parenting Members' Group – See "Delegation of Executive Functions" in Schedule 2 to Part 3 of the Council's Constitution.

## **7. INDEMNITIES**

The Council has an agreed policy in relation to the indemnification of Officers and Members carrying out activities as part of their official role. Where a Member or Officer is acting on behalf of another organisation then the activities covered will be deemed to have arisen in the capacity as a "member or officer of the authority" for the purposes of the Council's Indemnity Policy for Officers and Members, where:

- (a) the appointment to that outside body was made by the authority; or
- (b) the nomination to that outside body was made by the authority; or
- (c) such appointment to that outside body was specifically approved for the purpose of these indemnities.

All appointments, nominations and approvals made or given by the Council to the bodies in this Schedule or any other external bodies to which appointments, nominations and approvals are or have been made from time to time, shall be deemed to be appointments and nominations, and approvals for the purposes of the Indemnity Policy.

# Part 4

## Rules of Procedure

1. [Council Procedure Rules.](#)
2. [Access to Information Procedure Rules.](#)
3. [Budget and Policy Framework Procedure Rules.](#)
4. [Executive Procedure Rules.](#)
5. [Overview and Scrutiny Procedure Rules.](#)
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# Council Procedure Rules

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*These Rules constitute the Council's Standing Orders in relation to the regulation of Council proceedings and business under paragraph 42 of Schedule 12 to the Local Government Act 1972 and (to the extent specified in Rule 22) constitute the Council's Standing Orders as respects Committees, under Section 106 of that Act.*

## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing**

The annual meeting of the Council shall be held on the third Wednesday in May each year or, in an election year, on such other day as the Council shall determine.

### **1.2 Election of Leader and Appointment of Executive**

At the annual meeting of the Council in an election year, the Council will:

- (a) elect the Leader, to hold office for a four year period (until the day of the post-election annual meeting following their election as Leader). The Leader will agree the number of Members to be appointed to the Executive and appoint those Members.

### **1.3 Appointment of Members to serve on Committees**

- (a) As soon as possible after the election in an election year the Assistant Chief Executive Legal and Democratic Services shall:
  - (i) provide each Member with a questionnaire to be returned to the Secretary of their political group (or if the Member chooses not to be a member of a Group to the Assistant Chief Executive Legal and Democratic Services) asking on which of the committees they would prefer to serve.
  - (ii) convene a meeting, chaired by the Chair or Vice-Chair of the Council, of the Leaders and the Secretaries of those political groups which Members have declared to the Assistant Chief Executive Legal and Democratic Services by the date of the meeting. The meeting shall be held no later than the day before the Annual Meeting of the Council in that year to review the number of seats on committees and sub-committees and to allocate seats to the groups, in proportion to the relative numbers of seats on the Council held by the members of each Group, and proportionally to any Member who is not a member of any Group.
  - (iii) submit to the Annual Meeting of the Council the recommendations of the meeting of Group Leaders and Secretaries, (which shall be referred to as the Allocations Committee), as to the number of seats proposed for each of the Council's committees and sub-committees and the proportional allocation of those seats between the political groups (and any Member of the Council who is not a member of any group), having regard to the composition of the Council following such election. That report shall include, if necessary, any minority recommendations from dissenting groups subject to these also reflecting proportional representation.

- (b) The allocation of seats on committees and sub-committees to groups having been agreed, the appointment of Members (and substitute Members, if any) to serve on each committee and sub-committee shall take place in the following manner:- the names of the Members nominated by the political groups to serve on a committee or sub-committee, together with the name of any Member who has been allocated a seat who is not a member of a group, having been proposed and seconded (in one motion), any group may propose as an amendment any other Member or Members of the same group for service on that committee or sub-committee, within the proportional allocation of seats to that group. Any such amendments and the resulting substantive motion shall be voted upon by the Council without debate. Appointments to sub-committees by committees shall be carried out in the same manner.

If appointments are to be made to any committee other than in accordance with the current law relating to the proportional allocation of seats, such proposals will be moved as a separate motion so that it can be ascertained whether any Member of the Council votes against.

- (c) Subject to any statutory provision:-
- (i) the Council shall not appoint any member of a committee so as to hold office later than the annual meeting of the Council in the next election year;
  - (ii) from the day of retirement of Councillors in an election year until the annual meeting of the Council in that year the duties of each committee shall be discharged by such Councillors as were Members thereof prior to the said day and have been re-elected, whether or not such number of Members is the quorum of the committee;
  - (iii) the Council may at any time dissolve or alter the membership of a committee or add to or remove members from a committee;
  - (iv) the Council may make arrangement for substitute membership of committees in accordance with such schemes as it may approve;
  - (v) any delegation to a committee may be subject to such general or special restrictions or conditions as may from time to time be agreed by the Council, and such delegations may at any time be revoked by the Council;
  - (vi) the foregoing paragraphs of this Council Procedure Rule shall with any necessary modification apply to sub-committees.
- (d) On occasions other than that of the first appointment of committees and sub-committees after a quadrennial election, appointments of Members (and substitute Members, if any) to serve on committees shall be made in accordance with para (b) of this Council Procedure Rule except that nominations shall be reported by representatives of the political groups. Appointments of Members (and substitute Members, if any) to serve on sub-committees shall be made in the same manner by the relevant Committee. When changes to appointments arise as a result of a change in the number of seats held by a political group, the Secretaries (or other representatives) of those groups whose number of seats on the Council have changed shall meet



to agree a reallocation of the seats held by their groups, as necessary, in order to reflect the changed relative proportions of the groups.

- (e) In making recommendations to the Council or committees as to the appointment of Members (and substitute Members, if any) to serve on committees and sub-committees respectively, the political groups shall have regard to the desirability of ensuring that all Members of the Council shall, so far as is practicable, be appointed to serve on approximately the same number of committees and sub-committees.
- (f) Should any Member choose to resign from membership of any committee or sub-committee, it is the duty of the resigning Member (or the Secretary of that Member's Political Group, if any) to advise the Assistant Chief Executive Legal and Democratic Services, so that the resulting vacancy can be brought to the attention of the Council or the appropriate committee.

## **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.

### **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.

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

## 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;
  - (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) 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.
  - (viii) 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;
  - (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;
  - (x) any business remaining from the previous meeting;
  - (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) Housing and Leisure Overview and Scrutiny Committee.
- (xiv) Council Procedure Rule 10 questions;
- (xv) other business, if any, specified in the summons for the meeting.
- (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.

## 3. EXTRAORDINARY MEETINGS

### 3.1 Calling extraordinary meetings

Those listed below may request the Assistant Chief Executive Legal and Democratic Services to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) the Monitoring Officer or the Chief Finance Officer; and
- (d) any five members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition;

and any such request shall specify one or more items of business to be transacted at the meeting.

### 3.2 **Business**

The notice for any extraordinary meeting must specify the business proposed to be transacted at the meeting.

## 4. **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

- 4.1 Save as provided elsewhere in the Constitution, political groups may nominate any Members to be substitutes for appointed Members of committees, joint committees, sub-committees, working groups and panels. The Assistant Chief Executive Legal and Democratic Services shall have authority to give effect to those nominations in accordance with this Procedure Rule, provided that in the case of the:
- (a) Regulatory committees and sub-committees, substitutes must have received the required training; and
  - (b) Overview and Scrutiny Committees, Audit and Standards and Governance Committee, all Members except Executive Members are permitted to be substitutes.
- 4.2 Arrangements for any substitute Member shall be made by the Member for whom the substitution is being sought or if that Member is unavailable or it is not practical for them to do so then by their political group leader by giving notice to the Assistant Chief Executive Legal and Democratic Services as soon as practicable before the meeting to which the substitution relates. In the event of notification not being provided/received before the start of the meeting then the substitute shall not be treated as a member of the committee or sub-committee for the purposes of being able to speak or vote.
- 4.3 Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 4.4 A substitute member may only be appointed for the whole duration of a meeting, not part, in place of the appointed Member.

## **5. TIME AND PLACE OF MEETINGS**

### **5.1 Council Meetings**

Meetings of the Council shall be held at County Hall, Northallerton, commencing at 10.30 am, or such other hour as the Council may from time to time determine; provided that in exceptional circumstances the Chair or, if the Chair position be vacant, the Vice-Chair may direct that a meeting shall be held at such other place, or such hour and on such date as they may deem expedient.

### **5.2 Other Meetings**

5.2.1 The date, time and place of Executive and committee meetings will be determined by the Assistant Chief Executive Legal and Democratic Services and included on the summons for the meeting.

5.2.2 The Assistant Chief Executive Legal and Democratic Services may change the date, time and place of a meeting of a committee, in their discretion, after consulting with the Chair of the committee and Members of the Committee.

### **5.3 Special Meetings of Committees**

The Chair of a Committee, or the Chair of the Council, may summon a special meeting of a committee at any time, and either of them shall summon a special meeting on the requisition in writing of not less than one quarter of the members of the committee. The summons shall specify the business to be considered at the special meeting, and no business other than that specified shall be considered at the meeting.

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Assistant Chief Executive Legal and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days\* before a meeting, the Assistant Chief Executive Legal and Democratic Services will send a summons signed by them by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **7. CHAIR AND VICE-CHAIR**

### **7.1 The Council**

- (a) The Chair of the Council shall be elected annually by the Council from among the Councillors, which shall be the first business transacted at the annual meeting.
- (b) The Council shall appoint a Member of the Council to be Vice-Chair.
- (c) The Chair shall, unless they resign or become disqualified, continue in office until their successor becomes entitled to act as Chair and the Vice-Chair, unless they resign or become disqualified, shall continue in office until

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

immediately after the election of Chair at the next annual meeting of the Council.

## **7.2 Committees**

- (a) Every committee shall have a Chair and may have a Vice-Chair, provided that the Chair and the Vice-Chair, if any, shall be a Member of the Council and the Chair and Vice-Chair of any Overview and Scrutiny Committee and the Chair and Vice-Chair of any Area Constituency Planning Committee shall be appointed by the Council save that, in the absence of the Chair and also of the Vice-Chair, if any, at any meeting of a Committee a Chair for that meeting shall be appointed.
- (b) The Council may, at its annual meeting in every election year, having considered nominations by the representatives of the Groups, appoint a Chair (and may appoint a Vice-Chair) of every committee and, in the event of either office being vacated at any time, any such committee shall elect a Chair (and may elect a Vice-Chair) at its next meeting.
- (c) A Chair and Vice-Chair may be appointed or elected either for one year or for such longer period up to the appointment or election of Chair following a quadrennial election as the Council or the committee, as appropriate, may determine.
- (d) A person who was Chair of any committee immediately before annual meeting, in an election year shall continue to be Chair of that committee until the first meeting of the committee following the annual meeting of the Council if re-elected a Councillor and if appointed a member of that committee by the Council.
- (e) The Council may appoint, in any year when Council elections are not held, a Chair to a committee where the committee has failed to reach agreement (for example where, at the committee's meeting, equal numbers of votes are cast for two Members each nominated for appointment as Chair).

## **8. QUORUM**

### **8.1 Council Meetings**

If during any meeting of the Council the Chair declares that there is not a quorum present (one quarter of the whole number of Members) the meeting shall stand adjourned. (If at any time more than one third of the Members have an interest precluding participation (as set out in the Members' Code of Conduct), the quorum shall be one quarter of the Members remaining).

### **8.2 Other Meetings**

The quorum of any other meeting will be one quarter of the total voting membership of the body or three voting members, whichever is the larger. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

8.2.1 Regarding formal Council, Executive, Committee or Sub-Committee meetings, “present” means physical presence, in person at the meeting (in order to be able to count towards the quorum and to vote). Electronic ‘attendance’ via the internet may be permissible for other informal meetings - please liaise with Legal and Democratic Services re any such queries.

### 8.3 **Committee Quorum List**

Current Committee quorum are set out below:

Strategic Planning Committee - Quorum (3) voting Members

Area Constituency Planning Committees - Quorum (3) voting Members

Statutory Licensing Committee - Quorum (4) voting Members

Statutory Licensing Sub-Committees - Quorum (3) voting Members

General Licensing and Registration Committee - Quorum (6) voting Members

General Licensing and Registration Sub-Committees - Quorum (3) voting Members

Standards and Governance Committee - Quorum (3) voting Members

Audit Committee - Quorum (3) voting Members

Appeals Committee (Home to School Transport) - Quorum (3) voting Members

Employment Appeals Committee - Quorum (3) voting Members

Chief Officers Appointments and Disciplinary Committee - Quorum (3) voting Members

Pension Fund Committee - Quorum (3) voting Members

Harrogate and Knaresborough Area Constituency Committee - Quorum (3) voting Members

Richmond (Yorks) Area Constituency Committee - Quorum (3) voting Members

Scarborough and Whitby Area Constituency Committee - Quorum (3) voting Members

Selby and Ainsty Area Constituency Committee - Quorum (3) voting Members

Skipton and Ripon Area Constituency Committee - Quorum (3) voting Members

Thirsk and Malton Area Constituency Committee - Quorum (3) voting Members

Care and Independence and Housing Overview and Scrutiny Committee - Quorum (4) voting Members

Corporate and Partnerships Overview and Scrutiny Committee - Quorum (4) voting Members

Scrutiny of Health Committee - Quorum (4) voting Members

Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee - Quorum (4) voting Members

Children and Families Overview and Scrutiny Committee - Quorum (4) voting Members

Housing and Leisure overview and scrutiny committee - Quorum (4) voting Members

## **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.

9.1.1 the 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;
- ♦ full Council Budget and Council Plan meetings.

### **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.

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.

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).

#### **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.

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.

### **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.

### **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.
- (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.

## 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.

## 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 negated 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.

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.

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

## **15. VOTING**

### **15.1 Voting In General**

(a) Every question shall be determined by a show of hands or by the use of the electronic equipment, when available and as agreed by the Chair of the meeting. Before any decision to implement electronic voting is taken, there should be consultation with the relevant Executive portfolio holder and the Assistant Chief Executive Legal and Democratic Services.

If the majority is less than seven, the Chair, or not less than 10 Members, may require a division by name, in which case the Assistant Chief Executive Legal and Democratic Services will call the roll of the Council, and each Member present will reply either “for” or “against” or “abstain”. Alternatively if electronic voting is in operation the system will record whether each Member votes either “for” or “against” or “abstain”. The Assistant Chief Executive Legal and Democratic Services will record and count the votes, and inform the Chair, who will then announce the result. The names of the Members and the manner in which they have voted shall be recorded in the Minutes.

(b) There will be a division by name if at least 20 Members stand in their places and so require.

(The requirements of this Council Procedure Rule will be deemed to have been complied with if any Member who, as a result of a disability, would find it difficult or impossible to stand, indicates their wish by raising their hand.)

(c) Where, immediately after a vote is taken at a meeting of the Council, a committee, sub-committee or joint committee, any member of that body so requires, the minutes shall record whether that person cast their vote for or against the proposal or abstained from voting.

(d) All matters shall be decided by a majority of Members present and voting. In the case of equality of votes the person presiding at the meeting shall have a casting vote.

## 15.2 Voting on Appointments

### (a) To Fill a Single Vacancy

Where more than two persons are nominated and the first voting does not produce an absolute majority of votes in favour of any one of them, the name of the person having the least number of votes shall be removed from the list and a further vote must take place, and so on until a voting produces an absolute majority of those voting in favour of one of the persons. The appointment of that person shall then be proposed by motion.

### (b) To Fill Two or More Vacancies

Where there is more than one vacancy and the number of persons nominated exceeds the number of positions to be filled, the following procedure shall be adopted:-

- (i) each Member may vote for any number of persons, not exceeding the number of vacancies to be filled, by signing and delivering to the person presiding at the meeting a notice of the names of the person for whom they vote;
  - (ii) the person presiding at the meeting shall announce the number of votes cast for each nominee;
  - (iii) the name of the person having the least number of votes shall be removed from the list and each of the Members who voted for that person will be asked by the Chair, individually by name, whether they wish to transfer that vote to one of the remaining nominees. The process will be repeated until the number of nominees remaining is the same as the number of vacancies. The appointment of those persons will then be proposed by motion.
- (c) The procedures contained in this Council Procedure Rule shall, so far as possible, be followed when appointments (including the appointments of Officers) are made by a committee or sub-committee.

## 16. MINUTES

- (a) The minutes of the meetings of the Council will be recorded on loose leaves consecutively numbered and shall be entered in a book. Copies will be circulated with the summons for the next meeting.
- (b) The minutes, having been taken as read, the Chair shall put the question "That the minutes of the meeting of the Council held on be signed as a correct record".
- (c) No discussion shall take place upon the minutes, except upon their accuracy. Any question of their accuracy shall be raised by motion. If no such question is raised, or so soon as all such questions raised have been disposed of, the Chair shall sign the minutes and initial each leaf comprising those minutes.
- (d) Where the next meeting of the Council is an extraordinary meeting, the next ordinary meeting will be treated as the suitable meeting for signing minutes.

## **17. RECORD OF ATTENDANCE**

The names of the members at a formal meeting of the Council, Executive and their committees shall be recorded.

## **18. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

## **19. MEMBERS' CONDUCT**

- (a) If the Chair informs the Council that, in their opinion, a named Member is persistently disregarding the ruling of the Chair, or behaving irregularly, improperly, or offensively, or wilfully obstructing the business of the Council, the Chair or any other Member may move "That (the Member named) be not further heard", or "That (the Member named) do leave the meeting". If seconded the motion shall be put and voted on without discussion and if carried, the Chair shall direct the Member accordingly. If, having been directed by the Chair to leave the meeting, the Member does not leave forthwith, or having left returns to the meeting, the Chair may give directions for their removal, and such other directions as are necessary for restoring order to the proceedings.
- (b) If, after a motion under (a) has been carried, the misconduct or obstruction is continued, and, in the opinion of the Chair, makes the proper despatch of business impossible, the Chair may adjourn or suspend the sitting of the Council for whatever period they consider expedient.
- (c) Members must at all times observe the Members' Code of Conduct set out at Part 5 of this Constitution. If a Member is present at a meeting when a matter is to be considered or is being considered, in which they have an interest precluding participation (as set out in the Code), they must declare the existence and nature of that interest, speak if they are permitted under the Code but not participate in the discussion or vote and leave the meeting room (subject to the granting of a dispensation by the Standards and Governance Committee or Monitoring Officer). If a Member is relying on a dispensation to participate, they should still declare the existence and nature of the interest and state that they are relying on a dispensation. Whilst observance of the Code is the individual responsibility of each Member, advice may be sought from Officers (in particular the Monitoring Officer, Chief Finance Officer, Chief Executive Officer, Assistant Chief Executive Legal and Democratic Services or any Director) as to the requirements of the Code.

## **20. DISTURBANCE BY PUBLIC**

If a member of the public interrupts the proceedings at any meeting the Chair shall warn them. If they continue the interruption the Chair may order their removal from the Council Chamber. In case of general disturbance in any part of the Chamber open to the public the Chair may order that that part shall be cleared.

## **21. AMENDMENT OF COUNCIL PROCEDURE RULES**

Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **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.

# Access to Information Procedure Rules

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# Access to Information Procedure Rules

*North Yorkshire Council believes in public access to information in order to ensure that citizens can exercise their rights to have a say about decisions, and can understand what decisions have been taken and why. Although some information has to remain private, for example to respect personal privacy, commercial confidentiality or for legal reasons, the Council has adopted a presumption of openness that information will be available unless there is a substantial lawful reason why not. This is consistent with access to information legislation.*

*These Access to Information Procedure Rules are based on current access to information legislation: should any provision conflict with the legislation, the latter will prevail.*

## **1. SCOPE**

- 1.1 Except where indicated, these Rules apply to all meetings of the Council, its committees and sub-committees and formal meetings of the Executive and any Committees of the Executive (together called meetings).
- 1.2 Certain parts of these Rules apply to decisions by individual Members of the Executive and to decisions by individual Officers. Further information is given in Rules 19 and 19A.

## **2. RIGHTS TO INFORMATION**

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Executive Members and Council staff will give effect to the rights of Council Members and of citizens to information, and where there is a right to such information, requests for access to it will be dealt with in an accurate and timely fashion.

## **3. RIGHTS TO ATTEND MEETINGS**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 While a meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded facilities for taking their report in accordance with the provisions set out in the Council's Protocol on Audio/Visual Recording and Photography at Meetings.

## **4. NOTICES OF MEETING**

### **Public Meetings**

- 4.1 The Council will give notice of the time and place of any public meeting by posting details of the meeting at County Hall and at the venue for the meeting (if different) and on the Council's website. At least five clear days before the meeting or, where the meeting is convened at shorter notice, at the time that the meeting is convened.
- 4.2 "Clear days" means all days the notice is available for public inspection (not including the day of the notice or the day of the meeting/decision).

### **Private Meetings**

- 4.3 At least 28 clear days before a private meeting (a meeting, or part of a meeting, of the executive decision making body during which the public are excluded) the executive decision-making body must give notice of its intention to hold the meeting in private (including a statement of the reasons for holding it in private) by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council's website.
- 4.4 At least five clear days before a private meeting, the executive decision making body must give further notice of its intention to hold the meeting in private including:
- ◆ a statement of the reasons for holding it in private;
  - ◆ details of any representations received about why the meeting should be open to the public; and
  - ◆ a statement of its response to any such representations

by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council's website.

### **Urgent Private Business**

- 4.5 Where the date by which a meeting must be held makes compliance with Rules 4.3 and 4.4 impracticable, the meeting may only be held in private where the executive decision making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the chair of the relevant Overview and Scrutiny Committee; or, if there is no such person, or if they are unable to act, the chair of the Council; or where there is no chair of either, the vice-chair of the Council.
- 4.6 As soon as reasonably practicable after agreement is given under Rule 4.5 to hold a private meeting, the executive decision making body must give notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council's website.

## **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 5.1 The Council will make copies of the agenda, and reports which are open to the public, available for inspection at County Hall and on the Council's website at least five clear days before the meeting. If an item is added to the agenda copies of which are open to inspection by the public, the Assistant Chief Executive Legal and Democratic Services shall make the revised agenda and the report concerning the item available to the public as soon as the report is completed and sent to Members) and subject to the report containing no confidential or exempt information as described in Rule 10.
- 5.2 Where a meeting is convened at shorter notice, a copy of the agenda and any associated reports to which the public have access will be available for inspection at the time the meeting is convened.

## **6. SUPPLY OF COPIES**

- 6.1 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) if the Assistant Chief Executive Legal and Democratic Services thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage and any other costs.
- 6.2 Subject to Rule 6.3, any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Rules.
- 6.3 Rule 6.2 does not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the Council, nothing done pursuant to that paragraph constitutes an infringement of the copyright.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

- 7.1 Draft minutes of a collective decision are only confirmed as a correct record of the decision when approved as a correct record at the next convenient meeting of the Council, Executive, committee or sub-committee to which it relates.
- 7.2 The Council will make available for public inspection (at County Hall and on the Council's website) copies of the following for six years after a meeting:
- (a) the minutes of the meeting (or records of decisions taken, together with reasons), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - (c) the agenda for the meeting; and
  - (d) reports relating to items when the meeting was open to the public and any reports considered by individual Executive Members or Officers relevant to any decisions recorded.
- 7.3 Where a request on behalf of a media organisation is made for a copy of any of the documents available for public inspection under 7.2 above, those documents must be supplied for the benefit of the organisation by the Council on payment by the organisation to the Council of postage, copying or other necessary charge for transmission.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Assistant Chief Executive Legal and Democratic Services will ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report,

but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political adviser or assistant.

## **8.2 Public inspection of background papers**

The Council will make available for public inspection (at County Hall and on the Council's website), both from the date from which the relevant report was made available for public inspection, and for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall, Northallerton. These Rules constitute that summary.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information (see 10.4) would be disclosed.

### **10.2 Exempt information – discretion to exclude public**

10.2.1 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information (see 10.5) would be disclosed.

10.2.1 The public may also be excluded under 10.1 and 10.2 for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

### **10.3 Information marked “not for publication”**

No Member or member of staff shall:

- (a) disclose any information which has been reported to Council, to the Executive or to a committee or sub-committee and which is confidential information; or
- (b) without the permission of the Council, the Executive or the relevant committee or sub-committee, disclose any information which is identified as exempt information in a resolution by the Council, the Executive or a committee or sub-committee to exclude the public in accordance with the provisions of section 100A of the Local Government Act 1972, except:

- ♦ in so far as that is necessary to provide a public summary of information considered in private; or
- ♦ if authorised by the Monitoring Officer as reasonable and in the public interest.

The following considerations may be relevant in assessing the public interest in the disclosure or otherwise of information:

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to a current national debate.
- The issue has generated public or parliamentary debate.
- Proper debate cannot take place without wide availability of all the relevant information.
- The issue affects a wide range of individuals or companies.
- The public interest in a local interest group having sufficient information to represent effectively local interest on an issue.
- Facts and analysis behind major policy decisions.
- Known reasons for decisions.
- Accountability for proceeds of sale of assets in public ownership.
- Openness and accountability for tender processes and prices.
- Public interest in public bodies obtaining value for money.
- Public health.
- Contingency plans in an emergency.
- Damage to the environment.

#### 10.4 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

#### 10.5 **Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to any qualifications). Please note that even if the information falls within a category of exempt information, a public interest test re disclosure or exemption must still be applied (see Part 2, paragraph 10 below).

**PART 1**  
**DESCRIPTIONS OF EXEMPT INFORMATION:**  
**ENGLAND**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**PART 2**  
**QUALIFICATIONS: ENGLAND**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
  - (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Co-operative and Community Benefit Societies Act 2014;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 2011;
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which –

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Assistant Chief Executive Legal and Democratic Services thinks fit, they may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

12.1 These Access to Information Procedure Rules apply to meetings of the Executive, any Committees it may establish, and joint committees (and their sub-committees) where all the members of the joint committee are members of a local authority executive.

12.2 Rules 13, 14, 15 and 16 also apply to decisions by individual Executive Members.

12.3 Subject to Rules 15 and 16, any report on which a decision by the Executive, a committee of the Executive, or an individual Executive Member, is to be based will be available five clear days in advance of the decision, and will be copied by the Chief Executive Officer or the relevant Corporate Director to the Chair and Vice-Chair of the relevant Overview and Scrutiny Committee(s).

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

13.1 Some executive decisions are classed as being significant and are known as “key decisions” (as defined in Article 13). Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be made until a document (called here a Forward Plan) has been published in connection with the matter in question.

13.2 At least 28 clear days before a key decision is made, the Forward Plan must be made available for inspection by the public at County Hall and on the Council's website.

13.3 Where the key decision is to be taken at a meeting of the Executive or its committees or by an Area Constituency Committee, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD PLAN**

### **14.1 Period of Forward Plan**

- (a) The Forward Plan is prepared by the Assistant Chief Executive Legal and Democratic Services and published every working Monday. Each Plan covers the forthcoming 12 month period.

- (b) On the day of publication of the Plan, the Assistant Chief Executive Legal and Democratic Services will send a link to the Plan to all Members by e-mail.
- (c) Items can be added to the Forward Plan directly via the Democratic Services Committee Management System or by notifying Legal and Democratic Services using a form available from them and also published on the Intranet. The Forward Plan itself is published on the Council website.

## 14.2 Contents of Forward Plan

- (a) The Forward Plan is published online via the Democratic Services Committee Management System and contains matters which will be the subject of a key decision to be taken by the Executive, a committee of the Executive, individual Members of the Executive, Officers, Area Constituency Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the Plan.
- (b) Other important (but non-executive) decisions should also be included on the Plan, even if they are not 'key' decisions as defined in Article 13.03(b).
- (c) The Forward Plan will describe the following particulars in so far as the information is available or might reasonably be obtained:
  - (i) that a key decision is to be made on behalf of the authority;
  - (ii) the matter in respect of which the decision is to be made;
  - (iii) where the decision maker is an individual, their name and title, if any, and where the decision maker is a body, its name and a list of its members;
  - (iv) the date on which, or the period within which, the decision is to be made;
  - (v) a list of the documents submitted to the decision-maker for consideration in relation to the matter;
  - (vi) address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (vii) that other documents relevant to those matters may be submitted to the decision-maker; and
  - (viii) the procedure for requesting details of those documents (if any) as they become available.

Where, in relation to any proposed key decision, the public may be excluded from the meeting as otherwise confidential or exempt information may be disclosed, then the Forward Plan must contain particulars of the matter but not the confidential/exempt information itself.

## 15. GENERAL EXCEPTION

- 15.1 If the publication of the intention to make a key decision is impracticable and a matter which is likely to be a key decision has not been included in the Forward Plan for the



requisite period as set out in Rule 13.2, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the Assistant Chief Executive Legal and Democratic Services has informed the Chair of a relevant Overview and Scrutiny Committee, or if there is no such person, each Member of that committee by notice in writing, of the matter about which the decision is to be made;
- (b) the Assistant Chief Executive Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (c) at least five clear days have elapsed following the day on which the Assistant Chief Executive Legal and Democratic Services complied with (a) and (b).

15.2 As soon as reasonably practicable after the Assistant Chief Executive Legal and Democratic Services has complied with (a) to (c) above, they must make available at the Council's offices a notice setting out the reasons why compliance with Rule 13.2 is impracticable and publish that notice on the Council's website.

15.3 Where such a decision is taken collectively, it must be taken in public, subject to any confidential or exempt information not being made available to the public.

## **16. SPECIAL URGENCY**

16.1 Where the date by which a decision must be made makes compliance with Rule 15 (general exception) impracticable, then the decision can only be made if the decision maker (if an individual) or the Chair of the body making the decision, obtains the written agreement of the Chair of a relevant Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred. If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair will suffice.

16.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 above, they must make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish the notice on the Council's website.

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Committee can require a report**

17.1.1 Where an executive decision has been made and was not treated as a key decision and a relevant Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, then the Committee may require the Executive to submit a report to the Council within such reasonable period as the Committee specifies.

17.1.2 A report under 17.1.1 must include details of -

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and

- (c) if the Executive is of the opinion that the decision was not a key decision, the reasons for that opinion.

## **17.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

## **17.3 Reports on special urgency decisions**

17.3.1 The Leader will submit to the next meeting of the Council, a report on any executive decisions taken in the circumstances set out in Rule 16 (special urgency). The report must include particulars of the decision, a summary of the matters in respect of which the decision was made, the reasons for it and the reasons for use of the special urgency procedure.

17.3.2 The Leader must submit at least one report under 17.3.1 annually to Council.

## **18. RECORD OF DECISIONS**

### **18.1 Executive Decisions Made Collectively at Meetings**

As soon as reasonably practicable after any meeting of the Executive or any of its committees, or any meeting of any other decision making body at which an executive decision has been made, whether held in public or private, the Assistant Chief Executive Legal and Democratic Services or, where no Officer was present, the person presiding at the meeting, will produce a record of every executive decision taken at that meeting usually within two working days of the meeting (usually in the form of minutes of the meeting). The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, along with details of any conflict of interest declared by any Member of the decision making body and any dispensations granted by the Standards and Governance Committee or Monitoring Officer in respect of such conflict.

18.2 Copies of those Minutes/Decision Records will then be circulated, by e-mail, to:

- ◆ All Members of the Council
- ◆ All Management Board
- ◆ All Management Board Personal Assistants
- ◆ All Senior Managers
- ◆ All Democratic Services Officers
- ◆ All Corporate Development Officers
- ◆ Senior Press Officer
- ◆ Communications Officer

## **19. EXECUTIVE DECISIONS BY INDIVIDUAL OFFICERS OR INDIVIDUAL MEMBERS OF THE EXECUTIVE**

*(For the decision making powers of individual Executive Members and Officers, see the Executive Members' and Officers' Delegation Schemes in Part 3).*

## 19.1 Reports intended to be taken into account

Where:

- an individual Member of the Executive receives a report which they intend to take into account in making any executive decision; or
- an Officer (either alone or in consultation with an Executive Member) receives a report which they intend to take into account in making any key decision,

then (subject to Rule 16) they will not make the decision until at least five clear days after receipt of that report. Please also see Rule 19.3(e) regarding the inspection of reports and documents following individual executive decisions.

## 19.2 Provision of copies of reports to Overview and Scrutiny Committees

On the giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair and Vice-Chair of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

## 19.3 Record of individual decision

- (a) As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Executive or by an Officer, (either alone or in consultation with an Executive Member) they will prepare a record of the decision, via the Democratic Services Committee Management System, including the date it was made, a statement of the reasons for it and any alternative options considered and rejected, a record of any conflict of interest declared by any Executive Member who is consulted in relation to the decision, and a note of any dispensation granted in respect of any declared conflict of interest; alternatively the decision record proforma (available from Democratic Services) may be produced and emailed to Legal and Democratic Services for publication via Democratic Services Committee Management System.

### **Guidance points:**

*Regarding executive decisions by Officers, those executive decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements. The authority has agreed to categorise as administrative/operational those executive decisions which are not key decisions and which:*

- *are routine, day to day operational decisions under general delegations; and*
- *are within approved budget and policy; and*
- *have financial implications of £50,000 or less;*

*HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.*

*DCLG has offered guidance on what should and should not be recorded:*

...

*The decisions that should be not recorded might include the following examples:*

- *Decisions to allocate social carers to particular individuals, or for example, to provide walking aids;*
- *decisions to allocate a social housing unit to an applicant or to send someone to carry out repairs;*
- *decisions to review the benefit claims of an individual applicant and*
- *decisions to allocate market stalls to individual traders.*

Where officers have been empowered to act on behalf of their council's executive, examples of decisions that should be recorded could include:

- *Decisions about awarding contracts above specified individual or total values;*
- *decisions to exercise powers of Compulsory Purchase;*
- *decisions on disposal of and/or provision of allotment land and green spaces;*
- *awarding a Discretionary Rate Relief;*
- *the opening hours of local libraries; and*
- *the holding of car boot sales/markets on council-owned land.*

(b) Copies of the decision record will be sent electronically, as soon as possible, to:

- ◆ All Members of the Council
- ◆ All Management Board
- ◆ All Management Board Personal Assistants
- ◆ All Senior Managers
- ◆ All Democratic Services Officers
- ◆ All Corporate Development Officers
- ◆ Senior Press Officer
- ◆ Communications Officer

(c) The Assistant Chief Executive Legal and Democratic Services will be responsible for forwarding the record to all Members, and will publish the record on the Council's website on the day of receipt.

(d) Any record containing confidential and/or exempt information, must be marked "not for publication" in the top right hand corner. Where possible, the Assistant Chief Executive Legal and Democratic Services will remove any confidential and/or exempt information before publishing it on the Council's website.

- (e) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by individual Members of the Executive and Officers. This does not require the disclosure of exempt or confidential information.

## **19A IMPLEMENTATION OF EXECUTIVE DECISIONS**

- 19A.1 After a decision record has been produced and published (whether in the form of Minutes of a meeting or in the decision record format), there will be a period of 5 clear working days before the decision will take effect if not called in within that time, in accordance with Overview and Scrutiny Procedure Rule 16. (NB: please note that regarding decisions by Officers, only key decisions by Officers are subject to the call in period).

## **19B OTHER DECISIONS BY INDIVIDUAL OFFICERS**

- 19B.1 An Officer must produce a written record of any decision which they make which falls within paragraph 19B.2.
- 19B.2 A decision falls within this paragraph if it would otherwise have been taken by North Yorkshire Council, or a committee, sub-committee of the Council (or a joint committee in which the Council participates), but it has been delegated to an Officer of the Council either -
- (i) under a specific express authorisation; or
  - (ii) under a general authorisation to Officers to take such decisions and, the effect of the decision is to -
    - grant a permission or licence;
    - affect the rights of an individual; or
    - award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

### **Guidance points:**

*Regarding non-executive decisions by Officers, examples of such decisions which should normally be recorded include:*

- those made in pursuance of a specific delegation made at a formal committee meeting;
- those granting planning/development control/licensing permissions;
- those awarding a contract or incurring expenditure of more than £50,000.

Regarding non-executive decisions by Officers, those decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements. The authority has agreed to categorise as administrative/operational those non-executive decisions of the type specified in 19B.2(ii) above which:

- are routine, day to day operational decisions under general delegations; and
- are within approved budget and policy; and
- have financial implications of £50,000 or less:

*HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.*

*DCLG has offered guidance on what should and should not be recorded:*

...

*Examples of decisions that should be recorded could include:*

- Decisions about awarding contracts above specified individual or total values (the values will vary according to the relevant council or local government body);
- a decision to carry out major road works;
- determination of licensing applications, building control decisions and notices; and
- decisions to give listed building consents.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published includes the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as giving permission to a local society to use the authority's premises;
- decisions on operational matters such as day to day variations in services;
- decisions to give business relief to individual traders;
- decisions to review the benefit claims of an individual applicant; and
- decisions taken in response to requests under Data Protection Act 1998 or the Freedom of Information Act 2000.

19B.3 As soon as reasonably practicable after a recordable decision at 19B.2 has been taken by an individual Officer, they will prepare a record of the decision including the date it was made; a statement of the reasons for it and any alternative options considered and rejected; and, where the decision falls under paragraph (i) of 19B.2, the names of any Member of the relevant local government body who has declared a conflict of interest in relation to the decision.

19B.4 The duty imposed by paragraph 19B.1 is satisfied where, in respect of a decision, a written record containing the following information is already required to be produced in accordance with any other statutory requirement -

- the date the decision was taken; and
- a record of the decision taken along with reasons for the decision.

19B.5 Where an Officer makes a decision which falls within paragraph 19B.2, they will, as soon as reasonably practicable after the record is made -

- make the decision record, together with any report and background papers, available for inspection by members of the public, at all reasonable hours, at the offices of the relevant local government body; and
- forward a copy of the decision record, together with any background papers, to the Assistant Chief Executive Legal and Democratic Services who will publish the decision record, together with any report and background papers, on the website of the relevant local government body, if it has one, and email copies of the decision record, as soon as possible, to the Members and Officers listed in paragraph 19.3(b) of the Council's Access to Information Procedure Rules,

subject to the exclusion of any document or part of a document which the Proper Officer is of the opinion contains, or may contain, confidential or exempt information.

## **20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

20.1.1 Subject to Rule 20.2 below, an Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive or its committees or other executive decision making body; or
- (b) any executive decision taken by an individual Member of the Executive; or
- (c) any executive decision taken by an Officer.

20.1.2 Subject to Rule 20.2, where a member of an Overview and Scrutiny Committee requests a document which falls within Rule 20.1.1, the Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

### **20.2 Limit on Rights**

20.2.1 An Overview and Scrutiny Committee Member will not be entitled to a copy of:

- (a) any document that is in draft form;

- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision that Member is reviewing or scrutinising or relevant to any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) the advice of a political adviser.

20.2.2 Where the Executive determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out above, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

## **21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **21.1 General provisions**

- (a) A Member may inspect any document (other than a document containing confidential information as defined in Rule 10.4 above, which will be provided to Members on a need to know basis only) which has been considered by the Council, a committee or sub-committee, including any reports, correspondence or other document which is circulated after the agenda or at the meeting, and if copies are available shall on request be supplied with a copy of such document, in electronic form if practicable, provided that a Member shall not knowingly inspect, and shall not call for a copy of, any document relating to a matter in which they have an interest precluding participation within the meaning of the Members' Code of Conduct. This does not affect:
  - (i) the right of inspection given by section 228 of the Local Government Act 1972;
  - (ii) the right to inspect and make or be supplied with copies of documents given by Part VA of the Local Government Act 1972;
  - (iii) such additional rights in regard to the making available of minutes of meetings to members of the Council who are not members of the body in question;
  - (iv) the right of the Assistant Chief Executive Legal and Democratic Services to decline to allow inspection of any document which is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- (b) Any Member is also entitled to inspect any document in the possession of or under the control of the Executive which contains material relating to any business to be transacted at a public meeting. Such a document must be available for inspection for at least five clear days before the meeting, except that where the meeting is convened at shorter notice, the document must be available for inspection when the meeting is convened; and where an item is added to the agenda at shorter notice, a document which would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.



- (c) Any Member is also entitled to inspect any document in the possession of or under the control of the Executive which contains material relating to any business transacted at a private meeting; or to any executive decision made by an individual Executive Member or Officer. Such a document must be available when the meeting concludes or immediately after the decision has been taken by the individual Member or Officer as the case may be and in any event within 24 hours of the conclusion of the meeting or the individual decision being made. Such documents do not have to be available for inspection where they contain certain categories of exempt information or disclose advice from a political adviser or assistant.

## **21.2 Inspection of minutes**

All minutes kept by the Executive and by any committee or sub-committee shall be open to the inspection of any Member of the Council or of the committee or sub-committee during office hours unless the committee or sub-committee, for exceptional reasons, specified in a resolution passed by it, directs to the contrary.

## **21.3 Information provided in confidence**

- (a) If a Member requests that advice or factual information given to them by Officers be treated confidentially, this request should be respected and neither the fact that the Member has asked for the advice or information, nor the advice or information given, shall be related to another Member or Members.
- (b) The fact that a Member has asked for and received advice or factual information in confidence shall not override the duty of Officers to provide the same advice/factual information to any other Members, if that advice or information is relevant to the exercise of their functions.
- (c) All letters sent to Members shall bear on their face an indication of which other Members (if any) have been sent copies.

## **21.4 Press releases**

Any Member of the Council may issue a press release in their individual capacity. Political groups represented on the Council have the right to use County Hall equipment, on behalf of the group to issue press releases on matters relating to the business of the Council. All press releases issued on behalf of the Council itself, or any committee of the Council, must comply with any relevant protocol on press releases contained in Part 5 of this Constitution.

## **22. RIGHTS OF MEMBERS NOT SERVING ON A BODY TO ATTEND AND SPEAK**

- (a) Members have the right to attend any meeting of a formal Member level body of the Council, including the Executive, including for items which are to be discussed in private because they contain exempt information, but not for items which contain confidential information, as defined in the access to information legislation, and not if the Member(s) has an interest precluding participation as defined in the Members' Code of Conduct.

- (b) Members have the right to attend and address, for not more than five minutes, any meeting of a formal Member level body of the Council on any matter on the agenda for that meeting, subject to having no interest precluding participation in the matter to be discussed, and may be invited to speak again, or for a longer period, at the discretion of the Chair of that body.
- (c) Members of the public have a right to attend any meeting of the Council its committees, and the Executive, or that part of the proceedings which is held in public; to have access to any public report or other public papers and to ask questions or make statements relating to the business of that body in accordance with Council Procedure Rule 9.

*A table summarising the procedural requirements set out in these Rules, relating to executive and non-executive decisions, is included in the Appendix to these Rules.*

# Appendix to the Access to Information Procedure Rules

## Explanatory Note

*[This note does not itself form part of the Constitution, but seeks to present the rules about decision making and access to information in an easily accessible way]*

### CURRENT RULES APPLYING TO TYPES OF DECISION

Decision type		Taken by	28 clear calendar <sup>10</sup> days' publication on Forward Plan?	28 and 5 clear days' notices of exempt information? <sup>10</sup>	5 clear days' notice and report? <sup>3</sup>	Decision record?	Subject to call-in?
<b>Executive decisions</b>	<b>Key decisions</b>	<b>Member body<sup>1</sup></b>	YES	YES <sup>9</sup>	YES	YES <sup>5</sup>	YES
		<b>Individual Executive Member</b>	YES	NO	YES	YES	YES
		<b>Individual Officer</b>	YES	NO	YES	YES	YES
	<b>Other Executive decisions</b>	<b>Member body<sup>1</sup></b>	NO	YES <sup>9</sup>	YES	YES <sup>6</sup>	YES
		<b>Individual Executive member</b>	NO	NO	YES	YES	YES
		<b>Individual Officer</b>	NO	NO	NO <sup>11</sup>	YES <sup>8</sup> (Unless purely administrative – see footnote 8)	NO
<b>Non-executive decisions</b>	<b>Major decisions</b>	<b>Member body<sup>2</sup></b>	YES <sup>4</sup>	NO	YES	YES <sup>6</sup>	NO
		<b>Individual Officer</b>	YES <sup>4</sup>	NO	NO	CASE DEPENDENT (See footnote 7)	NO
	<b>Other non-executive decisions</b>	<b>Member body<sup>2</sup></b>	NO	NO	YES	YES <sup>6</sup>	NO
		<b>Individual Officer</b>	NO	NO	NO	CASE DEPENDENT (See footnote 7)	NO

Notes:

1. *Either the Executive, Committee of the Executive or an Area Constituency Committee.*
2. *The Strategic Planning Committee, Area Constituency Planning Committees, Statutory Licensing Committee and Sub-Committees, General Licensing and Registration Committee and Sub-Committees, Standards and Governance Committee, Standards and Governance Committee Hearings Panel, Audit Committee, Appeals Committee (Home to School Transport), Employment Appeals Committee, Chief Officers Appointments and Disciplinary Committee, Pension Fund Committee, Area Constituency Committees (when exercising non-executive functions) and the Council.*
3. *Five clear days' notice and report – this requirement will be met in relation to member bodies by the publication of agenda papers. For Executive Members it will be met by the requirement that if there is a report which is to be taken into account in making any executive decision, it will be made available to the relevant Overview and Scrutiny Committee Chair and Vice-Chair and be available for public inspection. The same will apply to key decisions to be taken by Officers. [Please also see Note 11 – for other relevant executive decisions by Officers, any report and papers upon which the decisions are based will need to be published following the taking of the decision]. For the purpose of counting five clear days, only days when County Hall is open should be counted, i.e. not weekends or bank holidays.*
4. *Publication of these matters in the Forward Plan is a locally adopted practice and not a statutory obligation.*
5. *By minutes of Executive (or Committee of Executive) and Area Constituency Committees.*
6. *By way of minutes of meetings.*
7. *A decision record must be produced, published on the website, and made available for public inspection, where the decision has been made by an individual Officer either -*
  - (i) *under a specific express authorisation; or*
  - (ii) *under a general authorisation to officers to take such decisions and, the effect of the decision is to -*
    - *grant a permission or licence;*
    - *affect the rights of an individual; or*
    - *award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.*

*Examples of such decisions which should normally be recorded include:*

- *those made in pursuance of a specific delegation made at a formal committee meeting;*
- *those granting planning/development control/licensing permissions;*
- *those awarding a contract or incurring expenditure of more than £50,000.*

*Non-executive decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements, for example those which:*

- are routine, day to day operational decisions under general delegations; and
- are within approved budget and policy; and
- have financial implications of £50,000 or less.

*HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.*

*NB: No need to publish non-executive decision record where the decision already has to be published under other legislation (provided it includes date of decision and reasons for it).*

*Where a non-executive decision by an individual Officer does not fall into one of the above descriptions, a decision record is not required.*

8. *The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require the recording of **executive** decisions made by individual Members or Officers under delegated arrangements (this changed the previous provision that only key decisions by Officers needed to be the subject of a decision record). However, those executive decisions which are purely administrative or operational in nature will not usually be subject to the decision record recording and publication requirements. The authority has agreed to categorise as administrative/operational those executive decisions which are not key decisions and which:*

- are routine, day to day operational decisions under general delegations; and
- are within approved budget and policy; and
- have financial implications of £50,000 or less;

*HOWEVER, each matter should be considered in light of its particular circumstances and with regard to the likely level of public interest in it.*

9. *The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require the publishing of notices of any exempt/confidential items **by executive decision making bodies** at least 28 clear calendar days and, subsequently, 5 clear working days' before the meeting. This does NOT apply to individual decisions by individual Executive Members or Officers.*
10. *For longer publication requirements such as 28 days, this is a reference to clear calendar days. For shorter publication requirements eg 5 days, this is a reference to clear working days (see note 3 above).*
11. *For any reports and papers considered by individual Officers relevant to any executive decisions recorded, the reports and papers upon which the decisions are based will not need to be published 5 clear working days in advance of the decision, but will need to be published as soon as reasonably practicable following the taking of the decision.*

# Budget and Policy Framework Procedure Rules

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# Budget and Policy Framework Procedure Rules

*(Note: These Rules do not apply to the operation by Schools of their delegated budgets).*

## 1. The framework for executive decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive to implement it.

## 2. Process for developing the framework

The process by which the Budget and Policy Framework shall be developed is:

- (a) Any committee of the Council (including any Overview and Scrutiny Committee) may propose:
  - ♦ The addition of a new plan or strategy to the Policy Framework (as set out in Article 4); or
  - ♦ The amendment of any existing plan or strategy which forms part of the Policy Framework;

and all such proposals shall be referred to the Executive, for its consideration, together with the results of any consultation which has taken place on the proposals.

- (b) The Executive will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms or is proposed to form part of the Budget and Policy Framework, and its arrangements for consultation in developing those proposals. This will include the Executive's own proposals, as well as those referred to it under paragraph (a) above. The Chairs of Overview and Scrutiny Committees will also be notified.
- (c) At the end of the consultation period, the Executive will draw up its recommendations having regard to the responses to consultation. In the case of proposals referred to the Executive under paragraph (a) above, the Executive's recommendations will be that the proposals should be supported (with or without modifications), or that they should not be supported. If a relevant Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive will take any response from an Overview and Scrutiny Committee into account in drawing up its recommendations for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.

- (d) Once the Executive has drawn up its recommendations, the Assistant Chief Executive Legal and Democratic Services will refer them at the earliest opportunity to the Council for decision. The Council may adopt the recommendations, refer them back to the Executive for further consideration, or raise any objections under the procedure in Rule 3 below. Recommendations may not be referred back to the Executive more than once.
- (e) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive, in accordance with paragraphs 6 and 7 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

### **3. Determining the Budget and Policy Framework**

- (a) Where the Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (b).
- (b) Before the Council –
  - (1) amends the draft plan or strategy;
  - (2) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (3) adopts (with or without modification) the plan or strategy;it must inform the Leader of any objections which it has to the draft plan or strategy and must give to the Leader instructions requiring the Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (c) Where the Council gives instructions in accordance with paragraph (b), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may:–
  - (1) submit a revision of the draft plan or strategy as amended by the Executive (the “revised draft plan or strategy”), with the Executive’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or
  - (2) inform the Council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.



- (d) When the period specified by the Council, referred to in paragraph (c) has expired, the Council must, when:–
- (1) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (2) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (3) adopting (with or without modification) the plan or strategy;

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

- (e) Subject to paragraph (i) where, before 8 February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year:–
- (1) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (2) estimates of other amounts to be used for the purposes of such a calculation;
  - (3) estimates of such a calculation; or
  - (4) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992;

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph (f).

- (f) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (e)(1), or issues a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Executive's estimates or amounts and must give to the Leader instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

- (g) Where the Council gives instructions in accordance with paragraph (f), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Executive within which the Leader may:–
- (1) submit a revision of the estimates or amounts as amended by the Executive (“revised estimates or amounts”), which have been reconsidered in accordance with the Council’s requirements, with the Executive’s reasons for any amendments made to the estimates or amounts, to the Council for the Council’s consideration; or
  - (2) inform the Council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.
- (h) When the period specified by the Council, referred to in paragraph (g), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (e)(1), or issuing a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, take into account:–
- (1) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (2) the Executive’s reasons for those amendments;
  - (3) any disagreement that the Executive has with any of the Council’s objections; and
  - (4) the Executive’s reasons for that disagreement;
- which the Leader submitted to the Council, or informed the Council of, within the period specified.
- (i) Paragraphs (e) to (h) shall not apply in relation to:–
- (a) calculations or substitute calculations which an authority is required to make in accordance with Section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of that Act.

#### **4. Decisions outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraphs 5, 6 and 7 the Executive, committees of the Executive, individual members of the Executive and any Officers, Area Constituency Committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. Any decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, may only be taken by the Council.

- (b) All decision making persons or bodies shall consider whether any decision they wish to take is within the Budget and Policy Framework; and if in doubt they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the Budget and Policy Framework) shall apply.

## 5. **Urgent decisions outside the budget or policy framework**

- (a) The Executive, a committee of the Executive, an individual Member of the Executive or Officers, Area Constituency Committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a meeting of the full Council; or
  - (ii) if the Chair of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a meeting of full Council and the Chair of the relevant Overview and Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Overview and Scrutiny Committee the consent of the Chair of the Council, and in the absence of both, the Vice-Chair, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## 6. **Virement**

- (a) When the Council sets its overall revenue budget for a given financial year it will approve a series of net budgets for divisions of service within each Directorate, as set out in the Financial Procedure Rules.
- (b) Steps taken by the Executive, a committee of the Executive, an individual Member of the Executive or Officers, Area Constituency Committees or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each division of service. However, such bodies or individuals shall be entitled to vire across divisions of service in accordance with Financial Procedure Rules 11.1 to 11.9.

## 7. **In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive, a committee of the Executive an individual Member of the Executive or Officers, Area Constituency Committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- (a) which the Chief Executive Officer (or in their absence the Corporate Director of Resources) determines are necessary to deal with an unforeseen emergency; or
- (b) which the Monitoring Officer determines are necessary to ensure compliance with the law, ministerial direction or government guidance;

and any such change shall be reported to the next meeting of the Council, which may decide to adopt the change as a permanent change to the Policy Framework.

## 8. **Review of decisions outside the Budget or Policy Framework**

- (a) Where an Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer, who shall prepare a report.
- (b) The Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's and/or Chief Finance Officer's report. In the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure then unless the Executive can, and do, rescind the decision, the Executive shall prepare a report to Council.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and the Executive has not rescinded the decision, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 15 working days of the meeting of the Executive. At the meeting the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - (i) endorse a decision or proposal of the executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

(ii) amend or suspend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

(iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend or suspend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

# Executive Procedure Rules

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1. [How does the Executive operate?](#)
2. [How are Executive meetings conducted?](#)

# Executive Procedure Rules

## 1. HOW DOES THE EXECUTIVE OPERATE?

### 1.1 Who may make executive decisions?

Functions which are the responsibility of the Executive may be discharged by:

- (a) the Leader;
- (b) the Executive as a whole;
- (c) a committee of the Executive;
- (d) an individual Member of the Executive;
- (e) an Officer;
- (f) an Area Constituency Committee;
- (g) joint arrangements; or
- (h) another local authority or its executive.

Arrangements for such discharge of executive functions are set out below.

### 1.2 Delegation by the Leader

The Leader may discharge any functions which, under executive arrangements adopted by the Council (see Part 3 of the Constitution), are executive functions or may arrange for the discharge of any of those functions by:

- (a) the Executive as a whole;
- (b) a committee of the Executive;
- (c) an individual Member of the Executive;
- (d) an Officer;

The Leader will maintain a written record of delegations made by them for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document maintained by the Leader will contain the following information about executive functions:

- (a) the names and electoral divisions of the people appointed to the Executive;
- (b) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (c) the terms of reference and Constitution of such Executive committees as the Leader appoints and the names of Executive Members appointed to them;

- (d) the nature and extent of any delegation of executive functions to Area Constituency Committees (collectively or individually), any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- (e) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

### **1.3 Sub-delegation of Executive Functions**

- (a) Where the Executive, a committee of the Executive or an individual Member of the Executive is responsible for an executive function, they may delegate to an Area Constituency Committee, another local authority or its executive, joint arrangements or an Officer.
- (b) Unless the Leader directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or to an Officer.
- (c) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an Officer.
- (d) Unless the Leader directs otherwise, an individual Member of the Executive to whom functions have been delegated by the Leader may delegate further to an Officer.
- (e) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

### **1.4 The Council's Scheme of Delegation and Executive Functions**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) As the Leader is able to decide whether to delegate executive functions, they may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when they have served it on its Chair.



## 1.5 **Conflicts of Interest**

- (a) Where the Leader or any other member of the Executive has an interest in a matter this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If so great a proportion (so as to impede the transaction of business) of the members of the Executive have an interest precluding participation as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution, the Standards and Governance Committee or Monitoring Officer may give a dispensation to allow those Members to participate in consideration and determination of the business. Dispensations may also be granted where each member of the Executive would be prohibited from participation in any particular business to be transacted by the Executive.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual Member or an Officer, and should an interest precluding participation arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## 1.6 **Executive meetings – when and where?**

The Leader shall decide the schedule for meetings of the Executive. The Executive shall meet at County Hall, Northallerton or another location to be agreed by the Leader.

## 1.7 **Meetings to be in public**

All meetings of the Executive will take place in public, except in relation to any business in respect of which a resolution to exclude the public has been passed because confidential or exempt information is to be considered.

## 1.8 **Quorum**

The quorum for a meeting of the Executive, or a committee of it, shall be one half of the total number of members of the Executive or committee or 3 whichever is the larger.

## 1.9 **How are decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

## **2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

### **2.1 Who presides?**

- (a) If the Leader is present, they will preside at meetings of the Executive.
- (b) The Leader may appoint one of the Executive Members to be Deputy Leader of the Executive and any person so elected will preside at meetings of the Executive when the Leader is not present, and may also exercise the other functions of the Leader set out in these Rules in any case where the Leader is unavailable or unable to act.
- (c) In the absence of the Leader and of the Deputy Leader (if any) the Members of the Executive present at the meeting shall elect one of their Members to preside.

### **2.2 Who may attend?**

- (a) Any person may attend a meeting of the Executive, unless and until excluded by a resolution to exclude the public, passed in accordance with the Access to Information Procedure Rules.
- (b) Members of the Council have the right to attend any meeting of the Executive, including for items which are to be discussed in private because they contain exempt information, but not for items which contain confidential information. Members so attending may address the Executive for not more than five minutes, on any item on the agenda, and may be invited to speak again, or for a longer period, at the discretion of the person presiding. These rights are subject to the Member not having an interest precluding participation under the Members' Code of Conduct in any matter for which they are present or on which they wish to speak.
- (c) Where the Executive is considering a report of an Overview and Scrutiny Committee, the Chair of that Committee may address the Executive for not more than ten minutes by way of introduction of the report, and for not more than five minutes at the conclusion of the debate, to answer any point which may have been raised.

### **2.3 What business?**

At each meeting of the Executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) receive any declarations of interest;
- (c) any resolution to exclude the public because it is likely that confidential or exempt information would be disclosed (see Access to Information Procedure Rule 10);
- (d) any questions or statements by members of the public of which proper notice has been given (see Council Procedure Rule 9);
- (e) issues arising from Area Constituency Committees (see Article 10.02(e));

- (f) issues arising from overview and scrutiny (see Overview and Scrutiny Procedure Rule 12(a));
- (g) matters referred to the Executive (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (h) matters included in the agenda under Rule 2.5 below;
- (i) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

## 2.4 Consultation

All reports to the Executive from any Member of the Executive or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Executive agenda?

- (a) The agenda for meetings of the Executive will be based on the Forward Plan (see Rule 16 of the Access to Information Procedure Rules), including all items which the Forward Plan indicates are to be decided by the Executive at the meeting in question.
- (b) Any member of the Executive may require the Assistant Chief Executive Legal and Democratic Services to place an item on the agenda of the Executive for consideration. If they receive such a request the Assistant Chief Executive Legal and Democratic Services will comply.
- (c) The Assistant Chief Executive Legal and Democratic Services will make sure that an item is placed on the agenda of the Executive where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Executive.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of the Executive for consideration, and if the Leader agrees the item will be considered by the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.
- (e) The Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the Assistant Chief Executive Legal and Democratic Services to call such a meeting in pursuance of their statutory duties.

## 2.6 **Transaction of Business**

- (a) The Executive shall have power to decide how its business is transacted, subject to the provisions of these Executive Procedure Rules and such other provisions of the Constitution as apply to meetings of the Executive.
- (b) All matters coming before the Executive shall be determined by a majority of those present and voting. In the event of an equality of votes, the person presiding shall have a second or casting vote.

# Overview and Scrutiny Procedure Rules

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# Overview and Scrutiny Procedure Rules

## 1. What will be the number and arrangements for Overview and Scrutiny Committees?

The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such Committees may appoint sub-committees and/or task groups. Overview and scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The broad approach to overview and scrutiny is:

- ◆ To have thematically based Overview and Scrutiny Committees.
- ◆ Chairs and Vice-Chairs of those Committees may meet informally, but have no formal role or functions, other than when acting as the Scrutiny Board.
- ◆ Cross cutting issues to be looked at by task groups, established jointly by two or more Overview and Scrutiny Committees.
- ◆ One task group would be established for each cross cutting issue which is to be looked at. The task group would be time limited; its function would be to examine the issue, and then report back to the Overview and Scrutiny Committees which established it. The task groups would not themselves be Overview and Scrutiny Committees.
- ◆ To fulfil statutory requirements in relation to specific overview and scrutiny functions.

## 2. Who may sit on Overview and Scrutiny Committees?

All Councillors except Members of the Executive may be Members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision which they have been directly involved. Should a Member be present at a meeting of an Overview and Scrutiny Committee which is considering a decision made or action taken by another committee or sub-committee of which they are also a Member and at which they were present when the decision in question was taken, that Member must regard themselves as having an interest in the matter, must disclose that interest, and (subject to any dispensation granted by the Standards and Governance Committee or Monitoring Officer and/or right to speak under the Members' Code of Conduct) must withdraw from the meeting. The Assistant Chief Executive Legal and Democratic Services shall record any such disclosure in a book to be kept for the purpose.

## 3. Co-optees

Each Overview and Scrutiny Committee or sub-committee or task group shall be entitled to recommend to its parent body the appointment of non-voting co-optees.

#### **4. Education and Crime and Disorder representatives**

4.1 The Children and Families Overview and Scrutiny Committee (and any sub-committee dealing with education matters) shall include in its membership the following voting representatives:

- (a) one Church of England diocese representative;
- (b) one Roman Catholic diocese representative;
- (c) two parent governor representatives; and
- (d) one representative of non-conformist churches.

Voting rights of the above representatives are limited to education matters.

4.2 Where a task group is examining an issue which includes education matters, the task group will seek the views of the Children and Families Overview and Scrutiny Committee in relation to such education matters.

4.3 The Corporate and Partnerships Overview and Scrutiny Committee (and any sub-committee dealing with Crime and Disorder matters) may include in its membership co-opted representatives, who may be voting representatives if the Committee so determines, but shall not be Members of the Executive.

#### **5. Meetings of Overview and Scrutiny Committees**

There shall be at least four ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of the relevant Overview and Scrutiny Committee, by any three Members of the Committee or by the Proper Officer if they consider it necessary or appropriate.

#### **6. Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

#### **7. Who chairs Overview and Scrutiny Committee Meetings?**

Chairs of Overview and Scrutiny Committees/sub-committees will be drawn from among the Councillors sitting on the Committee/sub-committee. A Councillor who is not a Member of the main political group will chair one Overview and Scrutiny Committee, and each may nominate a spokesperson for the Committees they do not chair. Chairs and Vice-Chairs of Overview and Scrutiny Committees (including the Scrutiny of Health Committee) will be appointed by the Council.

#### **8. Work programme**

The Overview and Scrutiny Committees/sub-committees will be responsible for setting their own work programme.

## **9. Agenda items**

9.1 Any Member of the Council shall be entitled to give notice to the Head of Democratic Services and Scrutiny that they wish an item relevant to the functions of any Overview and Scrutiny Committee or sub-committee to be included on the agenda for the next available meeting of that Committee or sub-committee for consideration for inclusion into the Committee's work programme. On receipt of such a request the Head of Democratic Services and Scrutiny will ensure that it is included on the next available agenda.

### **9.1.1 Councillor Call for Action**

9.1.1.1 Any Member of an Overview and Scrutiny Committee or sub-committee may refer to the Committee/sub-committee for inclusion in an agenda and discussion at a meeting, any matter which is relevant to that Committee/sub-committee's functions.

9.1.1.2 Any Member of the Council may refer to an Overview and Scrutiny Committee of which they are not a member, for inclusion in an agenda and discussion at a meeting, any local government matter which is relevant to the functions of the Committee.

9.1.1.3 A "local government matter" is one which relates to the discharge of any function of the authority, affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area, and is not an "excluded matter".

9.1.1.4 Excluded matters are:

- (a) any matter relating to a planning decision;
- (b) any matter relating to a licensing decision;
- (c) any matter relating to an individual or entity in respect of which that individual has a right of recourse to a review or right of appeal conferred by or under any enactment (other than the right to complain to the Local Government Ombudsman);

NB: a matter does not fall within (a)-(c) above (and is therefore not excluded) if it consists of an allegation that a function has not been discharged or the discharge has failed or is failing on a systemic basis.

- (d) any matter which is considered to be vexatious, discriminatory or not reasonable to be included in the agenda for, or discussions at, the meeting of the Overview and Scrutiny Committee/sub-committee;
- (e) a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters).

9.1.1.5 Councillor Call for Action gives all Members the opportunity to refer an issue to an Overview and Scrutiny Committee where local problems have arisen and where other methods of resolution have been exhausted.

9.1.1.6 In considering whether to make such a referral, Members must have regard to any Guidance issued by the Secretary of State and any Council Protocol concerning the Councillor Call for Action process.



9.1.1.7 In considering whether or not to exercise any of its powers (see Article 6 of this Constitution) in relation to the matter, the Overview and Scrutiny Committee may have regard to:

- (a) any powers which the Member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors), and
- (b) any representations made by the Member as to why it would be appropriate for the Committee to exercise any of its powers in relation to the matter.

9.1.1.8 If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Member of its decision and the reasons for it.

9.1.1.9 The Committee must provide the Member with a copy of any report or recommendations which it makes to the Council or the Executive in relation to the matter.

9.2 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and Council. The Council and/or the Executive shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

9.3 Where the Chief Finance Officer has produced a report under Article 12.04(a), or the Monitoring Officer has produced a report under Article 12.03(b), and such report relates to action taken or omitted to be taken by the Executive, the relevant Overview and Scrutiny Committee(s) should consider whether it would be appropriate to hold a short inquiry into the matter which is the subject of that report prior to the Executive's consideration of it.

## **10. Policy review and development**

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny Committees or sub-committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **11. Reports from Overview and Scrutiny Committee**

- 11.1 In relation to any matter within its terms of reference, an Overview and Scrutiny Committee may prepare a formal report and submit it to the Assistant Chief Executive Legal and Democratic Services for consideration by the Executive (if the proposals are consistent with the existing budgetary and Policy Framework), or to the Executive and the Council (if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 11.2 Where any such formal report is prepared by an Overview and Scrutiny Committee, any three or more Members of that Committee who disagree with the formal report or any part of it may prepare a minority report and submit it to the Assistant Chief Executive Legal and Democratic Services. Such minority reports shall be considered by the Executive/the Council at the same time as the Committee's formal report, unless they are not received by the Assistant Chief Executive Legal and Democratic Services in time to permit this.
- 11.3 Where any formal or minority report falls to be considered by the Executive and by the Council, it shall be considered first by the Executive. The report(s), and the Executive's comments on them, shall then be referred to the next available Council.

## **12. Making sure that Overview and Scrutiny reports are considered by the Executive**

- (a) The reports of Overview and Scrutiny Committees referred to the Executive shall be included immediately after feedback from Area Constituency Committees on the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within one month of the Overview and Scrutiny Committee completing its report/recommendations. The reports (and the Executive's comments on them) shall then be referred to the next available Council by the relevant Overview and Scrutiny Committee(s).
- (b) Where an Overview and Scrutiny Committee or sub-committee prepares a report for consideration by the Executive in relation to a matter in respect of which an Executive Member has delegated decision making power then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall give a copy to the Assistant Chief Executive Legal and Democratic Services and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then they must refer the matter to the next available meeting of the Executive for debate before exercising their decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Executive Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within one month of receiving the report. A copy of their written response to it shall be sent to the Assistant Chief Executive Legal and Democratic Services and they will attend a future meeting of the Overview and Scrutiny Committee to respond.

### **13. Rights of Overview and Scrutiny Committee Members to Documents**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **14. Members and Officers giving account**

- (a) Any Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Executive, the Head of Paid Service and/or any senior Officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance;and it is the duty of those persons to attend if so required.
- (b) Where any Member or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Assistant Chief Executive Legal and Democratic Services. The Assistant Chief Executive Legal and Democratic Services shall inform the Member or Officer in writing giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.
- (d) Any power of an Overview and Scrutiny Committee to require or request the attendance of any person, or the production of any document, may be exercised by the Chair of that Committee.

### **15. Attendance by others**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and

Members and Officers in other parts of the public sector and may invite such people to attend.

Attendance is of course entirely optional.

## 16. Call-in

Note: Powers of call-in apply only to functions which are the responsibility of the Executive.

- (a) When a decision is made by the Executive, an individual Member of the Executive or a committee of the Executive, or an executive decision is made by an Area Constituency Committee or under joint arrangements or a key decision is made by an Officer, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs and Vice-Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions as relate to the terms of reference of their Committee within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless any six Members of the Council object to it and call it in by notice in writing to the Assistant Chief Executive Legal and Democratic Services, setting out their reasons for calling in the Executive decision for consideration. *(Note: this means five clear days, i.e. five working days not including the day the notice of the decision is given.)*
- (c) Upon receipt of such a notice, the Assistant Chief Executive Legal and Democratic Services shall notify the decision-taker and the Head of Democratic Services and Scrutiny and all Members of the Council, by email, of the call-in. The Assistant Chief Executive Legal and Democratic Services shall call a meeting of the Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case within 10 working days of the decision to call-in, or such later date as the Leader may agree to, subject to it being practicable for any reference back under paragraph (d) to be included, for reconsideration, on the agenda for the second meeting of the Executive, in the Council Diary of meetings, following receipt of the call-in request.
- (d) If, having considered the decision, the Overview and Scrutiny Committee wishes to do so, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker they shall then consider the matter, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting.
- (f) Where the matter has been referred to full Council, but the Executive decides that the matter must be determined prior to the next Council meeting, they may proceed to determine the matter, and shall report the matter to the next Council meeting.

- (g) Subject to (f) above, if the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, (note: it has no locus to make decisions in respect of an executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget) the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- (h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interest. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **17. Key Decisions**

- (a) Where an executive decision has been made and:
  - ♦ it was not treated as being a key decision (as defined in Article 13) and
  - ♦ a relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decisionthat Overview and Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable period as the Committee may specify.
- (b) Any such report shall include details of:
  - ♦ the decision and the reasons for it;
  - ♦ who made the decision; and
  - ♦ if the Executive believe it was not a key decision, their reasons.

## **18. The party whip**

In meetings of Overview and Scrutiny Committees, there will be no whipping on voting. (Note: The meaning of "whipping" is defined in Article 8).

## **19. Procedure at Overview and Scrutiny Committee Meetings**

- (a) Overview and Scrutiny Committees and sub-committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Executive to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all Members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee/sub-committee shall prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

## **20. Matters within the remit of more than one Overview and Scrutiny Committee**

Where a matter for consideration under overview and scrutiny falls within the remit of two or more Overview and Scrutiny Committees:

- (a) the Committees may decide to appoint a joint sub-committee in accordance with Article 6.06(c); but, if they do not
- (b) the decision as to which Overview and Scrutiny Committee will consider the matter will be resolved by the Scrutiny Board (or in the case of call-in, because of time constraints, by agreement between the Chairs of the Committees concerned. In the absence of such agreement, the matter shall be determined by the Chair of the Council. The Committee Chairs may agree, or the Chair of the Council may recommend, that the Overview and Scrutiny Committee which is to consider the matter should invite the Chair and spokespersons of any other relevant Overview and Scrutiny Committees to attend its meetings when the matter is under consideration.)

## 21. Scrutiny of Crime and Disorder Matters

- (a) The Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) may make a report or recommendations to the Council with respect to any local crime and disorder matter in relation to a Member of the Council. A local crime and disorder matter in relation to a Member means any matter concerning:
- ♦ crime and disorder (including, in particular, forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment);
  - ♦ the misuse of drugs, alcohol or other substances which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area).
- (b) Any Member of the Council may give notice to the Head of Democratic Services and Scrutiny that they wish an item which they consider to be a crime and disorder matter to be included on the agenda for discussion at the next meeting of the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee).
- (c) On receipt of the request, the Head of Democratic Services and Scrutiny will ensure that the item is included on the next available agenda for consideration by the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee), and the following shall apply:
- (i) The subject matter considered will be the subject of a report from the relevant Corporate Director, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Committee meeting to provide that information, make representations and answer questions;
  - (ii) The matter will be considered by the Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules;
  - (iii) The Member who referred the matter under sub-paragraph (b) above may address the Committee in respect of the matter for up to 10 minutes;
  - (iv) The Committee may also consider representatives from any residents of the electoral division affected by the matter, subject to the discretion of the Chair of the Committee;
  - (v) If the matter concerns issues that fall within the remit of the Executive, the relevant Executive Member shall also attend the Committee to answer questions and make any representations.

- (d) If the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) decides not to make a report or recommendation to the Council in relation to the crime and disorder matter, it must notify the Member who referred the matter of its decision and the reasons for it.
- (e) Where the Committee makes a report or recommendations to the Council it must:
- (i) provide a copy of the report or recommendations to the Member who referred the matter to the Committee; and
  - (ii) provide a copy of the report or recommendations to such of:
    - ♦ the responsible authorities (within the meaning of Section 5 Crime and Disorder Act 1998); and
    - ♦ the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to co-operate under Section 5(2) Crime and Disorder Act 1998);as it thinks appropriate.
- (f) Where the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) makes a report or recommendations to the Council or provides a copy of a report or recommendations under sub-paragraph (e)(ii) above, the Committee must notify the Council, body or person to whom it makes or provides a copy of the report or recommendations that the Council, body or person must:
- (i) consider the report or recommendations;
  - (ii) respond to the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) indicating what (if any) action it proposes to take;
  - (iii) have regard to the report or recommendations in exercising its functions.
- (g) For the purpose of carrying out its functions under the Crime and Disorder (Overview and Scrutiny) Regulations 2009, the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than once in every 12 month period.
- (h) Where the Corporate and Partnerships Overview and Scrutiny Committee (or such other Committee as may be discharging the functions of the Crime and Disorder Overview and Scrutiny Committee) makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act 2006,



the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.

# North Yorkshire Council

## Financial Procedure Rules

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## **1.0 INTRODUCTION**

1.1 The Financial Procedure Rules provide the framework for the Council's financial management and administration.

## **2.0 SCOPE**

2.1 These Financial Procedure Rules apply across the Council and to all of the Council's services and operational activities. They also apply to all partnerships where the Council is the designated accountable body. Where the Council has a financial interest in a partnership arrangement, joint venture or trading operation but is not the accountable body then officers should ensure equivalent governance arrangements exist.

2.2 All Members and officers are required to comply with these Financial Procedure Rules. Contractors and agency staff are also required to comply with the Financial Procedure Rules when undertaking Council related business. Any failure by officers to comply with these Rules may constitute misconduct and could result in disciplinary action being taken against them.

## **3.0 OBJECTIVES**

3.1 The objectives of the Financial Procedure Rules are to ensure:

- the proper financial management and control of all the Council's activities and the efficient, effective and economic use of its resources
- that appropriate processes exist to allow effective financial planning and to enable informed decision making
- that systems and processes support the proper administration of the Council's financial affairs
- that Members and officers abide by the highest standards of probity and integrity
- that financial risks are identified and effectively managed
- that the Council's assets are kept secure
- that arrangements exist to achieve value for money

## **4.0 POLICY FRAMEWORK**

4.1 The Financial Procedure Rules should be read in conjunction with other relevant sections of the Constitution, in particular:

- the Budget and Policy Framework Procedure Rules
- the Executive Members' scheme of delegation
- the Officers' scheme of delegation
- the Procurement and Contract Procedure Rules
- the Property Procedure Rules

4.2 A number of policies, protocols and guidance documents exist which supplement the Financial Procedure Rules, and which enable the Rules to be applied in practice, as follows:

- Financial Policies and Practices Manual
- Local Code of Corporate Governance
- Treasury Management Policy Statement

- Asset Management Planning Framework
- Risk Management Policy
- Internal Audit Charter
- Counter Fraud and Corruption Policy
- Anti Money Laundering and Terrorist Financing Policy
- Whistleblowing Policy
- Reserves Policy
- Fees and charges Policy
- Debt management Policy
- Housing Revenue Account Business Plan
- LMS Scheme (funding framework for school)
- LMS Procedure Rules
- School Finance Manual – more detailed information on the above

## **5.0 ROLES AND RESPONSIBILITIES**

### **5.1 Chief Finance Officer (section 151 Officer)**

5.1.1 The Corporate Director of Resources is the Council's appointed Chief Finance Officer (CFO) and s151 Officer. This post, as defined in the Constitution, has specific statutory duties in respect of the financial administration and stewardship of the Council. These duties derive from:

- section 151 (s151) of the Local Government Act 1972
  - Local Government Finance Act 1988
  - Local Government and Housing Act 1989
  - Local Government Act 2003
  - the Accounts and Audit Regulations 2015
- or any successor legislation in each case

5.1.2 Section 114 (s114) of the Local Government Finance Act 1988 requires the s151 Officer to report to the Council and Executive, and the external auditor where the Council:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the council
- is about to make an unlawful entry in the Council's accounts

5.1.3 The 1988 Act also requires the s151 Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under s114 personally. The council should also provide the s151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under s114.

5.1.4 Section 25 (s25) of the Local Government Act 2003 requires the s151 Officer to report to Members on the robustness of estimates and the adequacy of reserves.

5.1.5 The CFO is responsible for determining the Council's financial processes, and for ensuring they are applied properly and consistently in practice. The CFO is also responsible for implementing appropriate systems to manage and record the Council's budgets, income, expenditure, assets and liabilities.

- 5.1.6 Where possible, the CFO should comply with the Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code, the Statement on the Role of the Chief Financial Officer in Local Government and the Delivering Good Governance in Local Government: Framework (2016). Any areas of non-compliance and the reasons for these should be reported to the Audit Committee and be included in the Council's Annual Governance Statement.
- 5.1.7 The CFO is also responsible for ensuring that the annual Statement of Final Accounts (SoFA) is prepared and published in accordance with the 'Code of Practice on Local Authority Accounting in the United Kingdom' issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Accounts and Audit Regulations 2015.
- 5.1.8 The CFO also has overall responsibility for the Council's counter fraud arrangements, including the adoption of appropriate measures for the prevention and detection of fraud and corruption.
- 5.1.9 The CFO will report to the Council, the Executive and the Executive Member with responsibility for Finance on the discharge of these duties.
- 5.1.10 The CFO will keep the Financial Procedure Rules under review and propose changes to the Audit Committee as required.
- 5.1.11 The CFO should report any material breaches of the Financial Procedure Rules to the Audit Committee and propose appropriate remedial action to mitigate any remaining risk. The CFO should also issue instructions to the relevant Corporate Director(s) to immediately rectify any non-compliance with the Financial Procedure Rules.
- 5.1.12 The CFO may delegate specific responsibilities to other officers whilst retaining the role of s151 Officer. A written record of all such delegations should be maintained, including the limits on any delegation. See financial management permissions (section 10) below.
- 5.1.13 The CFO may also approve variations or exceptions from the Financial Procedure Rules to reflect specific circumstances. All such variations or exceptions should be reported the Executive and a written record maintained.

## 5.2 Corporate Director

- 5.2.1 Corporate Directors are responsible for the financial management and control of the resources allocated to them. This includes identifying nominated budget holders for each operational activity, scheme, project or capital programme. It also includes the allocation of appropriate resources to each budget, taking account of competing priorities, spending pressures and savings plans.
- 5.2.2 Corporate Directors should adopt measures to safeguard and keep secure all furniture, fittings, vehicles, equipment and stores assigned to their directorate.
- 5.2.3 Corporate Directors are also responsible for devising and maintaining effective systems of control to mitigate the risks of fraud, loss and error.
- 5.2.4 Corporate Directors are accountable for the budgets within their directorate. Corporate Directors must therefore establish effective budget monitoring and

reporting arrangements. Actual or forecast budget variances should be identified in a timely manner and, where possible, action should be taken to remedy the situation. Corporate Directors must advise the CFO immediately if it becomes clear that they are unable to balance expenditure or income within the existing approved budgets under their control.

5.2.5 Corporate Directors should ensure that all staff within their directorate are aware of the existence and content of the Financial Procedure Rules, and of the need to comply with them.

### 5.3 Budget Holder

5.3.1 An officer with delegated responsibility for the management of a defined budget or group of budgets.

5.3.2 Budget responsibility should always be aligned as closely as possible to the relevant decision making functions of the service area or portfolio. Budget holders should have input to the preparation and agreement of their budget(s). They should also be informed of their budget allocations in a timely manner so that they can plan effectively.

5.3.3 Budget holders are responsible for controlling all income and expenditure relating to their budget(s). This includes monitoring ongoing performance and reporting variances above prescribed limits in a timely manner. Where adverse variances are occurring or forecast, budget holders must identify the reasons and likely impact on the final outturn position. Where possible, timely and effective action should be taken to remedy any overspend or reduction in income. This may include restricting future expenditure or arranging for a virement from another budget.

5.3.4 Budget holders should receive guidance and be trained to undertake their responsibilities effectively. This includes understanding the financial implications of their decisions, and the need to manage risks and achieve value for money.

### 5.4 Head of Internal Audit

5.4.1 The Head of Internal Audit (HoIA) is responsible for providing independent, objective assurance to the Audit Committee and the CFO on the adequacy and effectiveness of the Council's framework of governance, risk management and control. The HoIA, alongside the Corporate Management Team, is also responsible for promoting the principles of good governance, probity and ethical standards across the Council.

5.4.2 Through the work of internal audit, the HoIA supports the CFO to discharge his/her statutory duties.

5.4.3 The HoIA should be involved in considering the impact of emerging risks and the control implications for any proposed changes or developments by the Council.

5.4.4 The HoIA should be professionally qualified and suitably experienced to undertake the role.

### 5.5 Officers

5.5.1 All employees of the council, contractors and agency staff working on behalf of the Council are required to safeguard the Council's resources. This includes protecting the Council's assets and minimising the risk of financial loss.

## **6.0 MEDIUM TERM FINANCIAL STRATEGY**

- 6.1 In order for the Council to be able to plan the development and delivery of its services and to determine priorities for the allocation of resources between those services it needs to undertake multi-year financial planning. The Council will do this by preparing a Medium Term Financial Strategy (MTFS). The MTFS provides the framework for sustainable financial planning, enabling the Council to achieve its key strategic objectives whilst managing its financial and other risks. In doing so the MTFS helps to ensure the long-term financial wellbeing of the Council.
- 6.2 The MTFS provides the parameters within which annual budget and service planning takes place. The Council Plan and other related strategies should be prepared in accordance with the MTFS.
- 6.3 The CFO is responsible, in consultation with the CEO and other Corporate Directors, for preparing and maintaining the MTFS. The minimum period for the MTFS should be 3 years. The CFO will determine the format of the MTFS and once prepared it requires approval by the Council. The Council is also required to approve any subsequent changes to the MTFS.
- 6.4 The CFO should report to the Executive at least annually on the achievement of the strategic priorities contained in the MTFS.

## **7.0 REVENUE BUDGET**

### **7.1 Overview**

- 7.1.1 The revenue budget is an estimate of the annual income and expenditure requirements of the Council. The revenue budget will set out the allocation of resources to specific service areas and functions, and will determine the Council's annual council tax requirement. Approval of the revenue budget by the Council provides Corporate Directors with the authority to incur expenditure against the individual budgets for which they are responsible.

### **7.2 Setting the Budget / Annual Rate of Council Tax**

- 7.2.1 Each Corporate Director will prepare estimates of their future income and expenditure requirements in a format and within timescales determined by the CFO. In preparing these estimates, Corporate Directors must highlight any areas of potential risk or uncertainty, including possible demand or inflation pressures.
- 7.2.2 Subject to any overriding requirements of the Council, the CFO will specify the format of the annual revenue budget and the timing of any reports to the Executive and Council. The annual revenue budget should identify the resource allocations to individual policy, portfolio and service areas, and should be of sufficient detail to ensure proper accountability.
- 7.2.3 The Council will set the annual rate of council tax based on total council tax requirement.

## **8.0 CAPITAL STRATEGY AND PLAN**

- 8.1 Capital expenditure is an important element in the development and delivery of the Council's services, supporting investment in new and improved assets or infrastructure. Investment in capital assets also creates potential future financial



commitments and risks.

## 8.2 Corporate Capital Strategy

8.2.1 The Council should establish and maintain a corporate capital strategy. The strategy forms the foundation for the Council's long-term planning and delivery of its programme of capital investment. It also sets out the parameters for the capital plan, helping to ensure that limited capital resources are used efficiently to achieve the best possible outcomes for the Council and the wider community. The aims of the strategy are to ensure:

- capital investment is targeted towards supporting the Council's corporate objectives
- the stewardship of assets is properly taken into account in capital planning
- capital investment is prudent, sustainable and affordable and provides value for money
- Members and officers have a common understanding of the long-term context in which investment decisions are made and all the financial risks to which the Council is exposed
- capital projects are delivered on time and within budget
- there is improved transparency at programme level along with a clear process for Member engagement

8.2.2 The CFO is responsible for keeping the Corporate Capital Strategy under review and for proposing any changes to the Executive, and Council for approval.

## 8.3 Capital Plan

8.3.1 The capital plan is a long-term programme of estimated capital expenditure and associated funding. The Council will approve the capital plan each year, recognising that the estimates may change as schemes progress to completion.

8.3.2 The capital plan will include all capital schemes including those proposed to be financed from revenue resources or external funding sources or the realisation of capital receipts from the disposal of surplus assets.

8.3.3 Schemes to be included in the capital plan include those whose cost, size, configuration, or policy significance require them to be individually identified, and annual programmes of planned expenditure for designated purposes.

8.3.4 The capital plan will be approved by the Council as part of the annual budget setting process. Following approval, the Executive has overall responsibility for monitoring the delivery of the capital plan.

8.3.5 Any specific issues relating to the capital plan should be brought to the attention of the Executive at the earliest opportunity. The CFO, in conjunction with the relevant Corporate Director(s) will provide advice to the Executive on how any such issues can be resolved.

8.3.6 The CFO will be responsible for the format of the capital plan and the timing of reports to the Executive, subject to any overriding requirements of the Council. The minimum period for the capital plan will be three years. The capital plan will identify individual corporate and directorate schemes, grouped into three categories:

- rolling programmes of planned capital expenditure
- capital schemes (gross expenditure equal to or over £200,000)
- minor capital schemes (gross expenditure less than £200,000)

8.3.7 Each Corporate Director, in consultation with the CFO, should prepare a draft capital plan for their individual service area as part of the annual budget setting process. These service based plans should identify the proposed capital expenditure, and the associated sources of funding, at individual scheme or programme level. Individual schemes should only be included in a directorate capital plan following the preparation of a business case and a full project appraisal process undertaken in accordance with the guidelines contained in the asset management planning framework.

8.3.8 The CFO is responsible for preparing the overall capital plan for consideration by the Executive, and approval by the Council. The funding of the capital plan should be compatible with the treasury management policy statement of the Council.

8.3.9 Any new proposed capital scheme identified during the year will require the preparation of a business case by the relevant Corporate Director, in consultation with the CFO. The business case should set out the full financial implications of the scheme including whole life costs, the source(s) of funding, expected timescales and deliverables. Details of the scheme must be submitted to the Executive with a recommendation that it be added to the approved capital plan.

#### 8.4 Incurring expenditure against the Capital Plan

8.4.1 Following approval of the capital plan, Corporate Directors will be able to incur expenditure on each identified scheme providing all necessary approvals from the Government and external funding bodies have been obtained.

#### 8.5 Monitoring of the Capital Plan

8.5.1 Once the capital plan has been approved by the Council each Corporate Director should identify a responsible budget holder for each scheme in the directorate capital plan within the appropriate limits for budget delegation.

8.5.2 Designated budget holders are responsible for monitoring expenditure and, if appropriate, grant funding and other income, on a scheme by scheme basis against the approved directorate capital plan.

8.5.3 The CFO will provide financial advice to assist budget holders to fulfil their responsibilities, consulting with the relevant Corporate Director in circumstances where it appears that variations to the approved budget for a scheme will occur.

8.5.4 Corporate Directors are responsible for maintaining an ongoing review of all aspects of the capital plan for their Directorate taking account of materiality and risk. This review should be undertaken in conjunction with service managers, budget holders and the CFO. The results of the review should be reported to the relevant Portfolio Holder at least quarterly.

8.5.5 The CFO will provide a quarterly capital plan update to the Executive in a format approved by the CFO. The report should highlight any material variations to schemes in the capital plan and include details of any proposed changes to the timing of expenditure between current and future years.

8.5.6 Corporate Directors are required to report the following to the Executive if:

- the actual or projected cost of a scheme has increased by more than £200,000 compared to the original budget estimate, and the increase cannot be managed within the overall approved directorate capital allocation
- it is necessary to delete or materially modify an existing approved capital scheme
- the loss or revision of any funding will affect the ability of the Directorate to complete its approved capital programme
- in accordance with virement rules there is any proposed transfer of resources between the revenue budget and the capital plan

8.5.7 If expenditure in excess of the approved directorate capital plan expenditure limit for that year is incurred due to an emergency or other unforeseen event, this must be reported to the CFO and relevant Portfolio Holder as soon as possible. Any significant expenditure of this nature must also be reported to the Executive.

## **9.0 FINANCIAL CONTROL AND BUDGET MANAGEMENT**

9.1 Expenditure on behalf of the Council can only be committed against authorised budgets and in accordance with the policies for which the budget was established. Any significant addition to recurring costs or commitments in future years in excess of current budget provision or any proposed change in policy likely to affect the current approved budget and/or the MTFs must be reported to the Executive. The report should be prepared by the Corporate Director, in consultation with the CFO and, if necessary, the relevant Executive Member. The full financial implications of the proposed decision together with any remedial actions, including virements from other budgets, should be clearly set out. Any additional expenditure or commitments which cannot be accommodated within the existing budget and policy framework must be considered and approved by the Council.

9.2 The CFO should submit quarterly monitoring reports covering both revenue and capital budgets to the Executive.

9.3 Budget holders are required to:

- authorise expenditure only from budgets under their direct control. If a budget holder plans to incur expenditure which will be charged against another budget, they must obtain the prior approval of the relevant budget holder
- monitor income (including any grants) and expenditure against those specific budgets for which they are responsible throughout the financial year
- supply the CFO with sufficient information, as and when required, to enable accurate budget profiling and/or financial projections to be undertaken
- immediately report any unexpected discrepancies, errors or suspected fraudulent activity relating to their budgets to the HoA

9.4 Corporate Directors are required to:

- define budgetary control arrangements within their own Directorate and ensure these are operated in accordance with corporate guidance provided by the CFO. This will include identifying responsible budget holders and the limits of their budgetary authority
- maintain an ongoing review of the budgets under their control. This review should be undertaken in conjunction with relevant Assistant Directors or Service

Managers in their directorate, and the CFO. The results should be reported on a regular basis depending on materiality and risk, and at least quarterly to the relevant Portfolio Holder

- advise the CFO immediately if it becomes clear that they will be unable to balance expenditure or income within the approved budgets under their control. Any significant matters must be reported to the Executive
- report to the CFO and the relevant Executive Member, as soon as practicable, any expenditure incurred in excess of the approved net budget for the Directorate due to an emergency. Any significant overspend should also be reported to the Executive

9.5 The CFO is required to:

- provide financial advice to assist budget holders to fulfil their responsibilities, consulting their Corporate Director in circumstances where it appears that variations to the approved budget will occur
- report to the Executive at no less than quarterly intervals throughout the financial year including but not limited to virements requiring approval, service under and overspends impacting on the forecast outturn for current and future years, and the status of cash flow, contingency funds and working balances as appropriate
- report to Executive, as soon as possible, any significant expenditure incurred in excess of the approved net budget of a Directorate due to an emergency

9.6 With the assistance of each Corporate Director, the CFO will periodically report the forecast budget outturn for each directorate to the Executive. The CFO will also report the final budget outturn, as soon as practicable after the end of the financial year.

9.7 Proposals by Corporate Directors to carry forward specific budget underspends to the next financial year require the agreement of the CFO. The approval of the Executive is also required if the budget carry forward is equal to or over £500,000.

## **10.0 FINANCIAL MANAGEMENT PERMISSIONS**

10.1 The CFO will maintain a schedule of permissions detailing the specific authorisations for all aspects of the Council's financial management and administration. The schedule will identify the designated officers and the relevant limits or thresholds of their authority. The schedule will include the limits for authorising orders, payments, budget virements, debt write-offs, asset purchases and disposals, payroll and establishment changes, and bids for external funding.

10.2 The schedule of permissions should also be read in conjunction with these Financial Procedure Rules. Where there is any doubt between the two, the Financial Procedure Rules will take precedence.

10.3 The CFO should ensure the schedule of permissions is readily available to all officers involved in the Council's financial management and administration. Additional guidance and instructions will be contained in the Financial Policies and Practices Manual.

10.4 The CFO will keep the schedule of permissions under review and make changes as required.

## 11.0 BUDGET VIREMENTS

- 11.1 A virement is the transfer of the approved budget provision between defined budget headings or cost centres. The scheme of virement is intended to enable Corporate Directors to manage their budgets with a degree of flexibility within the overall budget and policy framework determined by the Council, whilst maintaining a corporate system of overview to ensure the best use of resources.
- 11.2 Corporate Directors and budget holders are required to manage their budgets responsibly and to ensure that the Council's resources are used for their intended purposes. This includes avoiding expenditure of a recurring nature, or committing the Council to future expenditure, for which there is insufficient budget provision.
- 11.3 Budget virements are required where actual or planned changes are made to the delivery of council services and functions, or to individual capital programmes, and there is a corresponding change to the level of resources required. All proposed virements should be based on realistic and robust assumptions. Budget virements should not be used to hide unplanned or short-term variances in income or expenditure.
- 11.4 Corporate Directors are responsible for undertaking budget virements in accordance with these Rules and for informing the CFO as soon as practicable that such virements have taken place. The CFO is responsible for maintaining a record of all virements and for ensuring that they are reflected in the financial ledger of the Council at the earliest opportunity. The revised budget will be regarded as the baseline against which all subsequent virements will be referenced.
- 11.5 Council approval is required for all changes to the overall budget and policy framework.
- 11.6 The approval of the Executive is required if any proposed virement involves one or more of the following:
- a significant addition to recurring costs or commitments in future financial years (equal to or over £500,000 per annum)
  - any significant transfer(s) of resources between individual policy or portfolio areas (including between directorates or between corporate budgets and directorates) (equal to or over £500,000 in aggregate each financial year)
  - any transfer of resources between the Revenue Budget and the Capital Plan
  - any permitted transfer of resources between the General Fund and Housing Revenue Account
- 11.7 The CFO has the right to refer any proposed virement to the Executive for approval.
- 11.8 Corporate Directors can make virements within or between defined budget headings or cost centres under their control subject to the following approvals:

<b>Value</b>	<b>Required action / approval</b>
Less than £200,000	N/A
£200,000 - £500,000	Obtain approval of CFO
£500,001 - £1m	Obtain approval of the relevant Executive Member(s)
Over £1m	Obtain approval of the Executive

11.9 Corporate Directors must ensure that aggregate income and expenditure in each financial year balances to the net approved budget for their directorate. For each directorate, expenditure in excess of the approved budget is therefore permitted if it is directly and fully offset by an increase in fees, income or other financial contributions. Income received in excess of the budgeted amount for a directorate may be spent within the relevant service area or be transferred to a different budget heading or cost centre within the same directorate. Where appropriate the relevant budgets should be adjusted to reflect the changes made.

## **12.0 MAINTENANCE OF RESERVES AND PROVISIONS**

12.1 Reserves are maintained to fund planned projects, future liabilities and to provide a contingency for unexpected events or emergencies.

12.2 Provisions are created for current liabilities where the final cost is not yet established or known.

12.3 The Council will maintain reserves on a risk basis over a minimum 3-year period and in accordance with the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies. The management of reserves will be aligned to the MTFS and the annual budget setting process.

12.4 It is a statutory responsibility of the CFO to advise the Council on the appropriate and adequate level of reserves and the robustness of the estimates, and to act on the advice of external audit in this matter. The Reserves Policy will set out the process for reviewing the adequacy and appropriateness of reserves.

12.5 The CFO will determine whether the Council's funds are held as general reserves or in an earmarked or restricted reserve. Earmarked reserves are created for a specific purpose and should only be used for that purpose. Any remaining balance should be transferred to another earmarked reserve or to general reserves once that purpose has been fulfilled. Restricted reserves are used for ringfenced funds required for statutory purposes or other specified reasons, for example capital receipts, developer contributions or to support the Housing Revenue Account.

12.6 The CFO will keep the reserves under review and should report at least annually to the Executive on the level and adequacy of the reserves held. The CFO should also detail the purpose for which any earmarked reserves are being maintained and the period over which they will be used.

12.7 Any budget underspends will normally be added to general reserves at the end of the financial year. Corporate Directors may instead request that specific budget underspends are transferred to the following financial year. The reason for any underspend and the purpose for which the additional budget provision will be used should be set out in a business case. Any such transfer of budget provision is subject to the agreement of the CFO. The approval of the Executive is also required if the budget transfer is equal to or over £500,000.

12.8 Any budget overspends cannot be carried forward and will instead be funded from reserves. Where this is the case, the Corporate Director must prepare a report for the Executive to explain the reasons for the continuing overspend and the actions being taken to remedy the situation. In such circumstances, the CFO may issue directions to the Corporate Director to undertake additional budget monitoring, restrict expenditure in specific areas or repay any overspend from future years.

12.9 Corporate Directors should ensure that adequate provision is made for all current liabilities where payment has not yet been made. The level of provision should be kept under review and adjusted to reflect any change to the estimated liability.

### **13.0 EMERGENCY PROCEDURES**

13.1 Nothing in the Financial Procedure Rules shall prevent expenditure being incurred where an emergency or disaster involving destruction of, or danger to, life or property occurs or is imminent. Where in the opinion of the relevant Corporate Director, in consultation with the relevant Executive Member, Chief Executive Officer, Monitoring Officer and the CFO, the urgency of the situation will not permit delay, necessary expenditure may be incurred.

13.2 Where significant expenditure of this nature is incurred then it must be reported to the relevant Executive Member and to the next meeting of the Executive. This includes any expenditure over £200,000 but may also include expenditure of a particularly sensitive or unusual nature. The CFO will decide whether the circumstances which gave rise to the emergency should also be reported to the Audit Committee.

### **14.0 FINANCIAL SYSTEMS AND RECORDS**

14.1 Sound systems and procedures are essential to the effective management and administration of the Council's financial affairs.

14.2 The CFO is responsible for determining the Council's financial processes, and for ensuring they are applied properly and consistently in practice. The CFO is also responsible for implementing appropriate systems to manage and record the Council's budgets, income, expenditure, assets and liabilities. The CFO must therefore be consulted prior to the development, acquisition or implementation of all finance related IT systems or processes. Corporate Directors are required to address any concerns raised by the CFO before proceeding. Corporate Directors must also follow the Council's corporate project management framework when implementing any new IT systems or processes.

14.3 Corporate Directors must consult with the CFO before changing any existing financial systems or processes within their areas of responsibility. Corporate Directors should also establish and maintain controls to mitigate the risks of fraud, loss and error.

14.4 The main accounting system (including the general ledger and all related feeder systems) will provide the prime source of financial data for the Council's management accounts, the preparation of the annual Statement of Accounts, and the submission of government returns. It is therefore essential that the system complies with all relevant legislation and proper accounting practice. It is also essential that all financial information is recorded accurately, completely and in a timely manner, and that any errors are detected promptly and rectified.

14.5 Control accounts should be established for all feeder systems. Regular reconciliations should be completed for all control accounts and any discrepancies investigated. Any significant variances should be reported to the CFO in a timely manner. All suspense accounts should also be subject to regular monitoring.

14.6 All corporate and directorate based financial systems, processes and controls should be documented.

14.7 Officers should receive appropriate training to perform their duties and to operate the Council's financial systems and processes.

## **15.0 STATUTORY ACCOUNTS AND EXTERNAL AUDIT**

15.1 The Accounts and Audit Regulations 2015 require the CFO to prepare the Council's Statement of Accounts in accordance with proper accounting practice as represented by the 'Code of Practice on Local Authority Accounting in the United Kingdom' issued by Chartered Institute of Public Finance and Accountancy (CIPFA).

15.2 The Statement of Accounts should include details of the Council's Collection Fund and Housing Revenue Account, and any other statements or disclosures required for statutory purposes. The CFO will determine whether the Council's arms-length trading companies are included in consolidated group accounts.

15.3 The CFO must sign and date the Statement of Accounts and certify that the Statement of Accounts present a true and fair view of the Council's financial position at the end of the year to which they relate, and the income and expenditure for that financial year.

15.4 The CFO is responsible for ensuring the Statement of Accounts are made available for audit by the Council's appointed external auditor and are approved by the Audit Committee in accordance with relevant statutory timescales. The CFO must re-certify the Statement of Accounts before they are approved by the Audit Committee.

15.5 The CFO is responsible for working with the Council's appointed external auditor and for advising the Council, Executive, Audit Committee and Corporate Directors of their responsibilities in relation to external audit. The external auditor has extensive rights of access to all documents and information considered necessary for audit purposes. The external auditor may also require any Member or officer to provide explanations on any matter relating to the audit.

15.6 The duties and responsibilities of the external auditor derive from the Local Audit and Accountability Act 2014. The Code of Audit Practice, prepared by the National Audit Office, sets out the specific powers and responsibilities of the auditor. The Code of Audit Practice is reviewed and updated periodically.

15.7 The CFO is responsible for ensuring the Council's financial and accounting records are ready for audit, and in the format required by the external auditors. The CFO should also respond to the external auditor's enquiries in a timely manner.

15.8 The CFO should ensure the Audit Committee is made aware of any concerns raised by the external auditor in respect of the conduct of the audit, the Statement of Accounts, the accounting records, the system of internal control or the Council's arrangements to secure value for money. Where concerns are raised, the CFO in conjunction with the Audit Committee should prepare an action plan to address the issues.

## **16.0 REVIEW OF THE SYSTEM OF INTERNAL CONTROL**

16.1 The CFO is responsible for arranging for an annual review of the effectiveness of the Council's system of internal control to be undertaken. The CFO should report the results of the review to the Audit Committee, and highlight any significant control weaknesses or governance issues identified.



- 16.2 The CFO is also responsible for preparing the Council's Annual Governance Statement. The Annual Governance Statement must be prepared in accordance with proper accounting practices, and should accurately reflect the results of the annual review of the system of internal control. The Annual Governance Statement should be approved the Audit Committee and be signed by the Leader of the Council and the Chief Executive Officer.
- 16.3 In preparing the Annual Governance Statement, the CFO should identify any areas of non-compliance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code, the Statement on the Role of the Chief Financial Officer in Local Government, the Statement on the Role of the Head of Internal Audit and the Code of Practice on Managing the Risk of Fraud and Corruption.
- 16.4 Corporate Directors are required to assist the CFO in completing the review of the system of internal control by providing the necessary assurances and identifying any significant control issues or weaknesses within their areas of responsibility.
- 16.5 The preparation and publication of the Annual Governance Statement in accordance with the Delivering Good Governance in Local Government: Framework (2016) fulfils the statutory requirements contained in the Accounts and Audit Regulations 2015.

## **17.0 RISK MANAGEMENT**

- 17.1 Risk is defined as the chance or possibility of loss, damage or injury caused by an unwanted or uncertain action or event. It is measured in terms of likelihood and impact. Risk management is the range of coordinated processes, structures and culture adopted by the Council in order to identify, evaluate, monitor, control, and mitigate the risks it faces.
- 17.2 The Council is responsible for approving the Risk Management Policy.
- 17.3 The Audit Committee is responsible for promoting a culture of risk management awareness throughout the Council. Monitoring of the effectiveness of the Risk Management Policy is an essential part of that process.
- 17.4 The CFO has overall responsibility for the management of risk in the Council and for overseeing the application of the Risk Management Policy. The CFO will advise the Executive and Corporate Directors on all significant risk management matters. The CFO should report to the Audit Committee at least annually on the effectiveness of the risk management systems and processes in place.
- 17.5 The Corporate Management Team is responsible for ensuring the Council adopts a consistent, comprehensive and integrated approach to the management of risk. This includes maintaining a corporate risk register which enables the Council's key strategic risks to be monitored and reported to the Audit Committee.
- 17.6 Corporate Directors should ensure procedures are in place to systematically identify, assess and mitigate the risks facing their individual service areas. These procedures should enable any new or emerging risks to be identified in a timely manner. Identified risks should be recorded and managed in service risk registers, with the most significant or cross-cutting risks included in the directorate risk register. Risks should be recorded and assessed in accordance with the principles set out in the Council's Risk Management Policy.

- 17.7 Directorate and corporate risks should be reported to the Audit Committee in accordance with an agreed timetable.
- 17.8 Corporate Directors, in consultation with the CFO, should prepare appropriate risk mitigation plans for all significant risks. These plans should be subject to regular monitoring and update.
- 17.9 The CFO will periodically review the Risk Management Policy and recommend any necessary changes to the Audit Committee for consideration prior to approval by the Council.
- 17.10 Corporate Directors should ensure that all reports to the Council's Executive or Executive Member which require a decision include adequate reference to the associated risks to enable a properly informed decision to be taken.

## **18.0 INTERNAL AUDIT**

- 18.1 There is a statutory duty on the Council to undertake an internal audit of the effectiveness of its governance, risk management and control processes. Internal audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations.
- 18.2 To provide optimum benefit, the Council requires that internal audit works in partnership with management to improve the control environment and to help the organisation achieve its objectives.
- 18.3 The Chartered Institute of Public Finance and Accountancy (CIPFA) is responsible for setting standards for proper practice for local government internal audit in England. CIPFA has adopted the Public Sector Internal Audit Standards (PSIAS), which are compliant with the Institute of Internal Auditors' (IIA) International Standards. The PSIAS and CIPFA's local government application note for the standards represent proper practice for internal audit in local government.
- 18.4 The purpose, scope, authority and responsibility of internal audit is detailed in the Audit Charter, approved by the Audit Committee. The HoIA will periodically review the Audit Charter and recommend any necessary changes to the CFO for approval by the Audit Committee.
- 18.5 The CFO in conjunction with the HoIA should ensure that the Council's arrangements for internal audit comply with the Chartered Institute of Public Finance and Accountancy (CIPFA) Statement on the Role of the Head of Internal Audit. Any areas of non-compliance and the reasons for these should be reported to the Audit Committee and be included in the Council's Annual Governance Statement.
- 18.6 The HoIA should seek to maintain a positive and effective working relationship with the CFO. The HoIA will notify the CFO of any matter that may have implications for the CFO in respect of their statutory responsibilities. The CFO will also consult with the HoIA on any significant proposals that may have implications for the Council's control environment or management of risk.
- 18.7 The HoIA will plan and deliver a risk based programme of work designed to objectively examine and evaluate the adequacy and effectiveness of the Council's governance, risk management and control processes. This will include the provision of assurance and advice in respect of major projects, programmes and policy initiatives. The HoIA should consult with the CFO, Corporate Directors and the Audit

Committee when preparing the programme of work.

- 18.8 Internal audit will be allowed to act independently and objectively in the planning and delivery of work and without undue influence by either officers or Members.
- 18.9 The HoIA may communicate directly with the Leader of the Council, the Executive, the Chief Executive Officer, any Corporate Director, the Monitoring Officer, the Chair of the Audit Committee, and any Member or officer on any matter relevant to internal audit. The HoIA may also raise matters of concern relating the Council's financial management arrangements or processes directly with the external auditors.
- 18.10 The HoIA will provide an annual opinion to the Council on the framework of governance, control and risk management. The opinion and details of any qualifications to that opinion will be reported to the Audit Committee. The HoIA will also report any significant control weaknesses identified through internal audit work as part of the annual opinion report.
- 18.11 The CFO and the Audit Committee will determine whether any of the control weaknesses identified by the HoIA should be included in the Annual Governance Statement.
- 18.12 The Accounts and Audit Regulations 2015 require Members and officers to make available any documents and records, and provide such information and explanations as may be required by internal audit. In addition, the Council grants internal audit staff the authority to:
- enter all Council premises or land, at any reasonable time
  - have access to all data, records, documents, correspondence, or other information - in whatever form - relating to the activities of the Council
  - have access to any assets of the Council and to require any officer of the Council to produce any assets under their control
  - have access to the Council's partnerships and arms-length bodies where appropriate
- 18.13 Where appropriate, contracts to supply Council services or functions should grant internal audit the right of access to examine records, documents and other information relating to the supplier's arrangements.
- 18.14 It is the responsibility of Council officers to consider and respond promptly to audit reports and to ensure all agreed actions are implemented in a timely and efficient manner. Officers should also provide confirmation and evidence that agreed actions have been implemented if requested to by internal audit.
- 18.15 The HoIA will escalate any matters of concern to the CFO and, if necessary, the Audit Committee.
- 18.16 The HoIA will also report to the CFO and, if necessary, the Audit Committee any instances where internal audit independence or objectivity is likely to be compromised, together with any planned remedial action.
- 18.17 The CFO should ensure that internal audit is adequately resourced to undertake its responsibilities. The CFO will also protect and promote the independence and rights of internal audit to enable it to conduct its work effectively and to report as necessary.

## **19.0 TREASURY MANAGEMENT**

- 19.1 The Council is responsible for approving the Treasury Management Policy Statement (TMPS), which sets out the objectives and approach to the effective risk management of the Council's treasury management activities.
- 19.2 The CFO is responsible for maintaining suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve the Council's objectives, and prescribing how it will manage and control those activities
- 19.3 The TMPS and related treasury management practices must comply with all relevant statutory and regulatory requirements including:
- Local Government Act 2003 or any successor legislation
  - Chartered Institute of Public Finance and Accountancy (CIPFA) - Prudential and Treasury Management Codes of Practice
  - Department for Levelling Up, Housing and Communities (DLUHC) Minimum Revenue Provision (MRP) and Investment Guidance
- 19.4 The CFO is also responsible for exercising the Council's borrowing and investment activities in compliance with the treasury management policies, and for monitoring compliance with the relevant Codes of Practice.
- 19.5 The CFO is responsible for reporting to the Audit Committee, the Executive and Council on the effectiveness of the treasury management policies and practices, and the achievement of the related objectives. The CFO should report the annual treasury management and investment strategy, and the associated prudential borrowing indicators to the Council in advance of the financial year. The CFO should also report quarterly to the Executive and Audit Committee on treasury management performance, and present an annual report on both treasury management and prudential borrowing indicators, setting out full details of activities and performance during the preceding financial year.
- 19.6 The CFO will meet periodically with the relevant Portfolio Holder to consider and review issues arising from the day to day treasury management activities.
- 19.7 The Audit Committee is responsible for monitoring the effectiveness of the Council's treasury management procedures and practices.
- 19.8 The CFO should periodically review the Treasury Management Policy Statement (TMPS) and associated management practices to ensure they continue to comply with relevant statutory and regulatory requirements, and best practice. The CFO should consult the Audit Committee and the Executive on any proposed changes to the TMPS, prior to approval by the Council.

## **20.0 ASSET MANAGEMENT**

- 20.1 For the purposes of the Financial Procedure Rules, the term asset includes furniture, fittings, vehicles, plant, cash and cash equivalents, and operational equipment. It also includes intangible assets including licences, loans and investments. The acquisition and disposal of all land and property assets is covered by the Property Procedure Rules.
- 20.2 The CFO will determine the administrative and accounting arrangements for

recording the acquisition and disposal of assets, and the maintenance of asset registers.

- 20.3 Appropriate security measures should be adopted to protect and safeguard the Council's assets, particularly items of high value or those susceptible to theft or damage. This includes protecting the Council's information technology systems from the threat of cyber-attack.
- 20.4 The Council's assets should only be used for legitimate purposes and to support the delivery of the Council's services and operational activities. Assets should not be made available to third parties or be used for other purposes without the prior approval of the relevant Corporate Director in consultation with the CFO.
- 20.5 Where required, assets should be appropriately security marked and insured. Corporate Directors are responsible for providing the CFO with the information required in order to arrange the Council's insurance.
- 20.6 Cash or cash equivalents held on any Council premises should not exceed the sums for which the Council is insured. If necessary for operational reasons, the CFO may approve temporary increases to safe limits and the value of cash or cash equivalents which may be held.
- 20.7 Assets should only be acquired where there is budgetary provision and the relevant approvals have been obtained. The relevant Procurement and Contract Procedure Rules should also be followed.
- 20.8 Assets should be properly maintained throughout their useful life. Where an asset is no longer required for operational or investment purposes, it should be disposed of.
- 20.9 Corporate Directors are responsible for maintaining effective business continuity and disaster recovery plans to mitigate possible loss or damage to the Council's assets.
- 20.10 Leasing Agreements
  - 20.10.1 Corporate Directors must inform the CFO if they are considering the use of any type of leasing agreement to finance the acquisition of an asset. The CFO is responsible for negotiating and agreeing the terms of all proposed leasing agreements. No lease agreements should be entered into without the approval of the CFO.
  - 20.10.2 Corporate Directors must ensure the terms and conditions of the relevant leasing agreement are complied with, particularly in respect of wear and tear, or the residual condition of the asset at the end of the leasing period.
  - 20.10.3 A full inventory of all leased assets valued over £20,000 must also be maintained by the Corporate Director.
  - 20.10.4 Any assets subject to a leasing agreement must not be disposed of without the prior consent of the CFO. The CFO will be responsible for notifying the lease company of the intended disposal and for obtaining their consent.
- 20.11 Loans and investments
  - 20.11.1 Corporate Directors must inform the CFO if they are considering making loans to third parties or entering into other types of investment for commercial or non-commercial purposes. The CFO is responsible for negotiating and agreeing the terms of all loan agreements and investments entered into by the Council.

## 20.12 Disposal of assets (excluding land and property)

20.12.1 The maximum economic benefit for the Council should be obtained for all asset disposals. Prior to the disposal of an asset, Corporate Directors must:

- ensure that the asset is of no use to any other Directorate
- for assets subject to a leasing agreement consult the CFO
- confirm whether the asset was purchased using grant funding, and if so, ensure the disposal and the allocation of proceeds complies with the relevant grant conditions
- notify the CFO of the intention to dispose of any item which might be regarded as a capital asset

20.12.2 If the asset disposal is subject to grant conditions then those conditions will take precedence, otherwise all disposals must follow these rules.

20.12.3 All surplus assets must be sold for the highest price unless the interests of the Council would be better served by disposing of the asset by an alternative method. The expected costs of disposal should be considered as part of any decision. Where an alternative method is used to dispose of an asset for less than its market value then a record must be kept of the options considered and the reason for adopting this approach.

20.12.4 Corporate Directors may dispose of assets subject to the following approvals:

<b>Estimated Disposal Value</b>	<b>Required action / approval</b>
Less than £50,000	N/A
£50,000 - £100,000	Obtain approval of the CFO
£100,001 - £200,000	Obtain approval of the relevant Executive Member
Over £200,000	Obtain approval of the Executive

20.12.5 Corporate Directors may dispose of a number of assets simultaneously if their aggregate estimated disposal value is less than £50,000. If the estimated aggregate disposal value is £50,000 or more then the approvals set out above will apply.

20.12.6 Low value, damaged or obsolete assets with an aggregate estimated market value of less than £5,000, can be disposed of by alternative methods following guidance contained in the Financial Policies and Practices Manual.

20.12.7 A record of all asset disposals should be maintained. Corporate Directors must also consider data protection issues when disposing of assets and ensure compliance with the Council's relevant information security and data protection policies.

## 20.13 Asset register

20.13.1 The CFO has overall responsibility for maintaining the Council's asset register. The asset register should record details of all assets owned by the Council together with their values. The CFO will determine the categories and values of assets to be recorded in the register. The register should be kept under review and updated as required.

20.13.2 Corporate Directors are responsible for providing any information required to the CFO

in order to maintain the asset register, including the details of all asset disposals

20.13.3 The CFO may request confirmation of an asset's existence and current condition from a Corporate Director.

## **21.0 STOCKS AND INVENTORIES**

21.1 The Council holds stocks of various goods and materials to support the delivery of services. It is essential that these stocks and stores are appropriately safeguarded to prevent theft, misuse or damage.

21.2 Corporate Directors are responsible for maintaining written inventories (in a form approved by the CFO) of all stocks of goods and materials, where the aggregate value of those stocks is over £10,000.

21.3 Periodic reconciliations should be undertaken to confirm the completeness and accuracy of the inventory records. An independent check of all inventories should be completed at least annually. All stock discrepancies should be investigated. Any individual stock discrepancies over £10,000 must also be reported to the CFO and HoIA.

21.4 Corporate Directors may arrange for the disposal of unrequired stock or inventory items but should ensure the maximum benefit is obtained for the Council from any disposal. The CFO will provide guidance on appropriate disposal methods. All disposals of stock and inventories are also subject to the following approvals:

<b>Estimated Disposal Value</b>	<b>Required action / approval</b>
Less than £20,000	N/A
£20,000 - £100,000	Obtain approval of the CFO in consultation with the relevant Executive Member(s)
Over £100,000	Obtain approval of the Executive

21.5 Corporate Directors may also write off stock and adjust for inventory deficiencies subject to the following approvals:

<b>Estimated Disposal Value</b>	<b>Required action / approval</b>
Less than £10,000	N/A
£10,000 - £50,000	Obtain approval of the CFO in consultation with the relevant Executive Member(s)
Over £50,000	Obtain approval of the Executive

## **22.0 PREVENTING FRAUD AND CORRUPTION**

22.1 Fraud and corruption is a significant risk to the Council. Any fraud committed against the Council effectively constitutes a theft of taxpayer's money. It is unlawful and deprives the Council of resources which should be available to provide services to the public. The Council has therefore established a counter fraud function to support the prevention, detection and investigation of possible fraud. The Council will also adopt measures to help deter the risk of fraud, including publicising the outcomes of counter fraud work. The counter fraud function reports to the HoIA.

22.2 For the purposes of the Financial Procedure Rules, the term fraud is used broadly

and includes:

- acts which would fall under the definition in the Fraud Act (2006) or any successor legislation
- anything which may be deemed fraudulent in accordance with the generally held view of fraud as causing loss or making a gain at the expense of someone by deception and dishonest means
- any offences which fall under the Council Tax Reduction Schemes Regulations (2013) and the Prevention of Social Housing Fraud Act (2013) or any successor legislation
- any act of bribery or corruption including specific offences covered by the Bribery Act (2010) or any successor legislation
- acts of theft
- any other irregularity which is to the detriment of the Council whether financially or otherwise, or by which someone gains benefit they are not entitled to

- 22.3 The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by Members, officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that Members, employees, and contractors' staff will act with integrity and with due regard to matters of probity and propriety.
- 22.4 The CFO should ensure that the Council establishes and maintains effective counter fraud and anti-corruption arrangements.
- 22.5 The Council's arrangements for the prevention, detection and investigation of suspected fraud will be set out in relevant policies, approved by the Audit Committee. The Audit Committee will also review and approve the counter fraud strategy. The HoIA will periodically review the strategy and policies and recommend any necessary changes to the CFO prior to approval by the Audit Committee
- 22.6 Members and officers should immediately notify the HoIA of any suspected fraud, corruption, error, or wrongdoing, or any circumstances which might suggest the possibility of irregularity in the exercise of any of the Council's functions or related to the delivery of any of the Council's services.
- 22.7 The HoIA will determine the scope of any fraud investigations, subject to consultation with the CFO, Monitoring Officer, Human Resources and the appropriate Corporate Director as required.
- 22.8 The HoIA will decide whether any matter under investigation should be referred to the police or other agencies, subject to consultation with the CFO, Monitoring Officer and the appropriate Corporate Director as required.
- 22.9 As a further deterrent, and to minimise losses, the Council will attempt to recover any losses incurred through civil or legal action. In addition, the Council will seek to apply any appropriate fines or penalties, and recover any costs incurred in investigating and prosecuting cases.
- 22.10 The Monitoring Officer is the Council's Chief Money Laundering Compliance Officer (CMLCO) and has overall responsibility for monitoring anti-money laundering policy, regulations and procedures. The CMLCO will ensure appropriate procedures for regulated activity are in place and obtain approval of the policy from the Audit



Committee. Corporate Directors should inform the CMLCO of all circumstances where regulated activity is likely to be taking place. The CMLCO will ensure that Directorates undertaking regulated activity have appropriate training and risk assessments in place.

- 22.11 The CLMCO will appoint a Money Laundering Reporting Officer (MLRO) and deputy MLRO. The MLRO is responsible for maintaining the Council's money laundering reporting procedures, raising awareness of possible money laundering issues within the Council and for reporting concerns to the National Crime Agency (NCA) when they arise.

## **23.0 INCOME AND ACCOUNTS RECEIVABLE**

- 23.1 Effective income collection systems are necessary to ensure that all of the income due to the Council is identified, collected, receipted and banked properly. Where possible income should be collected in advance to improve cash flow and to avoid the risks and costs of debt recovery.

### **23.2 Fees and Charges**

- 23.2.1 The Council is responsible for approving the fees and charges policy. Any departure from the approved policy requires the approval of the Executive. Unless permitted all fees and charges should be subject to annual review. The CFO will provide detailed guidance on the setting and review of fees and charges. Corporate Directors are responsible for the establishment and ongoing review of fees and charges payable in respect of the services and functions provided by their directorate.

- 23.2.2 A full list of the current year's approved fees and charges should be made available on the Council's website. The fees and charges for the following financial year should be published on the website by 31 December of the preceding year.

- 23.2.3 The correct rate of VAT should be applied to all fees and charges.

### **23.3 Commercial rents**

- 23.3.1 Commercial rents should be reviewed and increased in line with the relevant tenancy agreements. The CFO may authorise the granting of rent-free periods for a maximum of 6 months or rent rebates in specific circumstances subject to consultation with the Monitoring Officer. A record of the decision must be retained where this occurs. The Monitoring Officer should also be consulted on possible subsidy implications if the proposed rent for a commercial property is below the current market rate.

### **23.4 Housing rents**

- 23.4.1 Housing rents should be set and increased annually in line with the Council's rent policy, relevant tenancy agreements and guidance issued by the Regulator of Social Housing.

### **23.5 Council Tax and National Non-Domestic Rates**

- 23.5.1 The setting and collection of council tax and non-domestic rates is determined by legislation. The Council will set the annual rate of council tax by dividing the total council tax requirement by the council tax base. The Council may also apply specific levies to fund designated services if permitted by legislation. Other bodies in North Yorkshire including parish and town councils, and the North Yorkshire Police, Fire

and Crime Commissioner may raise a precept on the council tax bills raised by the Council.

23.5.2 The CFO is responsible for determining the administrative and accounting arrangements for the Council Tax collection fund. This includes approving the Council Tax base estimates.

23.5.3 As a billing authority, the Council will apply the relevant multiplier to the rateable value of each business property.

## 23.6 Grant income

23.6.1 Refer below to section 28 – Grants and External Funding.

## 23.7 Asset sales

23.7.1 Refer to above section 20 – Asset Management.

## 23.8 Accounts receivable and the administration of debt

23.8.1 Corporate Directors should agree with the CFO the administrative and accounting arrangements for the collection of each type of income. The collection of income and the recovery of debts will normally be the responsibility of the CFO. Any alternative arrangements for the collection of income require the prior written approval of the CFO.

23.8.2 Where possible income should be paid directly to the Council by bank transfer or through the Council's automated payment systems. Cheques received on behalf of the Council should, as soon as practicable, be banked. The only exception to this arrangement applies to maintained schools operating to the LMS Financial Procedure Rules as defined in section 37 below. Payment by cash is only permitted where alternative methods of payment are not practicable and with the prior written approval of the CFO.

23.8.3 Where a debt remains unpaid the CFO is authorised to agree repayment terms with the debtor or to take other recovery action as appropriate.

23.8.4 The CFO will agree with the Head of Legal Services the arrangements for debt recovery including the process for commencing civil debt recovery through the courts, the recovery of costs and the use of enforcement agents. The specific responsibilities and approach to debt recovery will be included in a debt management policy. The policy will set out expectations for the use of responsible debt collections methods, management of all debts owned by the individual or organisation, and enforcement activities.

23.8.5 Income due to the Council should be banked in full and should not be used to offset payments due by the Council.

## 23.9 Debt write-off

23.9.1 Debts should only be written off once all reasonable attempts to recover the debt have been exhausted or where it would prove uneconomical to pursue the debt further.

23.9.2 The procedure for writing off debts is:

<b>Value</b>	<b>Required action / approval</b>
Less than £50,000	Approval of the CFO only
£50,000 - £100,000	Approval of the CFO in consultation with the relevant Corporate Director(s)
£100,001 - £200,000	Approval of the CFO in consultation with the relevant Executive Member(s)
Over £200,000	Obtain approval of the Executive

23.9.3 The CFO has the right to refer any proposed debt write off to the Executive for approval.

23.9.4 The CFO will maintain a record of all debts written off each financial year including details of the attempted recovery action taken and the reasons for non-recovery.

23.9.5 Where a number of debts for the same debtor are being written off simultaneously, the aggregate value of those debts should be used to determine the approval required.

23.9.6 To ensure appropriate separation of duty, officers with responsibility for debt recovery and write off should not be involved in income collection.

#### 23.10 Adjustments

23.10.1 Invoices which have been raised in error or the details are incorrect can be cancelled. The reasons for cancellation must be retained.

23.10.2 To ensure appropriate separation of duty, officers with responsibility for debt cancellation should not be involved in income collection.

#### 23.11 Waiving a charge

23.11.1 In some circumstances it may be appropriate to waive a charge. A waiver should only be granted if the specific charging scheme permits this and there are legitimate and appropriate reasons for doing so. Examples include cases of financial hardship and where there are compassionate reasons for waiving the charge. Corporate Directors may waive charges of less than £10,000. Any waiver over this requires the approval of the CFO. A full record of the reasons for the waiver must also be retained.

### **24.0 ORDERING AND ACCOUNTS PAYABLE**

24.1 All works, goods and services must be ordered in accordance with the Procurement and Contract Procedure Rules.

24.2 Members and Officers must also comply with respective Council rules and arrangements regarding the registration and declaration of any interests which may conflict with their role in Council business.

24.3 The CFO in consultation with the Monitoring Officer is responsible for determining the format of the Council's purchase orders and the associated standard terms and conditions.

24.4 Corporate Directors must use the Council's standard ordering system to raise purchase orders for all works, goods and services. The only exceptions are:

- where the supplier is on the list of exempt suppliers
  - the expenditure has been incurred through petty cash or by using a procurement card
  - the expenditure was incurred as a result of an emergency and the urgency of the situation would not permit a delay
- 24.5 All budget holders are responsible for ensuring that orders are only raised where there is an approved budget, and for maintaining proper records to support all purchasing decisions and transactions.
- 24.6 Purchase orders may only be raised and approved by designated officers, and in accordance with the approved financial management permissions.
- 24.7 The support and advice of the Corporate Procurement and Contract Management Team must be obtained for all significant, complex or more specialist purchasing transactions.
- 24.8 All works, goods and services should be checked to ensure they have been delivered in accordance with the original order. Any discrepancies must be identified and rectified before payment is authorised.
- 24.9 Invoices should only be approved once officers are satisfied that the correct charges have been applied and the identified works, goods or services have been received. All approvals must be in accordance with the limits set out in the financial management permissions. Where VAT has been charged it is essential that a valid tax invoice is provided by the supplier.
- 24.10 To ensure adequate segregation of duties, a different officer should authorise the order, confirm receipt and approve the invoice for payment. The CFO may agree alternative procedures for low value orders. Any alternative procedures must be documented and kept under review.
- 24.11 The CFO will determine the Council's standard payment terms and keep these under review. The CFO may agree different payment terms for small or medium suppliers and where prompt payment would be beneficial for the Council.
- 24.12 To ensure prompt payment, officers must ensure that invoices are matched to orders and authorised in a timely manner. Unmatched orders and invoices should also be monitored and followed up as required.
- 24.13 The CFO will establish a procedure for authorising and processing ad-hoc payments where there is no invoice. Such payments will include insurance settlements, grant payments, and fees or subscriptions which need to be paid in advance.
- 24.14 The CFO is responsible for ensuring all payments are made to the correct person or entity, and for the correct amount. The CFO must establish processes to verify creditor payment details when new suppliers are set up on the accounts payable system and for all subsequent changes. The CFO must also establish processes to identify potentially duplicate payments.
- 24.15 The CFO is also responsible for ensuring invoice and payment details are properly recorded in the Council's main accounting system and the expenditure is reflected against the relevant budget codes.

## **25.0 BANKING**

- 25.1 The CFO is authorised to operate any bank accounts considered necessary for the effective management and administration of the Councils' services and functions. All arrangements for the operation, supervision and closure of the Council's bank account(s) will be made by the CFO. Officers must not open bank accounts in the name of the Council unless they are acting on the instructions of the CFO.
- 25.2 The CFO will also make arrangements for the use and control of procurement cards for the payment of goods and services, and the operation of petty cash imprest accounts. The CFO will prepare specific guidance notes and instructions for both procurement cards and petty cash imprest accounts.
- 25.3 All bank accounts, petty cash imprest accounts and procurement card statements must be reconciled at least monthly. Any significant variances should be reported to the CFO in a timely manner.
- 25.4 Officers should be alert to the risks of money laundering and must report any suspicious activity or irregular banking transactions to the Council's designated Money Laundering Reporting Officer (MLRO).

## **26.0 PAYROLL AND EXPENSES**

- 26.1 Employee related payroll related expenditure forms a significant part of the Council's budget and must therefore be accounted for correctly and accurately.
- 26.2 For the purposes of the Financial Procedure Rules, employee related payroll payments include:
- Monthly salaries
  - Overtime
  - Allowances
  - Travel and other expenses
  - Pensions (to former employees)
  - Redundancy payments and pay in lieu of notice.
- 26.3 All taxable expenses must be paid through the Council's payroll system. Managers should certify all travel and subsistence claims and ensure that claims are legitimate. Any unexplained discrepancies should be reported to the HoIA.
- 26.4 For all transactions and payroll related matters, the appropriate documentation and timetables, issued by HR must be followed. Copies of all relevant records should be retained in accordance with the Council's approved document retention period.
- 26.5 To ensure the Council complies with HM Revenue and Customs IR35, checks must be completed in accordance with agreed HR procedures before payments are made to contractors or agency workers.
- 26.6 Corporate Directors are responsible for ensuring all new appointments are made in accordance with the Council's approved establishments, grades, scales of pay and that adequate budget provision is available for the current financial year and subsequent years.

26.7 Corporate Directors are also responsible for ensuring all leavers are processed in a timely manner to avoid overpayments occurring.

26.8 The CFO is responsible for ensuring that regular reconciliations are undertaken between the Council's payroll system and the main accounting system (general ledger) to verify the accuracy and completeness of the payroll costing file. A similar reconciliation should be undertaken with the pension system.

## **27.0 INSURANCE**

27.1 The Council should have sufficient and adequate insurance cover to protect itself from the risk of financial claims arising from unforeseen events such as the theft of assets, damage to property, or injury to employees and the public.

27.2 Insurance has been the traditional means for transferring risk and protecting against such losses. By minimising or even preventing the incidence of losses, the Council may benefit from reduced insurance and related administrative costs. Corporate Directors therefore have a responsibility to identify, assess, prevent or contain all significant operational risks within their directorates.

27.3 The CFO is responsible for arranging all insurance on behalf of the Council and for providing advice to the Executive on the level of insurance cover required.

27.4 Corporate Directors must not admit liability or make any offer to pay compensation in respect of any claim. The CFO has sole responsibility for managing and negotiating all claims made against the Council, using specialist claim handlers as required. The CFO may require Corporate Directors to provide information and evidence relevant to any claim.

27.5 The CFO will also determine the level of self-insurance to be accepted for some risks and the value of reserves necessary to adequately fund future liabilities.

27.6 Corporate Directors must notify the CFO of any:

- event or incident which may result in a claim being made against the Council and/or its insurers
- new risks which might require to be insured, together with details of any changed circumstances which might affect existing risks
- other action(s) taken which might affect the Council's current or future insurance arrangements.

## **28.0 GRANTS AND EXTERNAL FUNDING**

28.1 External funding can provide an important source of income to the Council but grant conditions must be carefully examined before any application is submitted or agreement is entered into to ensure they are compatible with the Council's aims and objectives. Grant conditions may also result in the Council committing to future expenditure for which there is no budget provision. A risk assessment must therefore be completed and documented to ensure all potential financial obligations and future liabilities are properly identified.

28.2 The CFO will provide detailed procedural guidance to follow when applying for grant or other external funding, and before any offers of funding are accepted.

28.3 Corporate Directors should consult with the CFO in all circumstances where applications for grants or other external funding are being considered.

28.4 The following approvals are required before applications are submitted. The limits apply to the aggregate level of funding where the grant is to be paid in instalments.

Estimated Value of Grant	Required action / approval
Less than £200,000	Corporate Director in consultation with CFO
£200,000 and over	Obtain approval of the CFO in consultation with the Executive Member for Finance and other relevant Executive Member(s)*

\* Recurring grants and external funding (a grant/funding which has been applied for previously with no substantial change to grant conditions or delivery of the grant) require consultation with the relevant Executive Member(s) at the discretion of the CFO.

28.5 The following approvals are required before any offers of grant or other external funding are accepted:

**New, discretionary grants and external funding** (a new grant/funding which at the discretion of the Council to apply for and has not been applied for previously):

Value of Grant Offer	Required action / approval
Less than £200,000	Obtain approval of the CFO
£200,000 - £1m	Obtain approval of the relevant Executive Member(s) in consultation with the CFO and the Executive Member for Finance
Over £1m	Obtain approval of the Executive

**Recurring grants and external funding** (a grant which has been applied for previously with no substantial change to grant conditions or delivery of the grant):

Estimated Value of Grant	Required action/approval
Less than £200,000	Corporate Director to inform the CFO
£200,000 and over	Obtain approval of the CFO in consultation with the Executive Member for Finance and other relevant Executive Member(s) as necessary

**Direct award grants** (grant provided directly to the Council where it is statutory requirement to provide the prescribed service and where there is no application requirement):

Type of grant	Required action/approval
Statutory	Corporate Director to inform the CFO
Discretionary	As per rules for new discretionary grants and recurring grants

28.6 Corporate Directors are responsible for ensuring all grant conditions are complied with and the required approvals and certifications are obtained before submitting claims or returns to the relevant funding bodies.

## **29.0 PARTNERSHIPS**

- 29.1 The Council provides a leadership role for the community and by working in partnership with other organisations can help to promote or improve the economic, social and environmental well-being of its area. However, working in partnership can also present a number of risks.
- 29.2 All partnerships with outside bodies (including other local authorities, the NHS, government agencies, education bodies, private sector companies, voluntary sector organisations and community groups) must therefore be properly evaluated before they are entered into, and be supported by appropriate governance, accounting and audit arrangements. No partnership should be considered unless it can be shown that there are clear benefits to the Council and the proposed arrangement is compatible with the Council's aims and objectives
- 29.3 The form of partnership may also differ. Partnerships involving joint decision making and the sharing of budgets and other resources to deliver services will require a formal agreement. Other partnerships will be more informal and simply provide a forum to share information and to consult on future plans.
- 29.4 The Council's partnership governance risk assessment must be completed whenever a partnership is being considered. Any proposed arrangement which is assessed as high or medium risk should then be subject to a full assessment using the approved partnership governance guidance and toolkit. In addition, a full assessment must be completed for all cases where the Council's financial contribution to the partnership is expected to exceed £200,000 per annum. In calculating the Council's financial contribution any grant or external funding for which the Council is acting as the Accountable Body should be included in the total.
- 29.5 Where a partnership is considered to be in the Council's interests, Corporate Directors, in consultation with the CFO and Monitoring Officer, should agree appropriate terms and conditions with the other partner organisation(s). Depending on the form of partnership, Corporate Directors should also comply with the Procurement and Contract Procedure Rules where these apply. The CFO must also be satisfied that the accounting and audit arrangements are appropriate for the size and type of partnership, and the legal framework must be agreed by all the partners.
- 29.6 Unless otherwise approved by the CFO, the partnership must adopt the Council's Financial, Property, Procurement and Contract Procedure Rules where the Council is to be the designated accountable body.
- 29.7 Other partnerships will be expected to adopt appropriate governance arrangements.
- 29.8 The Audit Committee is responsible for monitoring the governance arrangements in place for the Council's key partnerships. The CFO should report to the Audit Committee at least annually on these partnerships.

## **30.0 ACCOUNTABLE BODY STATUS**

- 30.1 The approval of the CFO must be obtained before the Council agrees to act as the designated accountable body for any partnership or funding arrangement.

## **31.0 GRANTS TO THE COMMUNITY AND OTHER ORGANISATIONS**

- 31.1 The Council works with many voluntary, community and social enterprise (VCSE)



organisations to deliver services and to help achieve the Council's aims and objectives.

31.2 Corporate Directors should refer to the Procurement and Contract Rules when establishing grant schemes or paying grants. Grant conditions must be agreed and communicated to community and other organisations before bids for funding are invited and assessed. The conditions should include provision to recover funding in the event that the conditions are not fulfilled, the rights of audit, and the requirements for document retention.

31.3 The grant recipient must submit evidence of expenditure incurred and the achievement of required objectives in accordance with the published grant conditions.

## **32.0 COMMERCIAL ACTIVITIES AND INTERESTS**

32.1 The Council undertakes a range of commercial activities delivered by in-house services or through arms-length trading companies. These commercial activities are intended to deliver a return on investment and/or provide other added value to the Council. However, there are also financial and other risks associated with trading operations.

32.2 All new proposed trading operations and commercial activities therefore require the preparation of a business case by the relevant Corporate Director and the approval of the CFO before they commence.

32.3 If the trading operation or commercial activity requires the formation of a company then the approval of the Executive is also required.

32.4 The business case should include:

- the key business objectives, and how these fit with the Council's overall aims and objectives
- a full description of the legal powers and financial implications of the trading activity
- a list of the key risks, and how these will be mitigated
- a forecast of income and expenditure (including estimates of overhead costs) for the next three years
- the proposed accounting, audit and governance arrangements

32.5 The CFO will determine the minimum financial reporting requirements for the trading operation or commercial activity. The Monitoring Officer, in consultation with the CFO, will determine the legal and governance framework of the trading operation or commercial activity where it is delivered through a company. Each trading operation should prepare an annual business plan which includes a budget or financial forecast, objectives and targets. Performance against these objectives and targets should be reported regularly throughout the year.

32.6 The performance of Council owned companies should be reported to the Shareholder Committee at least annually.

32.7 Any proposed loan or grant by the Council to a trading operation or commercial activity requires the approval of the CFO. The approval of the Executive is also required if the loan or grant is over £500,000. Where a number of loans or grants

have been made in a financial year then the aggregate value should be used to determine the approval required.

- 32.8 The CFO, in consultation with the Monitoring Officer, should report any concerns about the financial management of a trading operation or commercial activity to the Audit Committee, Shareholder Committee and/or the Executive as deemed appropriate.

### **33.0 HARBOUR ACCOUNTS**

- 33.1 The CFO will determine the administrative and accounting arrangements for Scarborough and Whitby harbours, including the use of earmarked reserves and the apportionment of costs and other recharges from the general fund.

- 33.2 The CFO is responsible for preparing an annual income and expenditure statement for both harbours.

### **34.0 DEVELOPER CONTRIBUTIONS**

- 34.1 Financial and non-financial contributions from developers support investment in infrastructure and the provision of public amenities within local communities. Contributions can be secured by way of Section 106 agreements (Town and Country Planning Act 1990) or through Community Infrastructure Levy (CIL) planning charges.

- 34.2 The Council's Planning and Development Service is responsible for monitoring s106 agreements and for ensuring any financial contributions are received once the relevant planning conditions are met.

- 34.3 The CFO is responsible for recording all financial contributions received and for establishing processes to monitor the use of the funding. The Planning and Development Service will ensure financial and non-financial contributions are used for their intended purpose and in accordance with the Council's policies. This will include consulting with relevant agencies and elected members as required.

- 34.4 The CFO is also responsible for publishing an annual Infrastructure Funding Statement (IFS), showing the value of CIL charges and s106 contributions collected, the total expenditure incurred on related infrastructure and public amenities, and the purposes for which the funding was used.

### **35.0 HOUSING REVENUE ACCOUNT**

- 35.1 The Council is a housing landlord and provides properties for use by its tenants. The housing revenue account is a ring-fenced account within the Council's general fund which is used to record all income and expenditure in respect of the Council's housing stock and related services.

- 35.2 The long-term strategic aims and objectives for the management of the Council's housing stock will be set out in a 30-year Housing Revenue Account (HRA) business plan. The HRA business plan will include details of investment and funding plans.

- 35.3 The CFO will determine the administrative and accounting arrangements for the housing revenue account subject to all relevant statutory provisions and any guidance issued by the Department for Levelling Up, Housing and Communities (DLUHC).

- 35.4 The CFO will provide guidance on the apportionment of support and overhead costs

between the general fund and housing revenue account. Any apportionment of costs must be fair to both council tenants and council tax payers.

- 35.5 The CFO is responsible for ensuring any borrowing for housebuilding is undertaken in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Prudential Code of Practice and the Council's approved prudential borrowing indicators.

### **36.0 MAINTAINED SCHOOLS**

- 36.1 To reflect their particular circumstances, separate financial procedures are in place for maintained schools. These are the LMS Financial Procedure Rules and LMS Procurement and Procedure Rules. These rules preserve the essence of the Council's Financial, Procurement and Contract Procedure Rules but are adapted to reflect the specific arrangements applying in maintained schools.
- 36.2 Where this creates possible conflict or doubt, the Financial Procedure Rules and Procurement and Contract Procedure Rules will take precedence.
- 36.3 The School Finance Manual contains more detailed information in relation to particular areas such as budgets and forecasting, banking arrangements, accounting for VAT and charging for school activities.

### **37.0 VOLUNTARY FUNDS**

- 37.1 A voluntary fund is any fund which is held or controlled by the Council as trustee for the benefit of a third party and/or for a specified purpose.
- 37.2 The CFO should be informed of the purpose and nature of all voluntary funds maintained or managed by officers.
- 37.3 Annual accounts should be prepared for all voluntary funds. The accounts should be examined by a competent person independent of the fund or subject to an audit (if specifically required by the Charity Commission or CFO).
- 37.4 A copy of the annual accounts and relevant independent examiner's report or audit report should be provided to the CFO within 9 months of the financial year end. The CFO is entitled to undertake further checks, request additional information or to require a full audit of the fund if considered necessary.
- 37.5 Voluntary funds registered with the Charity Commission must also comply with all statutory registration, governance and reporting requirements. These include the preparation and submission of an annual return within the required timescales. Copies of the independent examiner's report or audit report should also be submitted if the annual income of the fund exceeds prescribed limits.

### **38.0 COURT OF PROTECTION**

- 38.1 The Court of Protection makes decisions about how the financial affairs of people who lack mental capacity will be managed. The Council may apply to the Court of Protection to be appointed as a Deputy or Appointee where a person has no close family members or anyone else suitable to undertake these roles.

38.2 The CFO is responsible for maintaining appropriate administrative and accounting arrangements for managing the assets and funds of people where the Council has been appointed as a Deputy or Appointee. The CFO will also maintain a scale of charges in accordance with Court of Protection guidelines for providing these services.

### **39.0 DOCUMENT RETENTION**

39.1 All financial and accounting documents must be retained in accordance with the Council's approved document retention period. The CFO is responsible for determining the minimum document retention periods for all finance related documents.

39.2 If the retention period is not stated then any accounting records should be retained for a minimum period of 6 years following the relevant financial year.

# 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 1<sup>st</sup> 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

<b>Council</b>	means The North Yorkshire Council
<b>Decision Record</b>	means a record of a decision produced in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
<b>Director</b>	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
<b>Directors Recommendation</b>	means a written record of the decision and justification to apply one of the exceptions set out in <b>Rule 17.2</b> to be signed and kept by the relevant Director
<b>Electronic Signatures</b>	means an advanced electronic signature which is: <ul style="list-style-type: none"> <li>(i) uniquely linked to the signatory; and</li> <li>(ii) capable of identifying the signatory; and</li> <li>(iii) created using means that the signatory can maintain under his/her sole control; and</li> <li>(iv) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.</li> </ul>
<b>E-Sourcing system</b>	means the Council’s chosen E-sourcing system
<b>FPP</b>	means the Forward Procurement Plan which outlines all future procurement requirements of the Council
<b>Framework Agreement</b>	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"> <li>(i) multiple orders to be placed with one Contractor (a single supplier framework), or</li> <li>(ii) a framework of multiple Contractors to engage in further competitions or direct award (a multiple supplier framework)</li> </ul>
<b>Gateway Process</b>	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

<b>Grant</b>	means a sum of money awarded by the Council to third parties
<b>Health Care Services</b>	means those services detailed within Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023
<b>HoP</b>	means the Head of Procurement and Contract Management
<b>Internal Audit</b>	means the Council's appointed internal auditors (currently Veritau)
<b>ITB</b>	means an Invitation to Bid
<b>ITQ</b>	means an invitation to Quote
<b>ITT</b>	means an Invitation to Tender
<b>Key Decision</b>	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
<b>Leasing Agreement</b>	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
<b>LDSO</b>	means a Legal and Democratic Services Officer
<b>Member</b>	means an elected member of the Council or co-opted member on a Council committee
<b>Monitoring Officer</b>	means the Council's appointed Monitoring Officer
<b>Officer</b>	means a Council employee or other authorised agent
<b>PAB</b>	means the Procurement Assurance Board, chaired by the HoP
<b>Participant</b>	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
<b>PSBO</b>	means Public Sector Buying Organisation
<b>PCR</b>	means the Public Contracts Regulations 2015
<b>Person</b>	means any individual, partnership, company, trust, other local authority, Government department or agency
<b>Procurement and Contract Management Service</b>	means the procurement and contract management team at the Council



<b>Procurement Manual</b>	means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules
<b>Procurement and Contract Management Strategy</b>	means the Council's approved Procurement and Contract Management Strategy
<b>Property Contract</b>	means a contract which creates an estate or interest in land or buildings
<b>PSR</b>	means The Health Care Services (Provider Selection Regime) Regulations 2023
<b>PSR Governance Process</b>	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
<b>Responsible Officer</b>	means the Officer from the directorate who is responsible for the procurement and/or management of a Contract
<b>Rules</b>	means these Procurement and Contract Procedure Rules
<b>SCM</b>	means Senior Category Manager
<b>S151 Officer</b>	means the Council's appointed Section 151 Officer
<b>Services or Supplies</b>	means as defined in Regulation 2 of the PCRs
<b>Social and Other Specific Services</b>	means those services defined as such in Schedule 3 of the PCRs
<b>SQ</b>	means the Selection Questionnaire
<b>WTO GPA Threshold</b>	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
<b>Waiver Request Form</b>	means the prescribed form to be completed when requesting a waiver in accordance with <b>Rule 17.5</b>
<b>Works</b>	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 <b>Rule 8</b>.</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 <b>Rule 8</b>.</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 <b>Rule 9</b>.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder. It does not</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>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
	need to be advertised on Find a Tender Service.	Contract details must be published on the Contract Register and on Contracts Finder.	
Above WTO GPA Threshold (currently £214,904 inclusive of VAT)	<p>Follow the appropriate procedure as set out in <b>Rules 11 and 12.</b></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). <b>AND</b> 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 <b>Rule 6.</b></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 <b>Rule 8.</b></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 <b>Rule 8.</b></p>	<p>Contract award is approved by the Responsible Officer.</p>	<p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign</p>

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
	<p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</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>on the Directors behalf).</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 <b>Rule 9</b>.</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 <b>Rule 6</b>.</p>

<b>Total Contract Value</b>	<b>Award Procedure</b>	<b>Transparency Procedure</b>	<b>Signature/Sealing Contract</b>
Above WTO GPA Threshold (currently £5,372,609 inclusive of VAT for Works)	<p>Follow the appropriate Procedure as set out in <b>Rules 11 and 12</b>.</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 <b>Rule 6</b>.</p>

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

<b>Total Contract Value</b>	<b>Award Procedure</b>	<b>Transparency Procedure</b>	<b>Signature/Sealing Contract</b>
£0 up to £5,000 (exclusive of VAT)	<p>A single quotation shall be invited in accordance with <b>Rule 8</b>.</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 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 <b>Rule 8</b>.</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</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>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 £663,540 inclusive of VAT)</p>	<p>Bids must be invited in accordance with <b>Rule 9</b>.</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 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 Register and on 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>Above UK Procurement Threshold (currently £663,540 inclusive of VAT)</p>	<p>Follow the appropriate procedure as set out in <b>Rules 11 and 12</b>.</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). <b>AND</b> 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 <b>Rule 6</b>.</p>



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

**Direct Award Process A**

<b>Total Contract Value</b>	<b>Award Procedure</b>	<b>Transparency Procedure</b>	<b>Signature/Sealing Contract</b>
£0 – £50,000 (including VAT)	Follow the appropriate procedure as set out in <b>Rule 15</b> .  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). <b>AND</b> 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 <b>Rule 6</b> .

### Direct Award Process B

<b>Total Contract Value</b>	<b>Award Procedure</b>	<b>Transparency Procedure</b>	<b>Signature/Sealing Contract</b>
£0 – £50,000 (including VAT)	Follow the appropriate procedure as set out in <b>Rule 15</b> .  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). <b>AND</b> 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 <b>Rule 6</b> .

### Direct Award Process C

<b>Total Contract Value</b>	<b>Award Procedure</b>	<b>Transparency Procedure</b>	<b>Signature/Sealing Contract</b>
£0 – £50,000 (including VAT)	Follow the appropriate procedure as set out in <b>Rule 15</b> .	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)	<p>The Gateway Process must be completed.</p> <p>An intention to award notice must be published on Find a Tender Service and to Contracts Finder.</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>	<p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
Over £663,540 (including VAT)	<p>Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder.</p>	<p>The Responsible Officer must complete the Key Decision process.</p>	<p>Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). <b>AND</b> 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 <b>Rule 6</b>.</p>

#### Most Suitable Provider Process

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 – £50,000 (including VAT)	<p>Follow the appropriate procedure as set out in <b>Rule 15</b>.</p> <p>The Gateway Process must be completed.</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 – £663,540 (including VAT)	<p>A Notice of Intention to follow the Most Suitable Provider Process must be published via Find a Tender Service</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</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
	An Intention to Award Notice must be published to Contracts Finder and Find a Tender Service. Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder.	complete the Key Decision process.	
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). <b>AND</b> 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 <b>Rule 6</b> .

### 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 <b>Rule 15</b> .  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).

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
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). <b>AND</b> 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 <b>Rule 6</b> .

**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 <b>Rule 23</b> .	The Responsible Officer must complete the Decision Record process and/or the Key Decision Process where applicable.  Contract details must be published on the Contract Register for contracts above £5,000 (excl. VAT).  Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).  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).	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 <b>Rule 23</b>.</p> <p>Where the value is below the thresholds set out in <b>Rule 19.2</b> a Competitive Grant Form must be completed.</p> <p>Where the value exceeds the thresholds set out in <b>Rule 19.2</b> 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 <b>Rule 6</b> (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**

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

	Finance - S151 Officer or delegated Assistant Director <b>AND</b> Monitoring Officer or delegated officer
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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**

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

# Staff Employment Procedure Rules

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*These Rules include the Council's Standing Orders with respect to staff in accordance with Section 8 of the Local Government and Housing Act 1989.*

## **Staff Employment Procedure Rules**

### **1. Recruitment and appointment: general**

- (a) Except where Rule 3 below applies, all vacancies for staff for the Council, not being at a weekly wage, unless they are to be filled by promotion or transfer, shall be publicly advertised, except where the Council otherwise determine; provided that if a similar vacancy occurs within six months of the filling of a vacancy which has been publicly advertised, then, subject to a qualified person having applied, one of the former applicants may be appointed without advertisement. This Rule shall not apply to teachers, nor to staff on the establishment of schools with delegated budgets under the Council's schemes for Local Management of Schools (in respect of whom, LMS Standing Orders shall be observed).
- (b) A candidate for any appointment under the Council shall when making application disclose in writing to the Corporate Director/Head of Unit concerned whether to their knowledge they are related to any Member of, or to any senior Officer of the Council, and a candidate who fails so to do shall be disqualified for such appointment and, if appointed, shall be liable to dismissal without notice.
- (c) Where relationship to a Member or Senior Officer is disclosed, the relevant provisions of the Members'/Officers' Code of Conduct shall apply.
- (d) For the purpose of this Rule "Senior Officer" means any employee of the Council who is graded at or above SM1 or its monetary equivalent, and persons shall be deemed to be related if they are husband and wife, or if either of them or the spouse of either of them is the brother or sister, son or daughter, grandson or grand-daughter, or nephew or niece of the other, or of the spouse of the other.
- (e) Where powers with respect to an appointment under the Council are exercisable by a Board of Governors or other body, any reference in paragraphs (b), (c) and (d) of this Rule to the Council shall be construed as including a reference to that body and any reference to Corporate Director/Head of Unit concerned shall be construed as a reference to the Chief Administrative Officer of that body.
- (f) The purport of this Rule shall be included in every form of application supplied for use by candidates or, in the event of no form of application being supplied, shall be communicated to the candidate in writing.
- (g) If a candidate for any appointment under the Council canvasses Members, or Members of any committee, either directly or indirectly they shall thereby be disqualified for appointment. The purport of this paragraph shall be included in any form of application supplied for use by candidates or, in the event of no form of application being supplied, shall be communicated to the candidate in writing.

- (h) A Member shall not solicit for any person any appointment under the Council, or recommend any person for such appointment or for promotion but this paragraph shall not preclude a Member from giving a written testimonial of a candidate's ability, experience or character for submission to the Council, or to a committee, with an application for appointment, or from speaking and voting in support of a candidate's claims at a meeting of the Council or a committee.

## **2. Appointment of Head of Paid Service**

The Head of Paid Service (i.e. the Chief Executive Officer) shall be appointed according to the provisions of Rule 3 below, save that:-

- ♦ references in Rule 3 to functions being performed by the Chief Executive Officer shall be read as those functions being performed by the first named of the following Officers who is available to act and not themselves a candidate: Corporate Director of Environment, Corporate Director of Resources, Assistant Chief Executive HR and Business Support;
- ♦ references to functions being performed by a sub-committee of the Chief Officers Appointments and Disciplinary Committee shall be read as those functions being performed by the committee itself; and
- ♦ the Council must approve the appointment before an offer of appointment is made.

## **3. Appointment of Chief Officers**

- (a) Whenever a vacancy occurs amongst the Chief Officers, the Chief Executive Officer shall consult with the Leader, the relevant Portfolio Holder and group spokespersons on the relevant overview and scrutiny committee to decide whether the Council should be requested to consider and approve the duties and salary of the post before the post is filled. Pending any such reconsideration by the Council and the filling of the post, the Chief Executive Officer may, if they think fit, appoint some person within the establishment to discharge temporarily the duties of the post until a successor is appointed.
- (b) Where it is proposed to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among existing Officers of the Council, the Chief Executive Officer shall, after consultation with the Leader, the appropriate Portfolio Holder and group spokespersons on the relevant Overview and Scrutiny Committee:
- (i) draw up a statement specifying:-
    - (1) the duties of the Officer concerned; and
    - (2) any qualification or qualities to be sought in the person to be appointed;
  - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and



- (iii) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.
- (c) (i) Where a post of Chief Officer has been advertised, the Chief Officers Appointments and Disciplinary Committee shall appoint a sub-committee to:-
  - (1) interview all qualified applicants for the post; or
  - (2) select a short list of such qualified applicants and interview those included on the short list.
- (ii) Where no qualified person has applied, further arrangements for advertisement shall be made in accordance with (b) above.
- (d) All permanent appointments as a Chief Officer shall, unless the Council otherwise directs, be made by the sub-committee referred to in (c) above, and shall be reported to full Council at the first available opportunity.
- (e) Both the Chief Officers Appointments and Disciplinary Committee, and any sub-committee appointed under (c) above, must include at least one Member of the Executive.
- (f) The determination of the remuneration and other terms and conditions which shall apply to a Chief Officer post on appointment must comply with the Pay Policy Statement, provided that if it is proposed to make an appointment on terms and conditions which do not comply, the matter shall be referred to full Council for consideration as to whether the Pay Policy Statement should be amended prior to a final offer being made to any candidate.
- (g) Any amendments proposed to Chief Officer remuneration and other terms and conditions, which would comprise an amendment to the Pay Policy Statement, shall be considered by the Chief Officers Appointments and Disciplinary Committee (or, in the case of Assistant Directors and Assistant Chief Executives, by the Chief Executive Officer) and recommended by them to full Council for approval.
- (h) The Director of Public Health must be appointed jointly by the Council and the Secretary of State.

#### **4. Other appointments**

**Officers below Chief Officer.** Appointment of Officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

## 5. Right of the Leader to object to proposed senior appointments

- (a) This Rule applies to:
- ♦ all Chief Officers including the Chief Executive Officer and all Corporate Directors;
  - ♦ all Assistant Chief Executives;
  - ♦ all staff (other than those undertaking purely clerical secretarial and support services) who report directly to the Corporate Directors and the Assistant Chief Executives.
- (b) An offer of appointment as an officer to whom this Rule applies shall not be made until:
- (1) the person or body wishing to make the appointment ("the appointor") has notified the Assistant Chief Executive HR and Business Support of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (2) the Assistant Chief Executive HR and Business Support has notified every Member of the Executive of the authority of -
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the Assistant Chief Executive HR and Business Support; and
    - (iii) that within three clear working days any objection to the making of the offer may be made by the Executive Leader on behalf of the Executive to the Assistant Chief Executive HR and Business Support; and
  - (3) either
    - (i) the Executive Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither the Leader nor any other member of the Executive has any objection to the making of the offer;
    - (ii) the Assistant Chief Executive HR and Business Support has notified the appointor that no objection was received by them within that period from the Executive Leader; or
    - (iii) the appointor is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.

## **5A. Appraisal of the Chief Executive Officer**

- (a) On an annual basis a formal appraisal of the Chief Executive Officer shall be carried out by the Leader of the Council. The appraisal shall be conducted following consultation by the Leader with the members of the Executive and the leaders of the political groups upon the Council.
- (b) Where the outcome of the appraisal will affect the terms and conditions of the Chief Executive Officer, the matter will be referred to the Chief Officers Appointments and Disciplinary Committee for it to determine any necessary changes to such terms and conditions (as the power to determine the terms and conditions on which staff hold office is a non-executive function).

*NOTE 1: for the avoidance of doubt, issues such as the award (or non-award) of an increment within the grade band of the Chief Executive Officer will not amount to a change in their terms and conditions necessitating a referral to the Chief Officers Appointments and Disciplinary Committee.*

- (c) Where, on appraisal of the Chief Executive Officer, the Leader and/or the Chief Officers Appointments and Disciplinary Committee determines that an increment should not be awarded, the Chief Executive Officer will have a right of appeal to the Employment Appeals Committee.

## **6. Disciplinary Action and Dismissal**

- (a) The function of dismissal of, or taking disciplinary action against any member of staff below Chief Officer must be discharged on behalf of the Council by the Head of Paid Service or by an Officer nominated by them; and Councillors will not be involved in the dismissal of, or disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow Member involvement in respect of certain appeals against disciplinary action.
- (b) Where a Committee, Sub-Committee or officer is discharging, on behalf of the Council, the function of dismissing the Head of Paid Service, the Monitoring Officer or the Section 151 Officer, the Council must approve that dismissal before notice of dismissal is given after taking into account, in particular:
  - (a) any advice, views or recommendations of the Chief Officers Disciplinary Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the Head of Paid Service, the Monitoring Officer or the Section 151 Officer.

The Chief Officers Disciplinary Panel must include at least two independent persons appointed under section 28(7) of the Localism Act 2011. Appointments to the Panel must be made at least 20 working days before the relevant Council meeting.

- (c) Where a Committee or Sub-Committee is discharging, on behalf of the Council the function of the dismissal of any Chief Officer at least one Member of the Executive must be a Member of that Committee or Sub-Committee.
- (d) Notice of the dismissal of an Officer to whom Rule 5(a) applies must not be given until:
  - (1) the person or body wishing to give the notice ("the dismissor") has notified the Assistant Chief Executive HR and Business Support of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (2) the Assistant Chief Executive HR and Business Support has notified every Member of the Executive of the authority of -
    - (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Assistant Chief Executive HR and Business Support: and
    - (iii) that within three clear working days any objection to the dismissal may be made by the Executive Leader on behalf of the Executive to the Assistant Chief Executive HR and Business Support; and
  - (3) either:-
    - (i) the Executive Leader has within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither the Leader nor any other Member of the Executive has any objection to the dismissal;
    - (ii) the Assistant Chief Executive HR and Business Support has notified the dismissor that no objection was received by them within that period from the Executive Leader; or
    - (iii) the dismissor is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.
- (e) In this rule, "disciplinary action" means any action occasioned by alleged misconduct which, if proved, would (according to the usual practice of the Council) be recorded on the member of staff's personal file, and includes any proposal for dismissal for any reason other than redundancy or permanent ill health or infirmity of mind or body, but does not include failure to renew a fixed term contract, unless the Council has undertaken to renew it.
- (f) The Council must consult the Secretary of State before dismissing the Director of Public Health (although the Secretary of State cannot veto the Council's final decision on dismissal).

**7. Interests of Officers in Contracts**

The Monitoring Officer shall record in a book to be kept for the purpose particulars of any notice given by an Officer of the Council under Section 117 of the Local Government Act 1972 of a pecuniary interest in a contract, and the book shall be open during office hours to the inspection of any Member of the Council.

**8. Equalities Policy**

All action in relation to the recruitment, promotion, training, development and discipline of staff shall be taken with due regard to the Council's Equalities Policy.

**9. Interpretation of Rules 5 and 6**

Where an appointment is to be made to the post of Assistant Chief Executive HR and Business Support, or it is proposed to dismiss the Assistant Chief Executive HR and Business Support, the functions specified in Rules 5 and 6 as functions of the Assistant Chief Executive HR and Business Support shall be undertaken instead by the Assistant Chief Executive Legal and Democratic Services.

# Property Procedure Rules

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## PROPERTY PROCEDURE RULES

*These Rules constitute the Council's Standing Orders in relation to property contracts and the management of property.*

### 1.0 INTRODUCTION AND KEY PRINCIPLES

#### 1.1 These terms will have the following meanings in the Property Procedure Rules:-

**Asset Management System**

Asset Management software package that contains Property information

**ACELDS**

The Assistant Chief Executive Legal and Democratic Services

**Acquisition**

The acquisition of Property by the Council by whatever means, including but not limited to:

- a purchase or a lease
- an option for a purchase or a lease
- a new lease for a Property previously leased in (a lease renewal), including an option to renew contained in an existing lease
- a Co-habitation Arrangement with another organisation in a non-Council Property
- the surrender or assignment of a lease to the Council, including the operation of a break clause

but excluding:

- a mortgage of Property owned by a third party in favour of the Council
- a licence with a term of no more than one year and at a fee of no more than £15,000

**Co-habitation Arrangement**

An arrangement with a third party to use space in a Council Property or for the Council to use space in a third party's Property without a lease or licence or the payment of a rent or fee, but normally with payments for a share of running costs. This often relates to space shared by cross-organisation teams.

**Compulsory Purchase Order**

An order for the acquisition of land authorised by or under an Act to enable the acquisition of land compulsorily in order to carry out statutory functions, such as to develop land or construct road schemes

**Council**

North Yorkshire Council

<b>County Farms estate</b>	All of the Council's agricultural Property
<b>CDR</b>	The Corporate Director of Resources
<b>Director</b>	A Corporate Director of the Council including the Chief Executive Officer
<b>Disposal</b>	<p>The disposal of Property by the Council by whatever means, including but not limited to:</p> <ul style="list-style-type: none"> <li>• a sale</li> <li>• a grant of a lease</li> <li>• the surrender or assignment of a lease by the Council including the operation of a break clause</li> <li>• a Co-habitation Arrangement with another organisation in a Council Property</li> <li>• the grant of a licence of all or part of a Property to a third party</li> </ul> <p>but excluding:</p> <ul style="list-style-type: none"> <li>• the granting of a mortgage in respect of Property owned by the Council</li> <li>• a licence with a term of no more than one year and at a fee of no more than £15,000</li> </ul>
<b>Heads of Terms</b>	A document which sets out the terms of a Property transaction agreed in principle between the parties during the course of negotiations
<b>Licence from a third party</b>	An agreement for the non-exclusive use of Property owned by a third party. This is usually limited by hours of operation or by sharing occupation
<b>Licence to a third party</b>	An agreement for use of Council owned Property by a third party. This is usually limited by hours of operation or by sharing occupation
<b>Market Rent</b>	The estimated amount for which Property should be leased after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion



<b>Market Value</b>	The estimated amount for which a Property should exchange after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion
<b>Officer</b>	A Council employee or other authorised agent
<b>Officer of the Property Service</b>	A Council employee within the Property Service whose role, competence or, where required, professional qualification enables them to undertake the relevant task. Their competence will be determined by the CDR
<b>Property</b>	Any estate or interest in land
<b>Property Contract</b>	A contract relating to Property including (but not limited to) transfers, leases, options, easements, (except easements for highway drainage granted under, or as a consequence of an agreement made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980) tenancy agreements, licences, and variations and releases from restrictive covenants, user rights granted under local government reorganisation arrangements and wayleaves, but excluding those contracts entered into by school governing bodies under their delegated powers
<b>Property Portfolio</b>	All of the Property held by the Council
<b>Property Service</b>	The Council's team of Officers who manage the Property Portfolio
<b>Reallocation of Property</b>	The re-allocation of a Property by the Council for a purpose different to that for which it has hitherto been used including to disposal
<b>Subsidy Control</b>	The system for regulating public sector or economic interventions as set out in subsidy control legislation and guidance
<b>Tenderer</b>	A person who has expressed an interest in tendering for a Property Contract or who has tendered for a Property Contract

1.2 The Property Procedure Rules (PPR) form part of the overall control framework within which North Yorkshire Council operates. They aim to facilitate sound, innovative service delivery in the administration of all Property matters throughout the Council, supporting effective Property management that provides value for money and good decision-making.

1.3 The PPR should be read in conjunction with the Financial Procedure Rules and the Procurement and Contract Procedure Rules (together with other relevant parts of the Constitution).

1.4 All decisions taken under the PPR must be in accordance with all relevant legal requirements and government guidance, including: -

- (a) Acts of Parliament; and
- (b) Statutory Instruments

1.5 The PPR apply to all Property, subject to the following exceptions: -

Property type	Exception	Person / Body with Responsibility
Operational Landfill Sites	Day-to-day management.	Corporate Director of Environment
Nursery schools Primary Schools Secondary Schools Special Schools Pupil Referral Units	Day-to-day management. Investment decisions.	Corporate Director Children and Young People's Service and Schools' Governing Bodies
Property designated as an event venue which is hired out for functions including entertainment and other events, conferences, and exhibitions.	Authority to negotiate and enter into agreements for the hire of the venue for functions including events, conferences, and exhibitions and the supply of associated services.	Corporate Director of Community Development

The Rules apply to all activities associated with the ownership and occupation, and management of Property which include, but are not limited to: -

- (a) a future or current Property transaction involving the Council
- (b) the re-allocation of a Property to a new use by the Council
- (c) the payment of Property-related compensation by or to the Council
- (d) investment in a Property by the Council
- (e) the strategic and operational management of Property used by the Council.

1.6 Where a decision is made under these Rules in respect of investment in a Property by the Council or the management of Property used by the Council and that decision necessitates a procurement of works or services then the Procurement and Contract Procedure Rules will apply.

1.7 All Property owned or occupied by the Council is held and managed as a corporate resource. Responsibility for its management lies with the Corporate Director of Resources (CDR), and is delivered through the Property Service in accordance with arrangements determined by the CDR.

1.8 The CDR is authorised to acquire, manage and dispose of all Property held by the Council in accordance with these Rules and the Council's budgetary and policy framework.

For the avoidance of doubt this authority includes, but is not limited to: -

- (a) Acquisitions and disposals, including leases and licences
- (b) Renewals of leases and licences

- (c) Management of all Property, including the allocation of operational space (including for both Council and third party use) the management of associated facilities, the commissioning of all facilities services and the reallocation of Property
- (d) Repair and maintenance of all Property. This includes, but is not limited to, repair and maintenance obligations relating to Property ownership, contributions to maintenance and repair carried out by third parties, service charge obligations and dilapidations
- (e) Investment in all Property. This includes, but is not limited to, the commissioning and delivery of construction projects and contributions to third parties.

The CDR will exercise their delegated powers to ensure efficiency within the management of the Property Portfolio and the delivery of associated services.

- 1.9 The CDR will ensure that arrangements are in place so that all decisions taken in accordance with these Rules are informed by Officers in the Property Service, or consultants commissioned by them, who are competent to do so. These decisions will take account of both future and contingent liabilities arising from the properties as such liabilities will be the responsibility of the Property Service.
- 1.10 Officers employed in Service Directorates or services other than the Property Service are not authorised to make the decisions referred to in these Rules except where stated explicitly.
- 1.11 The CDR will maintain a forward schedule of decisions that are to be taken under these Rules.
- 1.12 The CDR will also maintain a schedule of all decisions that have been taken under these Rules.
- 1.13 References in these Rules to:-
  - (a) any legislation (including but not limited to Act of Parliament, Statutory Instrument) include a reference to any amendment or re-enactment of such legislation;
  - (b) the singular include the plural and vice versa;
  - (c) the masculine include the feminine and vice versa;
  - (d) Reference to the CDR and the Assistant Chief Executive Legal and Democratic Services (ACELDS) shall be taken to include such Officers as are designated by them to undertake the duties and responsibilities set out in these Rules.

## **2.0 APPLICATION**

- 2.1 The Rules apply to Property (any estate or interest in land).
  - 2.1.1 Land is the land surface, everything below the surface, buildings and other structures on or under the surface, and such airspace as is reasonably necessary for the ordinary use of the land.
  - 2.1.2 Land also includes plant, equipment and other things fixed to a building that could not be removed without damaging the fabric of the building.
- 2.2 Under these Rules, a Property transaction is a transaction that affects a Property, including but not limited to: -

- (a) a freehold/ leasehold transfer
- (b) a lease or tenancy agreement
- (c) a licence to use
- (d) a recurring hiring in or a recurring hiring out or a one-off hiring out or a one-off hiring in
- (e) an option
- (f) user rights granted under local government reorganisation arrangements
- (g) a co-habitation arrangement with another organisation either in or out
- (h) a wayleave
- (i) an easement (except as excluded by Rule 2.3)
- (j) a mortgage
- (k) a legal charge
- (l) variations and releases from restrictive covenants

2.3 Under these Rules a Property transaction is not:

- (a) an easement for highway drainage granted under or as a consequence of an agreement made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980
- (b) a contract entered into by a school governing body under its delegated powers including hirings out.
- (c) a one-off hiring in for a formal Council event.
- (d) a hiring of any or all of the Harrogate Convention Centre, Scarborough Spa, Whitby Pavilion and Scarborough's Open Air Theatre (see also Rule 1.5).

2.4 The management of the Council's housing stock is excluded from the application of these Rules

2.5 A decision about a Property transaction is a decision in respect of Property, which includes, but is not limited to, a decision to:-

- (a) acquire or dispose an estate or interest in Property by any means
- (b) acquire or dispose a licence or hiring
- (c) surrender or accept a surrender of a lease or tenancy agreement or licence
- (d) operate / not operate a break clause in a lease or tenancy agreement
- (e) implement conditional terms contained within a Property contract
- (f) vary or release restrictive covenants
- (g) change the terms of a transaction after it has been completed
- (h) implement and agree rent reviews under a lease or tenancy agreement
- (i) impose or accept or remove a restriction on title
- (j) provide or secure or discharge a mortgage.

2.5 A Property-related compensation payment is a payment made under the Land Compensation Act 1973 or other legislation covering highway schemes or other projects. It can be made either: -

- (a) by the Council to another party; or
- (b) to the Council by another party.

It includes payments in relation to claims known as 'Part 1' and 'Section 10'.

2.6 Under these Rules an investment in a Property is considered to be one that takes the form of capital or revenue expenditure that results in one of the following:-

- (a) responsive maintenance to a Property
- (b) preventative maintenance to a Property
- (c) planned maintenance of a Property
- (d) a response to compliance issues at a Property
- (e) the securing of an empty Property
- (f) improvement of a Property (a project)
- (g) addition of accommodation (a project)
- (h) demolition of all or part of a building or structure.

### **3.0 GENERAL ARRANGEMENTS**

#### **Approvals**

- 3.1 All decisions and approvals under these Rules must be made in accordance with the provisions outlined below and in accordance with the Access to Information Procedure Rules and any other relevant parts of the Constitution including (but not limited to) the Financial Procedure Rules and the Procurement and Contract Procedure Rules.
- 3.2 All decisions under these Rules must be made in writing and entered in the schedule of decisions (except where specified otherwise in these Rules) that will be maintained (here, 'writing' includes decisions recorded in the Asset Management System.)
- 3.3 The only exceptions to rule 3.2 are: -
- (a) a decision for a one-off hiring out; or
  - (b) a decision to commission investment in a Property, including individual responsive maintenance projects, where the value is £50,000 or less.

These decisions can be approved under other operational delegated authorities.

- 3.4 A proposed decision and its approval must take into account, along with all relevant considerations, value for money to the Council, including in relation to any alternative options that are considered.

#### **Compliance**

- 3.5 All Property decisions must be taken in accordance with these Rules unless a waiver is granted under Rule 3.8.
- 3.6 Each Corporate Director or Assistant Chief Executive must ensure that Officers within their directorate and consultants working for the Council are aware of the Rules and must take all reasonable steps to ensure that Officers and consultants comply with them. Failure to comply with the Rules may lead to disciplinary action.
- 3.7 The **CDR** must monitor adherence to these Rules.

#### **Waivers**

- 3.8 The CDR in consultation with the ACELDS may grant a case-specific waiver to the application of the Rules, except in relation to Rules 1.6 and 9.2. A waiver must be recorded in writing.

## **Review**

- 3.9 The CDR, in consultation with the ACELDS, shall periodically review the application and effect of these Rules and report to the Audit Committee on the outcome, including any proposed amendments to the Rules.

## **4.0 ALL PROPERTY TRANSACTIONS**

### **Identifying Need**

- 4.1 Officers in a directorate may identify the possible need for a Property transaction from an operational service point of view.
- 4.2 Any report that is required covering changes to service delivery and associated decisions that necessitate a Property transaction may be arranged by the Corporate Director who manages the affected service. Where this is the case, the CDR will provide confirmation for the report that the proposed transaction is appropriate and required.
- 4.3 Officers in a directorate must not:-
- (a) make contact with an owner or agent or possible tenant about a specific Property;
  - (b) discuss or negotiate or agree any terms for a Property transaction with an owner or agent or possible tenant.
- 4.4 Officers in the Property Service may identify the possible need for a Property transaction or identify other decisions linked to a Property transaction from a strategic or operational point of view.
- 4.5 The CDR must approve any identification of need for a Property transaction, in so doing taking account of, amongst other relevant factors, likely capital and revenue cost implications and must confirm that appropriate funds are available before any action is taken by the Property Service.

### **Approving in principle proposals**

- 4.6 Only Officers in the Property Service can: -
- (a) submit a report with a proposed in principle decision for approval;
  - (b) provide the Property input to a report to the Executive that covers both service and Property transaction issues and provide the wording for a resolution related to a proposed Property transaction.
- 4.7 The value to be used to determine the approval arrangement for a proposed decision is the value as estimated by an Officer in the Property Service or by a consultant appointed to provide Property advice or services, at the time that the report about the decision is prepared. It is recognised that the actual value may differ from that identified in the in principle report.

### **Negotiating and instructing**

- 4.8 Only Officers in the Property Service can instruct a consultant to negotiate terms for a proposed Property transaction.

4.9 Only Officers in the Property Service or in a consultancy appointed to provide Property advice or services can:-

- (c) negotiate the terms of a proposed Property transaction
- (d) propose terms for approval.

4.10 Rule 4.9 does not prevent an in principle decision from setting terms that are critical to that decision.

### **Approving terms**

4.11 The CDR can approve the proposed terms of a Property transaction (Heads of Terms).

4.12 Terms must be approved only if they are in accordance with the in principle decision. If they are not in accordance then a new decision is required.

### **Entering into a Property contract or documenting the implementation of the decision**

4.13 A Property contract can be completed only if approval has been given to the transaction in accordance with these Rules.

4.14 The ACELDS shall ensure that the Council has the legal power to enter into a specific Property contract and that the Council does not enter into a contract which is ultra vires.

4.15 The ACELDS must prepare and complete the documentation for a Property contract in accordance with the approved terms, subject to:

- (a) any variations agreed with the Corporate Director of Resources
- (b) any further terms as the ACELDS considers are appropriate and in the best interests of the Council
- (c) the specific arrangements set out in Rule 4.17.

4.16 A Property contract must be signed or sealed in accordance with the provisions of Section 11 of these Rules.

### **Management of Property transactions after their completion**

#### **Approval for Rent Reviews**

4.17 The CDR may approve the completion of a rent review memorandum provided that the original lease included provisions for the rent review.

#### **Variation of lease terms**

4.18 The CDR may approve any variation to the terms of an existing lease or other agreement (including the grant of a licence to assign or sublet) except that, if the variation would result in a decrease to the rent or licence fee, Rule 5.2 shall apply.

### **Lease management of a Lease In**

4.19 The CDR may approve any lease management action provided that the proposal would result in the rent or licence fee being static or decreasing. In the event that the Council's rent or licence payment were to increase then the approvals identified at Rule 5.3 will apply

A lease management action for this rule includes:

- (a) a variation of the terms of a lease, licence or other agreement.
- (b) obtaining a licence to assign or sublet.
- (c) exercising a break clause or other surrender of a lease, licence and other agreement.

### **Lease management of a Lease Out**

4.20 The CDR may approve any lease management action provided that the proposal would result in the rent or licence fee being static or increasing

- (a) a lease management action for the rule includes:
- (b) a variation of the terms of a lease, licence or other agreement except those related to rent or fee
- (c) a grant of a licence to assign or sublet.

### **Dilapidations Claims**

4.21 The CDR may approve the settlement of dilapidations claims where the Council is landlord or tenant, and to any value.

### **Release or variations of restrictive covenants**

4.22 In respect of the release or variation of restrictive covenants:-

- (a) the CDR may approve any release or variation up to and including £500,000 in value;
- (b) the Executive Member for Finance and Assets may approve any release or variation up to and including £1,000,000 in value;
- (c) the Executive may approve any release or variation and must approve any release or variation over £1,000,000 in value.

For the purposes of this Rule, the value is the value of the payment to effect the release or variation.

### **Restrictions on Title**

4.23 The CDR may instruct the ACELDS to place or remove restrictions on the title of any Property owned by the Council, or to place restrictions on the title of Properties owned by third parties, provided that such restrictions are to secure a grant or other loan to or from the Council.

### **County Farms Management**

4.24 The CDR may approve any transaction associated with the management of the County Farms estate provided that the proposal is in accordance with, or not in conflict with, the County Farms estate policy.



## Other approvals

- 4.25 A decision that is required to change the status of land from being highway maintained at the public expense in order to allow the land to be used for another purpose by the Council or for disposal is made under separate arrangements under the Constitution. Such a decision must be taken before a decision is taken under these Rules about the future of the site.

## 5.0 PROPERTY TRANSACTIONS – ACQUISITIONS – ADDITIONAL ARRANGEMENTS

### Approvals

- 5.1 In respect of the Acquisition of Property other than by lease or licence or other agreement for a rent or licence fee or other annual payment or by option:-
- (a) the CDR may approve any Acquisition up to and including £500,000 in value;
  - (b) the Executive Member for Finance and Assets may approve any Acquisition up to and including £1,000,000 in value;
  - (c) the Executive may approve any Acquisition and must approve any Acquisition over £1,000,000 in value;

For the purposes of this Rule, the value in relation to the surrender of a lease to the Council is the capitalised value of the rent or licence fee foregone as a result of the surrender.

- 5.2 Subject to Rule 5.3 in respect of the Acquisition of Property by lease or licence or other agreement for a rent or licence fee or other annual payment:
- (a) the CDR may approve any Acquisition where the annual rent or fee or other annual payment is up to and including £150,000;
  - (b) the Executive Member for Finance and Assets may approve any Acquisition where the annual rent or fee or other payment is up to and including £250,000;
  - (c) the Executive may approve any Acquisition and must approve any Acquisition where the annual rent or fee or other annual payment is more than £250,000;

For the purpose of this Rule, the annual rent or fee or other annual payment means the initial rent or fee or other annual payment payable by the Council (but ignoring any discount or rent-free period).

- 5.3 In the case of the payment of a premium by the Council for a lease the approvals required shall be sought according to the value bands in Rule 5.1.
- 5.4 In respect of the Acquisition of Property by option:
- (a) the CDR may approve the securing of an option providing that the anticipated total cost payable to secure the option does not exceed the available budget provision
  - (b) the Executive may approve the securing of an option and must approve the securing of any option for which the anticipated total cost payable to secure the option exceeds the available budget provision
  - (c) approval for the exercise of any option shall be subject to the same value bands as set out in Rules 5.1 and 5.2
  - (d) should it become necessary to vary the terms of an existing option, approval shall be sought subject to the same value bands as set out in Rules 5.1 and 5.2

For the purpose of this Rule, the relevant value for securing options is the cost of securing the option plus the value of the resulting transaction. The relevant value for exercising options is the value of the transaction to be entered into.

### **Funding**

- 5.5 No approval must be sought for the acquisition of a Property unless budget provision has been made for the cost of acquisition and any one-off or recurring expenditure as a result of the acquisition.
- 5.6 If a directorate is funding the cost of an acquisition that will form part of the Property Portfolio then it must transfer base budget to the Property Service budget for day-to-day running costs (for the avoidance of doubt this includes, but is not limited to, rent, service charge and insurance rent) and for repair and maintenance in the event that liability will be incurred.
- 5.7 The availability of the funding referred to at 5.5 and 5.6 must be confirmed by the CDR.

### **Transactions at over value**

- 5.8 A transaction may be approved at a price that is above the Market Value or at a rent that is above the Market Rent if it would be in the Council's best overall interest and in line with the Council's fiduciary duty to the taxpayer. The opinion as to the Market Value or Market Rent is that of an Officer of the Property Service or in a consultancy appointed to provide Property advice or services.
- 5.9 If the likelihood of such a transaction is known when the report for the in principle decision is being written then the report must include:
- ◆ A detailed justification for the transaction on this basis.
  - ◆ An assessment of the legal implications by the ACELDS associated with Subsidy Control; and
  - ◆ A statement about how any Subsidy Control issues have or will be resolved by the directorate wishing to acquire the Property.
- 5.10 If the best terms that can be agreed for a transaction are above the Market Value or Market Rent then before the terms are approved:
- (a) The CDR must be informed.
  - (b) Any Subsidy Control issues must be identified by the ACELDS.
  - (c) Any Subsidy Control aid issues must be resolved by the directorate wishing to acquire the Property.

### **Auction or tender**

- 5.11 If the Council wishes to acquire a Property that is for sale or for lease by an auction or by a formal tender exercise or an informal tender exercise then:
- (a) An in principle decision must be sought as with any other acquisition.
  - (b) A valuation of the Property must be obtained from an Officer of the Property Service or a consultancy appointed to provide Property advice or services.
  - (c) An upper limit upon the value for a bid must be agreed by the CDR.

- (d) The bid must be placed by an appropriately qualified officer in the Property Service or in a consultancy appointed to provide Property advice or services.

### **Compulsory purchase**

- 5.12 If a Corporate Director, in consultation with the CDR and the ACELDS considers that it is necessary to use compulsory powers to acquire Property in connection with a Council function then the Corporate Director must seek:
- (a) all necessary approvals in respect of the cost of the acquisition.
  - (b) approval from the Executive to the proposed exercise of the powers
  - (c) all other approvals as are necessary to enable the compulsory powers to be used, including approvals from the Secretary of State.
- 5.13 An approval given by the Executive to use compulsory powers is deemed to include the in principle approval to acquire the Property that is the subject of the Compulsory Purchase Order using the powers or by negotiation regardless of: -
- (a) the number of sites to be acquired
  - (b) the value of the sites to be acquired.

### **Hirings in – recurring**

- 5.14 A recurring hiring in is a sessional booking that occurs on a repeat basis.
- 5.15 Recurring hirings in are handled in the same way as any other acquisition transaction.

## **6.0 PROPERTY TRANSACTIONS – DISPOSALS – ADDITIONAL ARRANGEMENTS**

### **General**

- 6.1 The CDR is authorised, in accordance with the Council’s budgetary and policy framework, to implement all processes required in accordance with good practice to ensure that all Property disposals comply with all relevant legislation, codes of practice and guidance.
- 6.2 The best consideration must be obtained for a disposal in order to meet the requirements of Section 123 of the Local Government Act 1972 – subject to the provisions set out in rules 6.7 to 6.10.
- 6.3 If a Property was purchased or improved using grant funding then the disposal and allocation of proceeds must comply with any grant conditions. Any grant conditions that conflict with these Rules take precedence. If there is a conflict then the advice of the CDR and the ACELDS must be sought before an in principle approval is given.

### **Approvals**

- 6.4 Subject to Rule 6.7 in respect of the Disposal of Property other than by lease or license or other agreement for a rent or license fee or other annual payment: -
- (a) the CDR may approve any Disposal up to and including £1,000,000 in value;
  - (b) the Executive Member for Finance and Assets may approve any Disposal up to and including £1,500,000 in value;

- (c) the CDR may approve any Disposal of Property that forms part of the County Farms estate, irrespective of value
- (d) the Executive may approve any Disposal and must approve any Disposal over £1,500,000 in value subject to Rule 6.4(c)

For the purpose of this Rule, the value in relation to options means the value of the transaction resulting from the option and not the value of the option itself. For the purposes of this Rule, the value in relation to the surrender of a lease by the Council is the capitalised value of the rent or licence fee which would have been paid, but for the surrender.

6.5 Subject to Rules 6.6 and 6.7 in respect of the Disposal of Property by lease or license or other agreement for a rent or license fee or other annual payment: -

- (a) the CDR may approve any Disposal where the annual rent or fee or other annual payment is up to and including £150,000;
- (b) the Executive Member for Finance and Assets may approve any Disposal where the annual rent or fee or other annual payment is up to and including £250,000
- (c) the Executive may approve any Disposal but must approve any Disposal where the annual rent or fee or other annual payment is more than £250,000

For the purpose of this Rule, the annual rent or fee or other payment means the initial rent or fee payable or other payment to the Council (but ignoring any discount or rent-free period). For the purposes of this Rule in relation to options, the annual rent or fee means the initial rent or fee payable to the Council under the lease or licence resulting from the option.

6.6 In the case of the Disposal of Property by lease where a premium is payable to the Council the approval required shall be sought pursuant to the value bands referred to in Rule 6.4.

### **Transactions at under value**

6.7 A transaction may be approved at a price or rent that is at less than best consideration if it would be in the Council's best overall interest and in line with the Council's fiduciary duty to the taxpayer and providing that it is permitted under a general consent issued by central government.

6.8 A report proposing such a transaction must include:

- (a) the justification for undertaking the transaction at less than best consideration
- (b) the authority that is to be used
- (c) an assessment of the legal implications about any Subsidy Control from the ACELDS
- (d) a statement about how any Subsidy Control issues have or will be resolved.

6.9 In respect of Disposal of Property other than by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:-

<b>Approver</b>	<b>Maximum market value</b>	<b>Maximum undervalue authority</b>
Corporate Director of Resources	£50,000	100%
Corporate Director of Resources	£250,000	50%
Executive Member for Finance and Assets	£250,000	100%
Executive Member for Finance and Assets	£500,000	50%
Executive	No limit	100% except where the undervalue is £2m or more
Secretary of State	No limit	No limit

- 6.10 In respect of Disposal of Property by lease or licence or other agreement for rent or licence fee or other annual payment the relevant approvals shall be sought in accordance with the following:-

<b>Approver</b>	<b>Maximum annual rental value</b>	<b>Maximum undervalue authority</b>
Corporate Director of Resources	£25,000	100%
Corporate Director of Resources	£50,000	50%
Executive Member for Finance and Assets	£25,000	100%
Executive Member for Finance and Assets	£100,000	50%
Executive	No limit	100% except where the undervalue is £2m or more
Secretary of State	No limit	No limit

In respect of Disposal of Property by lease or licence involving the payment of a premium the approvals shall be sought according to the value bands in the table in Rule 6.9 above.

For the purposes of this Rule, the undervalue is the difference between the unrestricted value of the Property to be disposed of and the consideration for the disposal.

### **Statutory Transfers**

- 6.11 The CDR will approve all transfers that are required by or under statute. This includes transfers to a diocesan body under the School Standards and Framework Act 1998 or to an academy trust under the Academies Act 2010. The approval will include the extent of the transfer and can include any other terms that are critical to the decision, as for any other transaction.

### **External consents**

- 6.12 The Corporate Director Children and Young People's Service, or person nominated by them, must seek any external approvals required in the relation to the disposal of

school Property that falls under Section 77(1) of the School Standard and Framework Act 1998 and or Schedule 1 under the Academies Act 2010.

6.13 The CDR must seek all other external consents that may be required for a transaction.

#### **Hirings out – one-off and recurring**

6.14 The CDR may enter into agreements with individuals and organisations to hire out Properties, or parts of Properties, on both one-off and recurring bases.

#### **Right to Buy under the Housing Act 1985**

6.15 The ACELDS, in consultation with the CDR, will consider and determine the application of the right to buy to a Property.

6.16 If the right to buy is accepted, then the ACELDS must dispose of the Property in accordance with the Housing Act 1985.

#### **Method of disposal**

6.17 All relevant factors must be taken into account in selecting the most appropriate method of disposal of a Property, including, but not limited to:-

- (a) the likely value of the Property
- (b) the potential market for the Property
- (c) the likelihood of obtaining alternative planning consents for the Property
- (d) the effect of alternative planning consents upon value
- (e) the costs of interim management (including security) and of disposal (including advertising and other marketing)
- (f) the likely time required to reach completion.

#### **Disposal by tender**

6.18 This Rule 6.18 applies to all Disposals of Property by tender whether the tender is subject to contract or is capable of immediate acceptance.

6.19 A tender may only be considered if:-

- (a) it has been received in a sealed envelope marked "Tender" and indicating the Property referred to in the tender; and
- (b) the identity of the Tenderer cannot be ascertained from the tender envelope; and
- (c) subject to Rule 6.20, the tender has been returned to the ACELDS before the tender closing date (which shall be a time and date when County Hall is open for business).

6.20 The ACELDS shall be responsible for the reception and safe custody of tenders until they are opened.

6.21 Tenders must be opened at the same time and in the presence of the ACELDS who shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the Officer present, the identities of Tenderers and the tendered amounts. A copy of such a record shall be provided as soon as practicable to the CDR.

- 6.22 If a tender is received after the specified tender closing date it may not be considered unless the ACELDS is satisfied that the tender was 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 Tenderer and that other tenders have not been opened.

### **Tender Evaluation**

- 6.23 Tenders shall be evaluated by the CDR. The CDR shall accept the tender which offers the best consideration for the Property in accordance with Rule 6.4 above. The CDR shall ensure that the tender evaluation process is fair, and so far as consistent with the achievement of best consideration by the Council, that the basis on which tenders are to be evaluated has been established before tenders are opened. If all of the tenders are not submitted on the same basis (for example, if some tenders are conditional on planning permission being granted for a particular use of the Property), then the CDR shall produce a report setting out the reasoning which has been applied to determine which tender has been judged to offer the best consideration for the Property.

### **Alterations to Tenders**

- 6.24 Tenders may not be altered by Tenderers after the tender closing date except where the CDR is satisfied that arithmetical errors having been inadvertently made by the Tenderer, the Tenderer can be invited to correct them.

### **Post Tender Negotiations**

- 6.25 Post tender negotiation may be undertaken in accordance with the following conditions:-
- (a) The CDR considers that added value may be obtained;
  - (b) the post tender negotiations are undertaken either with all Tenderers, or with such Tenderer(s) as the CDR considers it appropriate to invite having regard to the value of their tenders and any conditions attached to them;
  - (c) the post tender negotiations are conducted by suitably experienced Officers approved by the CDR and trained in post tender negotiations;
  - (d) a record of the negotiations and any added value obtained from them is kept by the CDR; and
  - (e) any such added value obtained by the post tender negotiations is incorporated into the Property Contract with the successful Tenderer.
- 6.26 The basis on which tenders are to be evaluated must be established before tenders are opened, in so far as this is consistent with the achievement of best consideration.
- 6.27 If all of the tenders that are received are not submitted on the same basis (for example, if some tenders are conditional on planning permission being granted for a particular use of the Property) then Officers in the Property Service must set out and then apply the approach that is used to determine which tender offers best consideration.

### **Surrender of a lease or a licence**

- 6.28 The surrender of a lease in or a licence in, whether by the operation of a break clause or by negotiation, is a disposal to which the Rules in this section apply.

## **7.0 PROPERTY TRANSACTIONS – MORTGAGES – SPECIFIC ARRANGEMENTS**

### **Property owned by others**

- 7.1 The CDR may instruct the ACELDS to enter into the mortgage of a Property owned by another party, provided that the mortgage is to secure the Council's interests linked to a grant or loan made to another party.

### **Property owned by the Council**

- 7.2 The CDR may instruct the ACELDS to enter into the mortgage of a Property owned by the Council.

### **Terms**

- 7.3 The CDR must set the terms of a mortgage in consultation with the ACELDS.

### **Discharge**

- 7.4 The CDR may instruct the ACELDS to discharge a mortgage.

## **8.0 PROPERTY TRANSACTIONS – RESTRICTIONS ON TITLE – SPECIFIC ARRANGEMENTS**

- 8.1 The CDR may instruct the ACELDS to place or remove restrictions on the title of a Property owned by the Council.

- 8.2 The CDR may instruct the ACELDS to place or remove restrictions on the title of a Property owned by another party.

## **9.0 RE-ALLOCATION OF A PROPERTY TO A NEW USE BY THE COUNCIL, INCLUDING APPROPRIATION**

### **General**

- 9.1 This section covers all re-allocations of a Property to a new use by the Council, except for a proposed decision to:-

- (a) dispose of a Property (to allocate it to the for sale Property type)
- (b) grant a lease out or a licence out
- (c) surrender a lease in or a licence in.

The exceptions listed above are covered by Section 6.

- 9.2 A decision to reallocate a Property to a new use represents a decision to appropriate the Property to the new use where such a decision is required under S123 of the Local Government Act 1972 or other legislation. Any report on which a decision is based will carefully identify this.
- 9.3 The specific arrangements set out in S122 of the Local Government Act 1972 or other legislation that requires appropriation or sets out specific arrangements for an appropriation must be followed alongside the Rules in this section. If there is any conflict between the Rules and the legislation then the legislation takes precedence.



- 9.4 The CDR will be responsible for seeking the required approval for the reallocation of Property.

### **Approvals**

- 9.5 In the case of any Reallocation of Property other than for disposal which is not held by the Council on a lease or license: -

- (a) the CDR may approve any Reallocation of Property up to and including £1,000,000 in value;
- (b) the Executive Member for Finance and Assets may approve any Reallocation of Property up to and including £1,500,000 in value
- (c) the Executive may approve any Reallocation of Property, and must approve any Reallocation of Property over £1,500,000 in value

- 9.6 Subject to Rule 9.6 in the case of any Reallocation of Property other than for disposal which is held by the Council on a lease or license: -

- (a) the CDR may approve any Reallocation of Property where the annual rent or fee is up to and including £150,000
- (b) the Executive Member for Finance and Assets may approve any Reallocation of Property where the annual rent or fee is up to and including £250,000
- (c) the Executive may approve any Reallocation of Property, and must approve any Reallocation of Property where the annual rent or fee is over £250,000

For the purpose of this Rule, the annual rent or fee means the rent or fee payable by the Council at the time of the Reallocation (but ignoring any discount or rent-free period).

- 9.7 In the case of a Property held by the Council on lease where a premium has already been paid the approvals required shall be sought pursuant to Rule 9.6.

- 9.8 The value to be used to determine the appropriate approval arrangement for a proposed decision is the value, as estimated by an Officer of the Property Service or in a consultancy appointed to provide Property advice or services, at the time that the report about the decision is prepared. It is accepted that the actual value of the Property or other action may differ from the estimated figure.

## **10.0 PROPERTY-RELATED COMPENSATION PAYMENTS**

### **Financial provision**

- 10.1 A Corporate Director must make financial provision for the payment of Property-related compensation for any project that may result in compensation becoming payable.

### **Negotiating and instructing**

- 10.2 Only an Officer of the Property Service or in a consultancy appointed to provide Property advice can negotiate the terms for a proposed Property-related compensation payment.

- 10.3 Only an Officer of the Property Service can instruct a consultant to negotiate terms for a proposed Property-related compensation payment.

## **Approving terms**

- 10.4 The CDR can approve the terms of a Property-related compensation payment (in the form of Heads of Terms).

## **Documenting the implementation of the decision**

- 10.5 The ACELDS must prepare and complete the documentation for compensation payments linked to Compulsory Purchase Orders and other activity that triggers statutory Property-related compensation payments.

## **Making a payment**

- 10.6 The ACELDS must arrange the actual compensation payment.

## **11.0 SIGNATURE / SEALING OF PROPERTY CONTRACTS**

- 11.1 No Property Contract shall be completed unless proper approval has been given in accordance with these Rules.

- 11.2 Subject to Rules 11.3 and 11.4, every Property Contract must be: -

- (a) executed as a Deed by the ACELDS;
- (b) signed by the ACELDS (if the value is less than £50,000); or
- (c) signed by the ACELDS and another officer authorised by the ACELDS (if the value is £50,000 or more).

- 11.3 The CDR is authorised to sign Property Contracts comprising wayleaves, agricultural tenancy agreements or agricultural licences provided that:-

- (a) the Property Contract is in a nationally recognised form or in a form prepared or approved by the ACELDS; and
- (b) two signatories are required if the value is £50,000 or more.

- 11.4 All Directors are authorised to approve and sign Licences to or from third parties provided that:-

- (a) the Licence is for a period not exceeding 12 months; and
- (b) the Licence is for a fee not exceeding £15,000.

## **12.0 INVESTMENT IN PROPERTY**

### **General**

- 12.1 The CDR is authorised, in accordance with the Council's budgetary and policy framework, to implement all processes required in accordance with good practice to ensure that all Property remains safe and fit for the purpose of service delivery, and complies with all relevant legislation, codes of practice and guidance.

- 12.2 For the avoidance of doubt this includes, but is not limited to: -

- (a) responsive maintenance to a Property
- (b) preventative maintenance to a Property
- (c) planned maintenance of a Property

- (d) works required to secure an empty Property
- (e) a response to compliance issues at a Property
- (f) improvement of a Property (a project)
- (g) addition of accommodation (a project)
- (h) demolition of all or part of a building or structure.

### **Identifying Need**

- 12.3 Officers in a directorate may identify a requirement for investment in a Property from an operational perspective to either address a maintenance issue or meet a service requirement.
- 12.4 Only Officers in the Property Service are authorised to commission and instruct either contractors or consultants to undertake work in respect of the investment in Property.
- 12.5 Officers in the Property Service may identify the possible requirement for investment in a Property from an operational or strategic perspective.
- 12.6 The CDR must approve the identification of the need for investment in Property, in so doing taking account of the likely capital and revenue cost implications; and must confirm that such funds are available before any work is commissioned or undertaken by the Property Service.

### **Commissioning of Consultants and Contractors**

- 12.7 Only Officers in the Property Service can commission and instruct and manage consultants to provide advice and other services associated with investment in Property.
- 12.8 Only Officers in the Property Service, or consultants commissioned by the Property Service, can commission and manage contractors to undertake work in respect of investment in Property.

### **Approvals**

- 12.9 An approval related to financial or contractual matters must be given in accordance with the Financial Procedure Rules and / or the Procurement and Contract Procedure Rules and the terms of any contract or framework.
- 12.10 For the avoidance of doubt, where approvals are required under the Financial Procedure Rules and / or the Procurement and Contract Procedure Rules, and these Rules, then these approvals can be obtained contemporaneously.
- 12.11 Officers in the Property Service are responsible for ensuring that all necessary approvals have been obtained before the commencement of any work or project.

# Part 5

## Codes and Protocols

### CONTENTS

- ◆ Members' Code of Conduct
- ◆ [Protocol - The role of the Leader and Chief Executive Officer in the Ethical Framework](#)
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- ◆ [Protocol for Member/Officer Relations](#)
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- ◆ Protocol on Audio/Visual Recording and Photography at Meetings
- ◆ Protocol re Honorary Aldermen and Alderwomen
- ◆ Code of Practice for Councillors and Officers dealing with planning matters

## **CODE OF CONDUCT FOR MEMBERS OF NORTH YORKSHIRE COUNCIL**

This Code sets out the standards of behaviour required of you whenever you are acting in your official capacity as a Councillor of North Yorkshire Council. This Code also applies to any person appointed as a co-opted member with voting rights on any Committee of the Council when acting in their official capacity and references in this Code should be construed accordingly.

You must sign an Undertaking to comply with this Code of Conduct before acting as a Councillor or voting co-opted Member (“Members”).

The Code has been adopted by the Council and also requires compliance with the General Principles of Public Life set out at the end of the document. The Council has established a Standards and Governance Committee, consisting of members of the Council, assisted by Independent Persons for Standards, to oversee the Council’s ethical framework.

*Notes in italics in this Code are guidance extracts from the national voluntary model code of conduct for Members, to aid understanding of the Code’s requirements.*

### **GENERAL CONDUCT OBLIGATIONS**

#### **1. You must treat others with respect.**

*Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.*

*In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public’s expectations and confidence in councillors.*

*In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority’s councillor-officer protocol.*

#### **2. You must not unlawfully discriminate against any person or do anything which may cause the Council to breach any equality enactment.**

*Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person’s identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*

*The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.*

**3. You must not bully, intimidate or harass any person, or attempt to do so.**

*The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.*

*The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.*

**4. You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Council, or do anything that is likely to compromise their impartiality.**

*Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.*

**5. You must not disclose information which is given to you in confidence or which you believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:**

- **You have the permission of a person authorised to give it; or**
- **You are required by law to disclose the information; or**
- **You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or**
- **The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.**

**Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.**

*Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated*

*in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.*

- 6. You must not prevent another person gaining access to information which that person is entitled to by law.**
- 7. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Member into disrepute.**

*As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.*

*You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.*

- 8. You must not use your position as a Member improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.**

*Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.*

- 9. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking any scrutiny process.**

- 10. You must give careful consideration to gifts or hospitality offered to you:**

- a) You must not accept any gift or hospitality (of any value) which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a Member, or which could give rise, or give the appearance of giving rise, to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, for example from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage. Where such a person does make a significant offer (estimated value £25 or more) of gifts and/or hospitality to you, you should inform the Monitoring Officer.**

- b) If you do accept any gift or hospitality of estimated value £25 or more which might be attributable to your membership of the Council (other than the refreshments which might usually be**

**expected at a Council meeting or civic function) you must disclose this, or any offer of such gift or hospitality you decline, to the Monitoring Officer within 28 days of its offer/receipt.**

*In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.*

- 11. You must act in accordance with the Council's guidance or requirements when using the resources of the Council (such as officer time, IT and copying equipment, or physical materials), or when authorising others to use them, and must ensure that those resources are not used improperly for political or other purposes.**

*You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor. Examples include:*

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

*These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.*

- 12. You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.**
- 13. You must comply with the following sections of this Code, which relate to registering and declaring in meetings certain interests you may have.**
- 14. You must (unless otherwise specifically agreed with the Monitoring Officer), comply with the Council's standards regime relating to the Code of Conduct, including but not limited to:**
- a) attending standards training provided/arranged by the Council;
  - b) co-operating with any standards assessment, investigation and/or determination;



- c) **not intimidating or attempting to intimidate any person who is likely to be a party in, witness in or involved with the administration of any standards complaint, assessment, investigation or determination;**
- d) **refraining from making trivial, vexatious, malicious, politically motivated or tit-for-tat standards complaints against other Members.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **INTERESTS**

### **Disclosable Pecuniary Interests (DPI)**

15. (1) A pecuniary interest is a "disclosable pecuniary interest" (DPI) in relation to you if it is of a description specified in regulations (and listed in Appendix 1) and either:
- (a) it is your interest; or
  - (b) it is an interest of:
    - (i) your spouse or civil partner;
    - (ii) a person with whom you are living as husband and wife; or
    - (iii) a person with whom you are living as if you are civil partners;

and you are aware that that other person has the interest.

### ***Disclosure of pecuniary interests on taking office***

16. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given.
- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards disclosable pecuniary interests not entered in the Council's register when the notification is given.
- (3) Where you give a notification for the purposes of sub-paragraph (1), the Monitoring Officer is to cause the interests notified to be entered

in the Council's Register of Members' Interests ("the Register") (whether or not they are disclosable pecuniary interests).

- (4) Subject to paragraph 25 (regarding sensitive interests), you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

### ***Pecuniary interests in matters considered at meetings***

17. (1) Sub-paragraphs (2) to (4) apply if you:
  - (a) are present at a meeting of the Council or Executive, or of any committee, sub-committee, joint committee or joint sub-committee of the Council or Executive;
  - (b) have a disclosable pecuniary interest **directly relating** to any matter to be considered, or being considered, at the meeting; and
  - (c) are aware that the condition in paragraph (b) is met.
- (2) You must disclose the existence and nature of the interest to the meeting, but this is subject to this Code's provisions on sensitive interests.
- (3) If the interest is not entered in the Council's Register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting; or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting;
  - (c) remain in the meeting room;

but this is subject to this Code's provisions on dispensations.

*Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority . You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained. You should note that failure*

to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

### ***Pecuniary interests in matters considered by a single member***

- (5) Sub-paragraphs (6) and (7) apply if:
  - (a) a function of a relevant authority may be discharged by a member of the authority acting alone;
  - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
  - (c) the member is aware that the condition in paragraph (b) is met.
- (6) If the interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (5)(b) is met in relation to the matter.
- (7) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (8) Where you give a notification for the purposes of sub-paragraph (3) or (6), the Monitoring Officer is to cause the interest notified to be entered in the Register (whether or not it is a disclosable pecuniary interest).
- (9) The Council's Constitution provides for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of sub-paragraph (4), the member or co-opted member may not participate.
- (10) An interest is "subject to a pending notification" if:
  - (a) the interest has been notified to the Monitoring Officer, but
  - (b) has not been entered in the Register in consequence of that notification.

### **Other Registrable Interests (ORI)**

18. The interests other than disclosable pecuniary interests which are required by the Council to be registered in the Register of Members' Interests are set out in Appendix 2.

### ***Disclosure of Other Registrable Interests on taking office***

19. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the

Monitoring Officer of any interests other than disclosable pecuniary interests of a type set out in Appendix 2 which you have at the time when the notification is given. **This relates only to your own interests.**

- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards interests other than disclosable pecuniary interests of a type set out in Appendix 2 not entered in the Council's register when the notification is given.
- (3) Subject to paragraph 25 (regarding sensitive interests), you must, within 28 days of becoming aware of any new interests other than disclosable pecuniary interests of a type set out in Appendix 2 or change to any such interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

### ***Other Registrable Interests in matters considered at meetings***

- 20.(1) Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registrable Interests (ORI) (as set out in Appendix 2), you must disclose the interest to the meeting.
- (2) You may speak on the matter only if members of the public are also allowed to speak on it but otherwise must not take part in any discussion or vote on the matter and must not remain in the room for that matter (unless you have been granted a dispensation). If it is a sensitive interest, you should declare that you have an interest but do not need to disclose the nature of it.

### **Non-Registrable Interests (NRI) in matters considered at meetings**

- 21.(1) Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Appendix 1 or Other Registrable Interest set out in Appendix 2) or a financial interest or the well-being of a relative or close associate (of which you could reasonably be expected to be aware), you must disclose the interest to the meeting.
- (2) You may speak on the matter only if members of the public are also allowed to speak on it. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room for that matter (unless you have been granted a dispensation). If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

- 22.(1) Where a matter arises at a meeting which **affects**:
  - a) your own financial interest or well-being;
  - b) a financial interest or the well-being of a relative or close associate (of which you could reasonably be expected to be aware); or

- c) a financial interest or the wellbeing of a body included under Other Registrable Interests as set out in Appendix 2 (of which you could reasonably be expected to be aware);

you must disclose the interest to the meeting (subject to the rules on sensitive interests). In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraph 22(2) should be considered.

- (2) Where a matter (referred to in paragraph 22(1) above) affects the financial interest or wellbeing:
  - a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision and;
  - b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

then you may speak on the matter only if members of the public are also allowed to speak on it, otherwise you must not take part in any discussion or vote on the matter and must not remain in the room for that matter (unless you have been granted a dispensation).

- (3) Where the test in paragraph 22(2)(a) and (b) is not met, then you may speak and vote on the matter in the usual way.

***Other Registrable and Non-Registrable Interests in matters considered by a single member***

23.(1) Where:

- a) a function of a relevant authority may be discharged by a member of the authority acting alone;
- b) the member has an Other Registrable Interest or Non-Registrable Interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
- c) the member is aware that the condition in paragraph (b) is met;

if an Other Registrable Interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (1)(b) is met in relation to the matter.

- (2) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

### ***Bias/Predetermination***

24. Members involved in making a decision on particular business must always bear in mind the rules relating to bias and predetermination and must not participate in, or seek to influence, Council business where their interests (including those other than disclosable pecuniary interests of a type set out in Appendix 2) may prejudice, or appear to prejudice, their views.

*If you are in any doubt as to whether you have an interest in a matter under the Code of Conduct, please seek advice from the Monitoring Officer.*

### ***Sensitive interests***

25. (1) Sub-paragraphs (2) and (3) apply where:
- (a) you have an interest (whether or not a disclosable pecuniary interest); and
  - (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.
- (2) If the interest is entered in the Register, copies of the Register that are made available for inspection, and any published version of the Register, must not include details of the interest (but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011).
- (3) If paragraph 17(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

### **DISPENSATIONS FROM NON-PARTICIPATION**

26. (1) The Council may, on a written request made to the Monitoring Officer by you, grant a dispensation (in accordance with the relevant statutory provisions and the provisions in this Code) relieving you from any or all of the restrictions in paragraphs 17(4), 20(2), 21(2) and 22(2) in cases described in the dispensation.
- (2) Paragraphs 17(4), 20(2), 21(2) and 22(2) do not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

### **OFFENCES**

- 27.(1) You commit a criminal offence if, without reasonable excuse, you:-

- (a) fail to comply with an obligation imposed on you by paragraph 16(1) or 17(2), (3) or (6);
  - (b) participate in any discussion or vote in contravention of paragraph 17(4); or
  - (c) take any steps in contravention of paragraph 17(7).
- (2) You commit an offence if under paragraph 16(1) or 17(2), (3) or (6) you provide information that is false or misleading and you:
- (a) know that the information is false or misleading; or
  - (b) are reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
28. **If you are in any doubt as to your position under the Code of Conduct, please consult the Monitoring Officer.**

**DISCLOSABLE PECUNIARY INTERESTS**

The pecuniary interests which are specified in regulations as disclosable pecuniary interests are the interests specified in the second column of the Schedule below:

## SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.



Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For these purposes:-

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member (entitled to vote);

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act (the corresponding provisions in this Code are paragraphs 15(1) and 16(6));

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (corresponding provision in this Code is paragraph 14(1)(b)), namely:

- M’s spouse or civil partner;
- a person with whom M is living as husband and wife; or
- a person with whom M is living as if they were civil partners;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**INTERESTS OTHER THAN DISCLOSABLE PECUNIARY INTERESTS**

The interests other than disclosable pecuniary interests which are required by the Council to be registered in the Register of Members' Interests are set out below:

**1. Unpaid directorships**

**2. Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority**

**3. Any body:**

- i. exercising functions of a public nature
- ii. directed to charitable purposes or
- iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union/professional association)

**of which you are a member or in a position of general control or management**

## GENERAL PRINCIPLES OF PUBLIC LIFE

### **Principle**

*Preamble*

### **Revised description**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services. Holders of public office should act solely in terms of the public interest.

*Selflessness*

*Integrity*

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

*Objectivity*

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

*Accountability*

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

*Openness*

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

*Honesty*

*Leadership*

Holders of public office should be truthful. Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**PROTOCOL RE**  
**ROLE OF LEADER AND CHIEF EXECUTIVE OFFICER**  
**IN ETHICAL FRAMEWORK**

This Protocol sets out the roles of the Leader of the Council and the Chief Executive Officer in relation to the ethical framework. Both are committed to setting and encouraging high ethical standards and promoting the ethical agenda inside and outside the Council. They will support and facilitate the work of the Standards and Governance Committee and Monitoring Officer in relation to the ethical framework in the following joint and individual ways:

**Jointly:**

1. publicly committing themselves to working together to uphold the ethical wellbeing of the Council and affirming that each fully subscribes to the Council's ethical agenda and expects all officers and Members to do likewise;
2. leading by example, acting at all times with integrity, propriety and impartiality in the discharge of their roles;
3. helping to ensure that Members and officers are clear about their respective roles and what is expected of them;
4. seeking the advice of the Monitoring Officer on declarations of interests and ethical issues where necessary;
5. having due regard to the advice of the Monitoring Officer and Standards and Governance Committee;
6. being available for consultation on key ethical issues;
7. taking appropriate action, where necessary, on particular ethical issues;
8. receiving and considering the agenda for, and minutes of, the Standards and Governance Committee's meetings;
9. periodically attending the Standards and Governance Committee to discuss relevant issues;
10. promoting the work of the Standards and Governance Committee;
11. where appropriate, including the Chair of the Standards and Governance Committee in the Council's wider corporate governance meetings and activities;
12. holding an annual meeting with the Chair of the Standards and Governance Committee after the publication of the Committee's Annual Report;
13. proactively supporting a Member and officer ethical training and development programme;
14. supporting action taken by the Standards and Governance Committee and Monitoring Officer in furtherance of the Council's Codes of Conduct, the ethical framework generally and national information/guidance;
15. ensuring that support for the Council's ethical agenda is adequately resourced;

**Individually:**

**Chief Executive Officer:**

16. recognising the importance of the ethical and wider corporate governance agenda in the Council's Management Board;
17. regularly meeting and directly supporting the Monitoring Officer on key issues and individual matters arising out of the ethical and governance agenda;

**The Leader**

18. holding regular Leader's Meetings where the Chief Executive Officer and/or Monitoring Officer may raise issues;

19. supporting the Monitoring Officer as necessary in reporting to Executive, full Council and other committees regarding the ethical agenda.

# Officers' Code of Conduct

*Officers should observe the Council's Code of Conduct for Officers (the 'Standards of Conduct Policy') published on the Council's Intranet.*

# Protocol for Member/Officer Relations

## 1. Introduction and Principles

- (a) The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- (b) Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- (c) This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- (d) It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- (e) This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, any guidance for Members and Officers dealing with planning matters, the Planning Code of Conduct, the Council's Constitution and any guidance issued by the Standards and Governance Committee and/or Monitoring Officer.

## 2. General Points

- (a) Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees and sub-committees.
- (b) At the heart of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should always be courteous and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- (c) A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or



capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the respective Business Unit Head. The Business Unit Head will then look into the facts and report back to the Member. If the Member continues to feel concern, then they should report the facts to the Director/Chief Officer who heads the department concerned, or if, after doing so, the Member is still dissatisfied, they should raise the issue with the Chief Executive Officer who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- (d) An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Section/Business Unit/Directorate at or in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent an Officer raising a concern with a Member under the Council's confidential reporting procedure ("Whistleblowing").
- (e) Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with their Business Unit Head, Director/Chief Officer or the Chief Executive Officer as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Business Unit Head, Director/Chief Officer or Chief Executive Officer will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Standards and Governance Committee complaint handling regime.

### 3. **The Relationship: Officer Support to Members: General Points**

- (a) Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to both the Executive and all Members in their several areas.
- (b) Certain statutory officers - the Head of Paid Service, the Monitoring Officer and the Section 151 Officer - have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- (c) The following key principles reflect the way in which Officers generally relate to Members: all Officers are employed by, and accountable to the Council as a whole; support from Officers is needed for all the Council's functions including full Council, Overview and Scrutiny, the Executive, Strategic Planning Committee, Area Constituency Planning Committees, Statutory Licensing Committee and Sub-Committees, General Licensing and Registration Committee and Sub-Committees, Standards and Governance Committee, joint committees and individual Members representing their communities etc; day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive Officer and other Officers; the Council will seek to avoid potential conflicts of interest for Officers arising from the separation of the Executive and Overview and Scrutiny role.
- (d) On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

- (e) Finally, it should be remembered that Officers within a Division or Department are accountable to their Business Unit Head and Director/Chief Officer and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Business Unit Head or Director/Chief Officer.

#### Personal and Business Relationships

- (f) It is clearly important that there should be a close working relationship between Members and the Officers who support and/or interact with them, in order to effectively undertake the Council's work. This can, inevitably, lead to a degree of familiarity.
- (g) Close personal and/or business relationships between individual Members and Officer can be damaging to mutual respect and both parties should be careful to avoid:
  - (i) bringing into question the Officer's ability to deal impartially with other Members and other party groups;
  - (ii) creating any general impression of unfairness or bias;
  - (iii) passing confidential information to anyone who should not have access to it (see section 8 later);
  - (iv) in any other way allowing their relationship or connection to affect their actions, decisions or the performance of their duties generally.
- (h) Members and Officers should take account of any relationship or connection they have with any other Member or Officer when considering whether or not they need to register or declare an interest.
- (i) It would usually be inappropriate for a Member to have special responsibilities in an area of activity in which someone with whom they have a close personal or business relationship is a senior Officer. If this situation arises, the Member should take appropriate action to avoid a potential conflict of interest.

#### 4. Officer Support to the Executive

- (a) The Executive and its Members have wide ranging leadership roles. They will: lead the community planning process, the preparation of the Council's policies and the search for Best Value, with input and advice from Overview and Scrutiny Committees, Area Constituency Committees and any other persons as appropriate; lead the preparation of the Council's budget; take decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by full Council; and be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- (b) Officers must ensure that even if they are predominantly supporting the Executive their political neutrality is not compromised.

- (c) Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, the Chief Executive Officer, Director/Chief Officer or other senior Officer will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between an Executive Member and a Director/Chief Officer in this area should be referred to the Chief Executive Officer for resolution in conjunction with the Leader of the Council.
- (d) Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- (e) Under Executive Arrangements, individual Members of the Executive are, in certain circumstances as set out in the Executive Members' Delegation Scheme, allowed to take formal decisions. The Executive, Executive Members and Officers must satisfy themselves that they are clear what exactly they can and cannot do.
- (f) The Council has put in place mechanisms/protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within their delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about legal powers.
- (g) In organising support for the Executive, there is a potential for tension between Chief Officers and Executive Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

5. **Officer Support: Overview and Scrutiny Committees**

- (a) Overview and Scrutiny Committees have the following roles:
  - ◆ to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - ◆ to 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;
  - ◆ to consider any matter affecting the county or its inhabitants; and
  - ◆ to 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; and

- ♦ they may monitor the performance and effectiveness of the services they overview.
- (b) Where an Officer is aware that a political group representative is a member of the Committee that person should also be informed about matters on that issue which are communicated to the Chair and Vice-Chair. Officers must ensure that even if they are predominantly supporting the Overview and Scrutiny Committees their political neutrality is not compromised.
  - (c) Overview and Scrutiny Committees and their panels will from time to time be issued with guidelines on how to gather evidence and interview witnesses.
  - (d) It is not Overview and Scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a panel's behalf. This is the Chief Executive Officer's function alone in relation to staff, the Monitoring Officer's and the Standards and Governance Committee as regards the conduct of Members.
  - (e) Overview and Scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Members, Officers or members of the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, any directorate specific Complaints Procedures, the Local Government and Social Care Ombudsman, complaints under the Standards and Governance Committee complaint handling regime or appeal to the Courts.

## 6. **Officer Advice to Party Groups and Individual Members**

- (a) It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- (b) There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to assist and contribute to such deliberations by party groups or to assist individual Members but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- (c) The assistance provided by senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is offered to all political groups and individual Members.
- (d) Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - (i) attendance by senior Officers at meetings of political groups is voluntary and must be specifically authorised by the Chief Executive Officer;

- (ii) Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - (iii) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - (iv) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.
- (e) Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council's Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.
- (f) Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an Officer during discussions with a party group and the Officer is requested not to pass the information to other groups, then the Officer will not do so. However, Members should be aware that this would not prevent officers from disclosing such information to other Officers of the Council so far as that is necessary to performing their duties.
- (g) Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive Officer who will discuss them with the relevant group leader(s).

## 7. **Use of Council Resources**

- (a) The Members' Code of Conduct requires that a Member must, when using or authorising the use by others of the resources of the Council, act in accordance with the Council's reasonable requirements and ensure that such resources are not used improperly for political purposes (including party political purposes). The Council provides support services such as stationery, typing, printing, photocopying to Members to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business and should never be used in connection with party political or campaigning activity or for private purposes. As a result of the provisions of the Members' Code of Conduct Members cannot use Council computers for political purposes other than as stated above. The general use of computers provided to Members and Officers of the Council is governed by the Email and Internet Procedures for Members and Officers

## 8. **Members' Access to Information and to Council Documents**

- (a) Members are free to approach any Council department to obtain such information, explanation and advice (about that department's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the appropriate Director/Chief Officer concerned. (In cases of doubt, Legal and Democratic Services' Officers will be happy to channel the request to the appropriate Officer.)
- (b) As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- (c) Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right applies irrespective of whether the Member is a Member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as a confidential (Orange) item on the agenda for a meeting. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- (d) In relation to business of the Executive, by virtue of Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012:
  - (i) where there is a public meeting (e.g. Executive) and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection by any Member;
  - (ii) where the decision is made at a private meeting of the Executive or is an executive decision delegated to an Officer or individual Executive Member, the document shall be available to any Member either after the meeting closes or, for individual executive decisions, immediately after the decision has been made;
  - (iii) there are exceptions for certain exempt and confidential material and any document that contains advice provided by a political advisor or assistant.
- (e) The common law rights of Members remain intact, are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as their access to the document is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- (f) The exercise of this common law right depends therefore, upon an individual Member being able to demonstrate that they have the necessary 'need to

know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Director/Chief Officer whose department holds the document in question (with advice from the Monitoring Officer).

- (g) In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the business of that Committee) a Member's 'need to know' will normally be presumed. In other circumstances (e.g., a Member wishing to inspect documents which contain personal information about third parties) the Member will normally be expected to justify the request in specific terms. In some circumstances duties of confidentiality to external bodies e.g. the Courts in child care cases, or imposed by statute may override the common law right.
- (h) Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- (i) Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.
- (j) Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in paragraphs 5 and 6 of the Members' Code of Conduct:

'5. You must not disclose information which is given to you in confidence or which you believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:

- ◆ You have the permission of a person authorised to give it; or
- ◆ You are required by law to disclose the information; or
- ◆ You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
- ◆ The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.

Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.

6. You must not prevent another person gaining access to information which that person is entitled to by law.'

9. **Correspondence**

- (a) Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- (b) Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of an Executive Member, the Leader or the Chair of the Council. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.

10. **Publicity and Press Releases**

- (a) Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and Council tax-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- (b) Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as they think appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity. All Members are specifically bound to observe the publicity Code by the Code of Conduct.
- (c) There is a separate Protocol for Official Press Releases set out in Part 5 of the Constitution and that should be read in conjunction with this Protocol, along with any relevant internal communications guidance documents.



## 11. **Involvement of Local Councillors**

- (a) It is essential that Members should be fully informed about matters on which they may be required to make decisions or which affect their electoral divisions.
- (b) It is the duty of each Business Unit Head and Executive Member to ensure that all relevant staff are aware of the need to keep local Members informed and that the timing of such information allows Members to contribute to those decisions. Local Members shall also be kept informed about matters affecting their divisions during the formative stages of the policy development and discussion.

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Electoral Division or Divisions affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Local Council Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Local Council Members.

- (c) Whenever the Council undertakes any form of consultative exercise in a particular locality, the local Members should be notified at the outset of the exercise.

## 12. **Redress**

- (a) If a Member considers that they have not been treated properly, and in accordance with these Protocols by an Officer they should first try to resolve the matter through direct discussion with the Officer.
- (b) The Member may raise it with the Officer's line manager or Business Unit Head if they fail to resolve the matter through such discussion. A Member may raise the issue with the Chief Executive Officer if it remains unresolved. Where appropriate, disciplinary action may be taken against an Officer.
- (c) Similarly, if an Officer feels that they have not been treated properly, and in accordance with these Protocols, by a Member and they feel unable to resolve the matter directly with the Member concerned, the Officer should raise the issue with the appropriate Business Unit Head. In such circumstances the Business Unit Head will take such action as is appropriate, if necessary, by approaching the party Group Leader or the Monitoring Officer. The Business Unit Head will inform the Chief Executive Officer if the Party Group Leader becomes involved, and in other cases, where appropriate. Where appropriate the Monitoring Officer will advise the Member concerned about the provisions of the Code of Conduct so far as they relate to this Protocol.

## 13. **Arbitration**

When necessary, the Monitoring Officer will arbitrate on the interpretation of this Protocol following consultation with the Chair of the Standards and Governance Committee, the Independent Person for standards and the Chief Executive Officer.

# NORTH YORKSHIRE COUNCIL PROTOCOL FOR OFFICIAL PRESS RELEASES

Members and Officers should be aware that in accordance with The Code of Practice issued under the Local Government Act 1986, the Council is explicitly forbidden from using:

"Public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy".

The main purpose therefore of all Council produced press releases and publicity materials\* is to increase public awareness of the services provided by the authority and the functions it performs; to explain to electors and Council Tax payers the reasons for particular policies and priorities; and, in general, to improve local accountability. It is very important, therefore, that Councillors and Officers ensure that they do not contravene this requirement.

To assist in this process, the following Protocol has been agreed. This should be read in conjunction with the Protocol for Member/Officer Relations and any relevant internal communications guidance documents.

- (a) All press releases and related publicity material should be managed through the corporate Communications Team with the exception of any statutory public notices.
- (b) Press releases and marketing activity should generally be objective at all times, concentrating on facts or explanation or both. It is the responsibility of the relevant Corporate Director to ensure that this is achieved and a copy of the draft press release will be provided by the author to the Corporate Director.
- (c) Where materials are produced to comment on or respond to policies and proposals of central government, other local authorities or other public authorities, the comment or response needs to be objective, balanced, informative and accurate. In setting out the reasons for the Council's views, the material should not be constructed in such a way as to be seen as a prejudiced, political attack.
- (d) A press release can contain a statement from a relevant Officer, the Leader of the Council, the Executive portfolio holder, or Overview and Scrutiny Committee Chair, Chairs or Vice-Chairs of Committees, Chair of a properly constituted working party\*\* or Chair of an Area Constituency Committee. If a press release relates to a matter which affects only one electoral division, a local Member could, if they so wished, be quoted when the quote supports or endorses the policies of the Council.
- (e) Contact details of Executive Members and their portfolio responsibilities and those relevant Overview and Scrutiny Members and opposition party spokespersons will be maintained and published on the Council's website, and provided by the Communications Team to media contacts on request.
- (f) A press release quoting the Chair of an Overview and Scrutiny Committee should be agreed by the Chair and the statutory Scrutiny Support Officer (as the subject matter expert) and, provided that it can be achieved without delay that would reduce the effectiveness of the press release, by the Vice-Chair. The press release should seek to represent the Council's arrangements for scrutiny in a positive light and as a constructive process of internal debate.
- (g) The Council may, from time to time, nominate an elected Member as a "Champion" for a particular issue or interest group - such as historic environment or older people. It is to be

expected that such Members would, from time to time, want to put out a press release on issues relevant to their role. The content of such press releases must accord with Council policy and to this end the "Champion" Member should consult with the relevant Executive Member and Corporate Director before the release is issued. The nominated Corporate Director is responsible for making arrangements for the final approval of the press release in consultation with the Communications Team.

- (h) Other Members of the Council cannot be quoted, either within press releases or related publicity material other than in exceptional circumstances or where they represent the Council or an outside body or partnership. They have the ability to issue their own materials directly to the press. If a Member wishes to issue a press release on any subject personally, then they should do so in their own name, and not as a member of the Executive, or of any Committee of the Council. References to Members of the Council in press releases must refer to them in their role as Councillors, unless there are exceptional circumstances, in any particular instance, why it would be to the benefit of the Council for that Member to be referred to in any other role they might fulfil.
- (i) The Council **is** prohibited from using its resources to promote a particular political view. Consequently the period leading up to elections is very sensitive and it is the policy to stop quoting elected Members in Council press releases issued in the period from the date of notice of election to polling day, inclusive. This will apply to all Members regardless of political party with the exception of the Chair, or Vice-Chair in their absence, who represents the Council as a whole.
- (j) Council press releases will be circulated to all Members and to relevant Officers named in the release on the day they are issued. All releases will be placed on the Council's website.

The Head of Communications is responsible for ensuring overall compliance with this Protocol and all it entails. Any dispute will be referred to the Assistant Chief Executive for Local Engagement, who, in turn, will consult with the Chief Executive Officer before giving a decision, and the relevant Member/Officer will be made aware of any amendments made.

\* means written material containing information on Council services and produced by the Council.

\*\* means as established in accordance with the Constitution.

**GUIDANCE  
NOTE  
FOR COUNCILLORS  
AND OFFICERS  
ON OUTSIDE  
BODIES**

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# GUIDANCE FOR COUNCILLORS AND OFFICERS ON OUTSIDE BODIES

## 1. General

- 1.1 Serving on outside bodies has always been an established part of a Council Member or officer's role. The Council encourages Councillors and officers to participate in the wider community in this manner. They will be able to use their knowledge and skills to help the organisation to which they are appointed. It brings the benefit of enabling the Council to participate in partner organisations, and also means that Councillors and officers can bring back knowledge and experience which are of value to the Council.
- 1.2 The Council is now increasingly working in partnership with outside bodies, and clarity and understanding of the roles that Members and officers play is important. This note aims to help you understand the main implications. It is not a fully comprehensive guide, so if you have any queries, you can obtain further advice from Legal and Democratic Services.

## 2. What sort of roles does this apply to?

- 2.1 You may be appointed to an outside body by the Council, or by the Executive, or an Area Constituency Committee. It can involve being a director of a company in which the Council has an interest, being a member of another authority such as the National Park Authority, or a trustee of a charity, a member of the management board for an unincorporated body, or a school governor.
- 2.2 The various roles will bring responsibilities to the organisation, and to the Council in so far as you are fulfilling a role for the Council, and also potential conflicts.
- 2.3 Your responsibilities will depend on the type of body in which you become involved. The main types are as follows:
- (a) **Companies:** Companies are separate legal entities. They are set up by their members, who may be either shareholders or guarantors. Liability of company members is limited to the value of their shares or by guarantee. Directors of companies have a duty to the company to act properly and in good faith. If not, they can incur personal liability, particularly if the company becomes insolvent. The activities and operation of companies are regulated by their Memorandum and Articles of Association, and also by company law.
  - (b) **Charities:** Some companies and unincorporated associations are also charities. To be a charity, they must be established for charitable purposes only and are subject to stricter regulation by the Charity Commission, to ensure that they are properly managed and that their resources are used properly on the relevant charitable objects. Charities may carry on trading activities which contribute directly to the furtherance of their charitable objects or where the purpose is to raise funds for the charity which do not involve significant risk. Although charities may qualify for a number of tax exemptions and reliefs on income, gains and on profits for some activities, charities do pay tax on trading profits and on some charity income unless specifically exempt. Additionally VAT rules apply as they do for any other business if the charity has business activities however, the charity may qualify for certain VAT reliefs and exemptions.

- (c) **Unincorporated Associations:** Unincorporated associations are informal organisations. The members regulate their relationship by agreement, such as a membership agreement or the rules of the club or association. Because the association has no legal existence separate from its members, the liability of the members is not limited. Each member can incur personal responsibility for liabilities incurred on behalf of the association, and relies on the membership agreement to be able to recover his/her costs from the other members.
- (d) **Statutory Corporations:** These are bodies which are set up under statute. They include, for example universities, and some quangoes. The membership and powers of a statutory corporation, and how they are appointed are set out in the statute. The statute will also set out the responsibilities and liabilities of members of the corporation.

### **3. Some other key points to consider at the outset**

- 3.1 Firstly, make sure you are given a clear statement of what is expected of you if you are going to be nominated. A list of questions to ask about the organisation is attached at Appendix 1. The Council should be able to obtain this from the organisation involved.
- 3.2 Being on an outside body can bring many benefits to the Council, the organisation and the community, but it will sometimes create conflicts with your work as a Councillor or officer. For Council Members, it may have to be included as one of your interests in the Members' Register of Interests and you may have an interest in Council business referring to it (as detailed in the Members' Code of Conduct). You will need to be sure that involvement with the organisation will not prevent you from fully participating in your work as a Councillor or officer, particularly in areas that interest you, or, where you need to represent the community who elected you. This will depend on the nature of the body and type of involvement.
- 3.3 On the other hand, you will also need to make sure that you are able to commit enough time and attention to the organisation. You will want to make a meaningful contribution to their work too. If you cannot attend meetings very often, or are often conflicted out of participating, you will not be able to give the support that the organisation needs, and this will reflect badly upon the Council and upon you. It is best not to be appointed if you cannot participate fully.
- 3.4 As a member of the organisation's management committee, as a director of a company, or as a trustee, you will not only be representing the interests of the Council, but you will also owe duties and responsibilities towards the organisation. You will have to exercise your own best judgement in the best interests of the outside body and you cannot just take instructions from the Council although you may take account of the Council's wishes.

### **4. Duties and Responsibilities of Councillors and Officers on Outside Bodies**

- 4.1 The following is a summary of the main duties and responsibilities of Councillors and officers who are nominated by the Council to the most common types of outside body. The main principles of the obligations applying to company directors also apply to trustees and members of management committees. If you are in doubt about your duties and responsibilities, seek advice from the Assistant Chief Executive Legal and Democratic Services, or the advisers to the body involved.

## 5. Companies

5.1 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors. The Council itself may be a member of the company, either a shareholder or guarantor.

5.2 If the body is a limited company, and you are asked to be involved, it is likely that you will be appointed as a company director. The duties of a company director are now set out in the Companies Act 2006. The management of a company is usually the responsibility of the Board of Directors. Directors' powers are usually set out in the company's Articles of Association. Another important document is the Memorandum of Association, which sets out the Company's objectives and powers.

5.3 The duties of a company director are not the same as your responsibilities as a Councillor or officer. Basically, the company must come first. Directors must act in the interests of the company, and not in the interests of other parties, including shareholders.

5.4 The Companies Act 2006 codifies the existing common law and equitable principles relating to the duties of directors. Most provisions of the 2006 Act took effect from October 2007. The provisions reflected in the paragraphs below marked with an asterisk will take effect at a later date. The principles however remain relevant to the responsibilities of a director.

5.5 **Directors' Responsibilities** are:

(a) To **promote the success of the company**, which includes having regard to the likely long term consequences of decisions, the interests of employees, fostering relationships with suppliers and customers and others, the impact of operations on the community and environment, maintaining a reputation for high standards of business conduct, and acting fairly between members of the company.

(b) To **exercise care, diligence and skill**, using your own knowledge, skill and experience, together with the care, skill and diligence which may reasonably be expected of a person who is carrying out the functions of a director. So a director with significant experience must exercise the appropriate level of diligence in exercising their duties in line with their higher level of expertise.

(c) **Not to exceed powers**. A company director must act in accordance with the company's constitution, and exercise powers for the purposes for which they were given.

(d) **To comply with the Companies Acts** in relation to the keeping of accounts, and ensure that the relevant returns are made to the Registrar of Companies. Failure to do so incur fines and persistent default can lead to disqualification as a director.

(e) **To avoid conflicts of interest**. A director must avoid a situation in which they have, or may have, a direct or indirect interest which conflicts, or could conflict, with the interests of the company. This duty applies particularly to transactions between a director and a third party in relation to the exploitation of any property, information or opportunity.



- (f) **To exercise independent judgement.** A director nominated by the Council cannot, for example, simply vote in accordance with the Council's instructions. To do so would be a breach of duty. The director must act in the company's interests.
- (g) **Not to accept benefits from third parties.** A company director must not accept any benefit from a third party (whether monetary or otherwise) which has been conferred because of the fact that they are a director. This is based on the established principle that a director must not make a secret profit as a result of being a director. This duty applies unless the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
- (h) **To declare an interest in a proposed transaction or arrangement with the company\*.** A company director who has either a direct or an indirect interest in a proposed transaction or arrangement with the company must declare the 'nature and extent' of that interest to the other directors before the company enters into the transaction.

5.6 **Directors' Liabilities:** If a director fails to carry out their duties, action can be brought for breach of duty, either by the company itself, or by a liquidator if the company goes into liquidation, or with the consent of the court, by a shareholder. Such actions are unlikely where the company is properly controlled by the directors.

5.7 Some important considerations are:

- (a) It is not always easy to reconcile the various factors which must be taken into account when reaching a major decision. The important thing as a director is to show that you are aware of and have taken account of the relevant factors, and have exercised due care and diligence in giving them all fair consideration.
- (b) It may be difficult to be certain whether benefits may be regarded as giving rise to a conflict of interest. If you are unsure take advice from the company's advisers.
- (c) Make sure you are aware of the company's constitution, its Memorandum and Articles of Association, so that you know what it can and cannot do. You must take this into account when making decisions, as well as any shareholder decisions that are relevant.
- (d) Be diligent, and make sure you are well informed about the company's affairs. Make sure you are well briefed when taking up the role, and that you receive regular briefings throughout your term of office.
- (e) Attend training and briefing sessions.
- (f) Ensure director and officer insurance is in place.
- (g) Some Board decisions may be reviewed on a future occasion. Make sure detailed minutes show that all necessary factors have been considered when major decisions are being taken. Obtain expert advice where necessary e.g. regarding impact of a decision on the environment. Take legal advice where there are doubts about a director's duty in relation to a particular matter.

5.8 See Paragraph 9 below which deals with indemnities for Members and officers who are appointed to companies and other outside bodies.

5.9 **Local Authority Controlled and Influenced Companies:** There are special rules that affect companies in which councils have major interests. These are 'regulated' companies for the purposes of the Local Government and Housing Act 1989. They are in effect controlled by (more than 50% interest) or subject to a council's influence (20% interest plus business relationship) because of its level of interest, either individually, or with a group of other authorities. They will generally be subject to the local government capital finance regime and special propriety controls. However, so far as Members and officers who are involved are concerned, there are some additional requirements that need to be complied with as follows:

- (a) Remuneration that Councillors receive from the company should not exceed that received from a local authority for a similar role, and it should be declared. Officers should not receive any fee or reward other than their Council salary, unless so agreed with the Council;
- (b) To provide information to Councillors about their activities as required by the local authority (unless it is confidential); and
- (c) To cease to be a director immediately if disqualified as a Councillor, or on the termination of an officer's employment by the Council.

## 6. Charities:

6.1 A charity is an organisation which operates for the public benefit and exclusively charitable purposes, either:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community.

6.2 A number of useful publications are available on the Charity Commission's website at [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk). Publication CC3 - 'The Essential Trustee- What you Need to Know' is a useful guide ([The essential trustee: what you need to know, what you need to do \(CC3\) - GOV.UK \(www.gov.uk\)](http://www.gov.uk)). Those who are responsible for the control and administration of a charity are referred to as its *trustees*, even where the organisation is a company limited by guarantee and even though they are not strictly trustees. A charity may also be unincorporated.

6.3 Trustees of a charity retain personal liability, and can only delegate to the extent that the constitution authorises them so to do.

6.4 **Charitable Trustees' Responsibilities** are:

- (a) To act in accordance with the charity's trust deed or governing document.
- (b) To protect the charity's assets.
- (c) To comply with the Charities Acts, and the Trustee Act 2000.

- (d) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission.
- (e) To perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (f) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
- (g) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

6.5 **Charitable Trustees' Liabilities:** Generally, a trustee may incur personal liability if they:-

- act outside the scope of the trust deed
- fall below the required standard of care
- act otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
- make a personal profit from the trust assets

6.6 In such circumstances the trustee will be in breach of the trust, and will incur personal liability for losses incurred. If in doubt, always consult the Charity Commissioners. You may avoid personal liability for breach of trust if you act in accordance with their advice.

6.7 Trustees can incur personal liabilities for contracts they enter into in the name of the charity. They will normally be entitled to be reimbursed from charitable funds for liabilities and expenses properly incurred by them. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course of events, but will be personally liable if they commit a breach of trust, as stated above.

6.8 See Paragraph 9 below which deals with indemnities for Members and officers who are appointed to charitable bodies and other outside bodies.

## 7. Unincorporated Associations

7.1 Groups which are not charitable trusts or companies are "unincorporated associations" and have no separate identity from their members. The rules governing the members' duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. Management Committee members must act within the constitution, and must take reasonable care in exercising their powers. An unincorporated organisation may be charitable and may register as a charity.

7.2 If you are involved in a decision making capacity or have a position of general control or management on an unincorporated body, as the body has no separate corporate status, any liabilities will fall upon you personally. Councillors or officers appointed to such bodies should familiarise themselves with the Constitution to understand the nature of their role responsibilities and liabilities, and should assess the risk of personal liability, and the extent to which it has been covered by insurance.

7.3 See Paragraph 9 below which deals with indemnities for Members and officers who are appointed to unincorporated associations and other outside bodies.

## **8. Non Council Appointments**

8.1 Councillors and officers may become members of or be appointed to voluntary organisations *in their private capacity*. If you are appointed to a body in these circumstances, you will need to make sure that there is no conflict of interest with your position as a Councillor or officer. Your role and responsibilities will be governed by the organisation's constitution, or governing document, as it is with Council nominations. You will not however be entitled to any indemnity from the Council in relation to such an appointment.

## **9. Indemnities**

9.1 Councillors and officers who participate in external bodies may be indemnified in relation to liabilities they incur in that capacity, though this is subject to certain limitations.

9.2 Indemnity by the outside body:

(a) Directors: Directors cannot be indemnified by the company against liability for negligence, default, breach of duty and trust. Companies can however purchase insurance to protect directors against claims of negligence, default, breach of duty and trust. Those appointed as directors should ensure that appropriate insurance is in place. Companies can, if their Articles of Association allow, provide for directors to be indemnified for the costs of defending such a claim if they are granted relief by the court or acquitted.

(b) Trustees: Provided a charitable trustee acts properly, and within their powers, indemnity can be given from the trust fund. Trustees can take out insurance to protect themselves from personal liabilities, but not for criminal acts such as fraud. If the premiums are to be paid out of the charitable funds, the consent of the Charity Commissioners will be needed.

(c) Unincorporated Associations: Members may be entitled to an indemnity if they act in accordance with the constitution of the association, and are not at fault. However, regard must be had to the terms of the constitution. The constitution will determine whether insurance can be paid for by the organisation.

9.3 Indemnity by the Council: The Council has decided to adopt a specific policy relating to indemnifying Councillors and officers. If you are appointed to an outside body you should have regard to the detail in the policy relating to those activities.

9.4 The Council can provide an indemnity where Councillors and officers are acting on an outside body at the request of the Council, and provided:

- the appointment was made by the Council,
- the nomination was made by the Council,
- the appointment was specifically approved for the purpose of the indemnity.

- 9.5 The indemnity the Council can provide is subject to limitations. In general terms, if a Councillor or officer is acting properly, within their powers and in good faith, the power to indemnify will usually apply. However, the Council cannot, for example, provide an indemnity in relation to any action or failure by any Member or officer which constitutes a criminal offence, or for any action or failure by any Member or officer which is the result of fraud, or other deliberate wrongdoing or recklessness on the part of the Member or officer. When you are serving on an outside body, the Council's indemnity will only apply after any indemnity or insurance from the body itself. There are further limitations and it is advisable to be clear about the scope of the Council indemnity that may be available to you. You can seek further advice on indemnity from the Assistant Chief Executive Legal and Democratic Services.

## 10. Code of Conduct – Councillors' Interests

- 10.1 **Code of Conduct:** All Councillors are subject to the Council's Code of Conduct for Members. You will find a copy of the full Code in the Constitution. The Code sets out the standards of behavior required of you whenever you are acting in your official capacity as a Councillor. When Councillors act as the Council's representative on any other sort of outside body, they must comply with the Council's Code of Conduct unless it conflicts with the lawful obligations of the other body.
- 10.2 Councillors may have to include their appointment to outside bodies in their register of interests, and must advise the Monitoring Officer of any change to registered interests within 28 days. Councillors may have an interest in any matter to be considered at a meeting arising out of such registered interests.
- 10.3 This means that if you are present at a meeting when a matter is to be considered or is being considered, in which you have an interest precluding participation (as set out in the Members' Code of Conduct), you must declare that you have an interest, you may speak if permitted under the Code but you may not participate in the discussion or vote and you must leave the meeting room (subject to the granting of a dispensation by the Standards and Governance Committee or Monitoring Officer).
- 10.4 **Bias:** Where you might be inclined to the view that you have no interest which might preclude your participation in the discussion and vote, your duties as a director, or trustee, or member of a management committee may well be regarded, on an objective appraisal, as giving rise to a legitimate fear of lack of impartiality, especially having regard to the desirability of maintaining public confidence. Participation in the decision making at a Council committee meeting by a Councillor who is biased potentially invalidates the decision. The Members' Code of Conduct specifically provides that Members involved in making a decision on particular Council business must always bear in mind the rules relating to bias and predetermination and must not participate in, or seek to influence, Council business where their interests may prejudice, or appear to prejudice, their views.
- 10.5 Where membership of the outside body is on an advisory or consultative basis, bias will not be assumed from mere membership. However, once the outside body has a line which is being advocated by you, this could potentially be viewed as bias, and the Council's decision on the issue could be vulnerable to challenge if you participate in those circumstances. It will depend on the facts, and in such circumstances advice should be sought from the Assistant Chief Executive (Legal and Democratic Services).

## **11. Officers - Registration and Disclosure of Outside Interests**

- 11.1 **Declaring Officer Interests:** Section 117(1) of the Local Government Act 1972 requires that, if it comes to the knowledge of an officer of a local authority, that the Council has entered or proposes to enter into any contract in which the officer has a pecuniary interest, whether or not they would actually be a party to the contract, they must give notice in writing to the Council. This is interpreted as any circumstance in which the officer or a member of their immediate family stand to gain or lose financially as a result of the contract.
- 11.2 **Registration of Interests:** Under the Council's Standards of Conduct Policy for Officers, officers must declare to their Assistant Director any outside interests which they have, both upon appointment and as those interests change. Officers at Grade Band K and above are also required to make a declaration of interests in a register kept by the Monitoring Officer. This information is not available to the public but is accessible by other officers who have a "need to know".

## **12. Gifts and Hospitality**

- 12.1 Councillors and officers must not accept gifts or consideration as an inducement for doing or not doing something in their roles as Members or officers of the Council. Where officers accept inducements from anyone who has or is seeking a contract with the Council, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove to the contrary. It is therefore very important to be completely open about any significant gift or hospitality, to avoid the suspicion of misconduct.
- 12.2 Members are required to register electronically, via the Council's committee management software, any gift or hospitality received by/offered to them because of their office with a value of £25 or more. This Register of Members' Gifts and Hospitality is maintained by the Monitoring Officer. Every directorate holds a similar register of Gifts and Hospitality for Officers, and the Monitoring Officer maintains a central Register of Officers' Gifts and Hospitality.
- 12.3 A particular issue arises for officers seconded to work on behalf of outside bodies, as Section 117(2) of the Local Government Act 1972 provides that an officer shall not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration. It is therefore essential that, where an officer is to be seconded and might be in receipt of any payment from the authority to which they are to be seconded, that the Council agree that their proper remuneration shall include any payment to the officer by the body to which they are seconded.
- 12.4 A revised legal framework to deal with bribery was introduced in The Bribery Act 2010 which introduced new bribery offences, the main offences relating to bribing another person, being bribed, bribing a foreign official and the failure of commercial organisations to prevent bribery.

## Matters for you to check – questions to ask

If you are appointed to an outside body, you should be clear about the answers to the following questions. The organisation should be able to respond to these questions:

1. What is the nature of the organisation and its main activities? Is it a company, and if so is it limited by shares or by guarantee? Is it unincorporated? Does it have charitable status?
2. In what capacity do I serve on the outside body? Is the effect of my appointment to make me a member of the company, a director or a charitable trustee?
3. Do I have a copy of the body's governing instrument (this may be a trust deed, a constitution, or memorandum and articles of association)?
4. Does the organisation have a Code of Conduct that I need to comply with? Have I been supplied with a copy?
5. Am I aware of the identity of the other directors, trustees and committee members?
6. Is there an officer of the organisation, such as the secretary or clerk to whom I can refer for advice and information?
7. Are written minutes kept of the meetings, and have I seen the minutes?
8. Are meetings conducted in accordance with the governing instrument?
9. Am I aware of the financial position of the organisation to which I have been appointed? Is it regularly reported to the governing body?
10. Am I aware of any contract between the organisation and the Council?
11. Have I seen the last annual report and accounts?
12. Have I been advised of the main risks the body faces and what steps are taken to deal with such risks?
13. Have I been informed of the main insurances/indemnities held by the organisation?

## North Yorkshire Council

### Protocol on Audio/Visual Recording and Photography at Meetings

The Council is committed to being open and transparent in the way it conducts its decision making. Recording is welcomed at Council and committee and sub-committee meetings which are open to the public. The Council understands that some members of the public attending its formal meetings may not wish to be recorded. The Chair of the meeting will facilitate this by ensuring that any such request not to be recorded is respected by those making the recording.

The Council encourages the following as good practice:-

1. Anyone wishing to record is asked, prior to the start of the meeting, to notify the Democratic Services Officer whose details are set out on the Agenda.
2. We ask that the recording must be overt (ie clearly visible to anyone at the meeting) but non-disruptive.
3. All those visually recording a meeting are requested to focus only on recording councillors, officers and those members of the public speaking to the meeting.
4. Any member of the public has the right not to be recorded. Agendas for meetings will make it clear that recording can take place. If any member of the public speaking at the meeting does not wish to be recorded, the Chair will ask them to make this known.
5. Any children or young people clearly under the age of 18 who are present at the meeting are not to be filmed unless their parents/guardians have given their written consent.
6. The Chair of the meeting will ask anyone filming/recording to suspend recording and if needed call for an adjournment of the meeting if, in the Chair's opinion, continuing to record/film would prejudice proceedings at the meeting or if the person recording is in breach of these rules. The circumstances in which this might occur include:-
  - recording is disrupting the business of the meeting;
  - there is public disturbance or a suspension of the meeting;
  - the meeting has resolved to exclude the public for reasons which are set down in the Council's Constitution;
  - a member of the public participating in the meeting objects to being recorded.
7. The recording and reporting on formal public meetings of the Council, its committees and sub-committees is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation. We ask that the recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Council's values or in a way that ridicules or shows a lack of respect for those in the recording. The Council ask that any recording in breach of this be removed from public view. The Council will have no liability for material published by any other person unless it is itself undertaking the publication through its offices.



Please contact, in advance of the meeting, the Democratic Services Officer whose details are set out on the Agenda if the recording you wish to make involves equipment which is larger than a smart phone, tablet or compact camera or if you have special requirements eg need to move around the room to record or film from different angles. The use of lighting for filming/flash photography will be allowed but we ask that this is arranged via the Democratic Services Officer prior to the meeting. The Council requests contact in advance to ensure the meeting runs smoothly and there is a safe environment in which to transact the business.

# Protocol re Honorary Aldermen and Alderwomen

## 1. Background

- (a) Section 249 of the Local Government Act 1972 gives principal councils the power to confer the title of 'Honorary Alderman' or 'Honorary Alderwoman' on persons who have, in the opinion of the Council, rendered eminent services to the Council as past Members of that Council, but who are no longer Members of the Council. The Act does not specify how eminent services are defined, and this is left as a matter of local interpretation.
- (b) The Act also provides that in order to confer the title of Honorary Alderman/Alderwoman on an ex-Member, a meeting of the whole Council needs to be convened specifically for this purpose and the resolution passed by not less than two thirds of the voting Members present at that meeting.
- (c) The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 provide for the continuation of the conferment of Honorary Alderman/Alderwoman status from legacy councils to a new authority. Section 32 of these Regulations specifically set outs this provision. To this end, Honorary Aldermen/Alderwomen from the seven legacy North Yorkshire district/borough councils became Aldermen/Alderwomen for North Yorkshire with effect from 1 April 2023.

## 2. Process for Nomination

- (a) After an election in an election year, the Monitoring Officer will check who is no longer a Member and has met the criteria set out in this Protocol.
- (b) Group Leaders will be informed of who is eligible and proposals made to the Standards and Governance Committee.
- (c) A report will then be presented to full Council to consider conferring the Honorary Alderman/Alderwoman status.
- (d) Formal election to the Roll of Honorary Aldermen/Alderwomen shall be by resolution of the Council, passed by not less than two thirds of those Members present and voting thereon at a meeting of the Council specifically convened for that purpose.

## 3. Criteria

- (a) A person shall be deemed eligible to be enrolled as an Honorary Alderman/Alderwoman provided that the person has served as a Member of the Council (and any of the seven legacy North Yorkshire district/borough councils prior to the establishment of the Council on 1 April 2023) for at least 20 years in total.
- (b) Honorary Alderman/Alderwoman is an apolitical role so individuals should not hold political office.

- (c) For the purposes of this Protocol, the term “eminent service” is left undefined to allow flexibility when determining nominations.

4. **Term of Office**

- (a) All Honorary Aldermen/Alderwomen shall be lifetime appointments subject to the withdrawal of Title/Rights as set out below.

5. **Rights & Privileges**

- (a) An Honorary Alderman/Alderwoman is entitled to the following rights and privileges:
- To be presented with an Honorary Aldermen/Alderwomen badge.
  - To receive the link to the electronic version of the full Council summons and agenda.

(Given the capacity issues with full Council meetings, and the current number of Honorary Aldermen/Alderwomen, no guarantee of attendance at Council meetings can be provided).

6. **Withdrawal of Title/Right**

- (a) If an existing Honorary Alderman/Alderwoman stands for election and is not elected, they shall continue in the role. If they are elected to the Council as a Member, the title and rights of Alderman/Alderwoman shall be suspended from the individual for such time as they are a serving Member.
- (b) The Council may, in any other particular case, withdraw the title of Honorary Alderman/Alderwoman and the attached rights and privileges. Such withdrawal of the title shall be by way of formal motion to a meeting of the full Council, (the summons to which contains special notice that such withdrawal is proposed and the reason therefore, subject to any exempt information) and subsequent resolution of the Council passed by not less than two thirds of the Members present and voting thereon at the meeting of the Council. On the passing of such resolution, the Monitoring Officer shall delete the name of the person concerned from the Roll of Honorary Aldermen/Alderwomen and advise that person accordingly.

7. **Application of this Protocol**

- (a) This Protocol shall apply to all Honorary Aldermen/Alderwomen of the Council; that is those Aldermen/Alderwomen who have continued from the legacy Councils (paragraph 3 of this Protocol refers) and Aldermen/Alderwomen appointed by North Yorkshire Council.

## **CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS**

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

The term 'Planning Committee' in this Code is used in a generic sense and applies to any Council Committee, sub-committee or Cabinet when considering a planning matter. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

### **1. Introduction**

- 1.1** Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2** The planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3** The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
  - 1.3.1** Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2** Councillors should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3** Councillors should make decisions on merit.
  - 1.3.4** Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - 1.3.5** Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6** Councillors should respect the impartiality and integrity of Officers.
- 1.4** The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5** This Code of Practice sets out practices and procedures that Councillors and Officers

of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.

- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Councillors and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.
- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

## **2. The Role and Conduct of Councillors and Officers**

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their division constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Councillors involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Councillors shall provide:
  - 2.7.1 Impartial and professional advice;
  - 2.7.2 Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not

make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.

- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Councillors or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is.
- 2.10 If the Planning Committee is minded to refuse or grant an application contrary to an Officer's recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Councillors to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.12 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

### **3. Councillors Interests and Allegations of Bias**

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its planning merits, that Councillor should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Planning Committee. Councillors who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:

- 3.4.1 from being closely aligned with division campaigns or issues;
- 3.4.2 from membership of other Committees of the Council;
- 3.4.3 from membership of other public or community bodies;
- 3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);
- 3.4.5 from a connection with a particular policy initiative of the Council;
- 3.4.6 from membership of clubs, societies and groups; and
- 3.4.7 from hobbies and other leisure interests.

Such interests may mean that a Councillor is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee, providing that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

- 3.5 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

#### **4. Development Proposed by the Council or a Council Owned Company**

- 4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 4.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an interest and take no part in the discussion and determination of that proposal, except where they are the local Councillor when they may speak on matters of local concern but shall not vote.
- 4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

#### **5. Statutory Duties**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

## **5.1 Equality Act 2010**

Section 149 provides that:

**5.1.1** A council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

## **5.2 Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

## **5.3 Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

## **5.4 Crime and Disorder**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

## **6. Lobbying of and by Councillors**

**6.1** Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Councillor or members of the Planning Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.

**6.2** The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with



copies of any lobbying material they may have received, whether in favour or against a proposal.

- 6.3** The time for individual members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4** A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Planning Committee Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
- 6.4.1** make clear that they reserve their final decision on a proposal until the committee meeting;
  - 6.4.2** only give procedural advice;
  - 6.4.3** consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 6.4.4** not seek to meet an applicant or potential applicant alone.
- 6.5** Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors (other than when addressing the Planning Committee). Councillors shall not put improper pressure on Officers for a particular recommendation.
- 6.6** The local Councillor who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (representing the views of their division) but not vote. The Councillor for an adjacent division substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, also be allowed to attend and speak but not vote. A local Councillor who has an interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7** If a member of the Planning Committee identifies themselves with a group or individual campaigning for or against an application (to the extent that they are pre determined), they shall advise of their involvement at the start of the meeting and not vote or decide on the matter. However, that Councillor shall be given the opportunity to address the Committee and then leave the meeting for the remainder of that item.
- 6.8** Councillors of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Councillor cannot be instructed how to exercise their vote on a planning matter.
- 6.9** Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

## **7. Pre- and Post- Application Discussions and Negotiations**

- 7.1** Discussions between an applicant and a planning authority, prior to the submission of an application, can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2** It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3** Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4** A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5** Councillors need to preserve their role as impartial decision makers and members of Planning Committee should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions where a pre application discussion with the Committee or with other Councillors is considered appropriate, it should be part of a structured arrangement with Officers. Councillors must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6** Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

## **8. Officer Reports to Committee**

- 8.1** The Head of Planning and/or the Planning Development Manager will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and all other material considerations including government policy considerations. Where a planning application requires an environmental impact assessment the Head of Planning and/or the Planning Development Manager shall include in their report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with their own comments. The reports will include a summary of representations made about the application. The Head of Planning and/or the Planning Development Manager in their report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2** Supplementary written reports may be provided to Members prior to a meeting. This can be to deal with late representations after the publication of the agenda. Oral reports (except to present and update a report) may be provided and fully

minuted when they do occur.

- 8.3** The full planning application, environmental statement (where required) and representations from bodies consulted and members of the public are available through the Planning Portal and can be made available to Councillors for inspection if required.

## **9. The Development Plan and Planning Considerations**

- 9.1** Planning law sets out how decisions should be made in accordance with the Development plan unless material planning considerations indicate otherwise and should not be based on immaterial considerations.
- 9.2** Planning legislation, as expanded by Government Policy, Ministerial Statements and other Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.
- 9.3** It should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 9.4** Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.
- 9.5** The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 9.6** Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 9.7** It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the development plan policies, material planning considerations and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## **10. The Decision Making Process**

- 10.1** Councillors shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2** Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.

- 10.3** If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.4** Where the Planning Committee decide to adopt the recommendation of the Head of Planning and/or the Planning Development Manager, the reasons contained in their report will be minuted, together with any additional reasons determined by the Committee.
- 10.5** Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and/or the Planning Development Manager, or the Development Plan, consideration should be given to deferring the item unless agreement can be reached at the meeting on the planning reasons for that decision which shall be fully minuted.
- 10.6** The reasons for Committee's decision to defer any proposal should also be recorded.
- 10.7** Councillors who are not present at the meeting for the duration of the planning officer's presentation, any subsequent representations and the entire Councillor debate shall not (save with the discretion of the Chair) be entitled to vote on the matter under consideration.

## **11. Site Visits by the Committee**

- 11.1** A site visit may be held if the Head of Planning and/or the Planning Development Manager in consultation with Chair of the relevant committee considers it will assist Councillors in reaching their decision, where a site visit has been requested or an application deferred for such a visit. The purpose of a site visit is to gather factual information relating to the planning application. Site visits should only be undertaken where there is a reason to do so for example, where the impact of the proposed development would be difficult to visualise from photographs, satellite imaging, plans and supporting material or where the development is very contentious or complex.
- 11.2** Site visits should be requested in advance of the Planning Committee meeting and Councillors should liaise with Officers at the earliest opportunity to consider the need for a site visit.
- 11.3** When a site visit is held prior to the meeting of the Planning Committee it is desirable that all Councillors attending the Planning Committee should also attend the site visit. Councillors voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all Councillors have the same information.
- 11.4** Site visits should be conducted in a formal manner. They are not a forum for the interested parties to make representations and the Committee should not get involved in discussions with other any parties attending the site visit.
- 11.5** The organisation of the site visit will fall to the planning officer, who will inform Democratic Services of the need to send out site visit invites to the following:
- All Members of the Planning Committee including nominated substitutes;

- relevant Division Members; and
  - relevant Parish Councillors.
  - where the agent or representative of the applicant is required on a site visit to meet health and safety requirements a representative from the objectors will be invited to the site visit as an observer.
- 11.6** The Applicant/Agent will be informed that a site visit will take place in order to ensure that site access can be arranged. This is arranged by the planning officer due to their ongoing contact with relevant applicants/agents.
- 11.7** The site visit will be attended by the relevant planning officer(s) who will answer any questions raised. The planning officer(s) will describe the development and point out the relevant issue(s) that the Committee has come to view.
- 11.8** On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will explain the application as it relates to the site and relevant viewpoints. Parties who attend the site visit will be permitted to point out the salient features relevant to the subsequent decision. However no discussion of or debate on the merits of the proposal will take place on site. Discussion of such matters must take place in the Committee meeting itself. Following any questions to the planning officer, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
- 11.9** Members of the Committee should address any request for clarification through the Chair of the Planning Committee. Should the Chair deem it appropriate, those present may be requested to respond to questions of fact only.
- 11.10** Councillors should not engage in open discussion either individually or in groups with the applicant or any other people present. Any request for Councillors to express a view or accept an offer of hospitality should be politely declined.
- 11.11** Unofficial site visits are not encouraged as they do not have the appropriate procedural safeguards. Any Councillor attending an unofficial site visits must ensure that they avoid giving the impression that they represent the views of the Planning Committee or the Council. If a Councillor feels compelled to give a personal view, they should emphasise that the final decision is one for the Planning Committee.

## **12. Public Speaking at Planning Committee**

- 12.1** Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Councillors have the opportunity to inspect all letters received before the decision on the application is made.
- 12.2** The Council operates a scheme of public speaking at Planning Committee meetings. Normally the following people can speak at Planning Committee in relation to any specific application:

- One speaker representing the applicant – usually the applicant themselves or their agent.
- One speaker representing the objectors.
- The relevant Parish Council representative.
- A Division Member.

In exceptional circumstances the Chair has discretion to allow any other person to speak if it is considered necessary to do so.

### **Order of Speakers**

1. The objector has three minutes to put their case.
2. A representative of the relevant parish council then has three minutes to put their case.
3. A division member who wishes to speak on the application will be allocated three minutes to put their case.
4. At the appropriate time, any other person allowed to speak at the discretion of the Chairman will be allowed three minutes to put their case.
5. Finally the applicant, or their representative, will be allowed three minutes to put their case.

**12.3** The speaker representing the applicant must have the permission of the applicant to represent them.

**12.4** The speaker representing the objector(s) can be a neighbour, an interested individual or a representative of a residents group.

**12.5** The first objector to register to speak will normally be appointed as the spokesperson. Where there is more than one person wishing to speak, objectors are encouraged to agree on a spokesperson who is prepared to cover all the points of concern, so as to make best use of the time available.

**12.6** Persons wishing to speak on an application, which is to be considered at a Planning Committee and who have previously made representations on the application, should contact Democratic Services by 12 noon 3 working days before the Planning Committee meeting. Contact details will be provided on the relevant Planning Committee agenda.

**No late notification will be accepted and speakers cannot “turn up” to speak at Committee without the due notice being given.**

**12.7** The purpose of the scheme is to enable speakers to put forward any points they wish to make directly to the Committee. There will be no need to read any submission already made in writing, as this will already be summarised in the report Councillors have before them. If a representation is prepared by a speaker for the meeting it is helpful if a written copy could be provided to Democratic Services in good time in advance of the meeting.

- 12.8** Speakers should confine their comments to matters relevant to planning applications.
- 12.9** People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee except at the discretion of the Chair. Photographs may be handed out, provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting. There is also no provision to display maps, photographs or other information on boards or on screens in the meeting room on behalf of those making representations at the meeting.
- 12.10** The Chair of the Committee retains the right to decline to hear someone if they behave improperly, offensively or if they, in the Chair's view, intentionally obstruct the business in hand.
- 12.11** Officers may comment on the representations and the merits of the application in the light of those representations.
- 12.12** The Committee will proceed to debate the application and make a decision.

### **13. Training**

- 13.1** Councillors including named substitutes should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 13.2** Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above, and thus assist them in carrying out their role properly and effectively.

# PART 6

## Members' Allowances Scheme

### Introduction

*The Council has made a scheme for the payment of allowances to its Members and this is set out over the page.*

*An Independent Remuneration Panel has been established to advise the Council upon its Members' Allowances Scheme. In accordance with the Panel's recommendations, the following key principles shall 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.*



# Members' Allowances Scheme

*In exercise of the powers conferred by Local Authorities (Members' Allowances) (England) Regulations 2003, the Council has made the following scheme for the payment of allowances.*

*The scheme will be reviewed from time to time by an independent review panel in accordance with the relevant Regulations.*

1. This scheme may be cited as the North Yorkshire Council Members' Allowances Scheme, and shall have effect from **1 April 2024**.

2. In this scheme

“councillor” means an elected member of the North Yorkshire Council;

“year” means the 12 months ending with 31 March.

## Basic Allowance

3. Subject to paragraph 10, for each year a basic allowance of **£17,000** shall be paid to each councillor.

## Special Responsibility Allowances

4. (a) For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in paragraph 1 of schedule 1 to this scheme.

(b) Subject to paragraph 8, the amount of each allowance shall be the amount specified against that special responsibility in that schedule.

## Childcare and Dependant Carers' Allowance

5. (a) A childcare and dependant carers' allowance shall be paid to all members of the Council in respect of costs necessarily incurred by them in making arrangements for the care of children (under 14) or other dependant relatives (requiring care because of age and/or disability) to enable them to perform an approved duty (other relatives include parents, partners, siblings and others agreed by the Chief Executive Officer).

(b) For childcare, the allowance payable will be the lower of actual expenditure and the national minimum wage for adults aged 21 or over.

(c) For care for others, the allowance will be the lower of actual expenditure and the appropriate charge, dependent on the period of care, set as part of the home care charging scheme by NYC Health and Adult Services.

(d) All claims for childcare should be accompanied by a statement signed by both the Councillor and carer certifying that the childcare has been provided, that the expenditure has been incurred and that the carer does not live in the same household as the Councillor. If the childcare is provided by a professional carer then a receipted invoice is required.

- (e) All claims for the care of elderly and/or disabled dependant relatives should be supported by a receipted invoice. It is expected that this care will be provided by professional carers.

## 6. Travel and Subsistence Allowance

The following allowances shall be payable under the scheme in respect of travel and subsistence.

### Travelling Allowance

- (a) Public Transport

All rail travel is made in standard class accommodation and claimed at the most economical reasonable rate dependant on the rail company's prevailing ticket policy. However, with the approval of the Leader of the Council, Members are able to claim for first class rail journeys where this is appropriate.

Air travel at standard rate may also be claimed with the approval of the Leader of the Council where this is appropriate.

- (b) Travel by Member's own private vehicle

Travel by member's own private vehicle will be paid at the rate payable under the officers scheme. The current rate is shown below. If, during the year, the rates payable to officers is reviewed, then the scheme will be amended to pay the revised officer rates:-

for a motor or tri car:-

Up to 10,000 miles per annum	45p per mile
Additional miles in excess of 10,000 per annum	25p per mile

for a motor cycle:-

To match the rates payable under the Officer Scheme

- (c) The amount claimed for a journey may be increased by not more than the amount of any expenditure incurred on tolls, ferries or parking fees. Wherever possible receipts should be submitted.
- (d) Travel by bicycle may also be reimbursed at the rate of £2.00 per week for a regular user, or 40p per day for an occasional user.

### Subsistence Allowance

- (a) Current rates and eligibility based on time of day are shown below. It is expected that claims will be made only where there are genuine and unavoidable additional expenses incurred. If during the year the rates payable to officers are reviewed then the scheme will be amended to pay the revised officer rates.

(b) For an absence not involving an absence overnight from the usual place of residence, the maximum subsistence rates for Members operate on a meals basis as detailed below and will be paid in line with the officer scheme (with the exception of the lunch allowance).

(i)	Breakfast allowance (when a journey commences before 7.30am)	£6.50
(ii)	Lunch allowance (when a journey commences before 12 noon and continues after 2pm)	£6.50
(iii)	Tea (when the absence continues after 6:30 pm)	£3.50
(iv)	Evening meal allowance (when the absence continues after 8.30pm)	£11.00

Note: In line with the officer's scheme, it should be noted that where a dinner allowance is claimed, a tea allowance may not be claimed for the same day.

(c) When main meals (ie a full breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to daytime subsistence, the reasonable cost of the meals (including VAT) may be reimbursed in full, within the time limits specified below. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

(d) In line with the officers' scheme, maximum overnight allowances for Bed and Breakfast are £76.50 outside London and £110.00 in London. Other meals taken during the absence are payable in line with the rates set out in section (b) above. These allowances apply where a Member makes their own arrangements for accommodation and reclaims an allowance. Where the arrangements are made by officers on behalf of the Member, then the Council Travel Contract will be used to arrange appropriate accommodation at the most cost effective rate. Again in line with the officers' scheme it is recognised that there may be exceptional circumstances where consideration needs to be given to paying above these maximum rates. This may be necessary where other costs, e.g. conference fees, are part of a package, or where accommodation in a particular town or city are high and it can be shown that efforts have been made to find hotels or guest houses within the limits. Where such difficulties are likely to occur, it will normally be appropriate to ask officers to make the necessary arrangements using the Council Travel Contract.

(e) Subsistence allowances are limited to the reimbursement of actual expenditure, for which receipts are required, subject to the maximum rates set out in this scheme. Where any meal is provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates no further allowance should then be claimed.

### **General Provisions**

All claims shall only be payable if received within three months of the date of the entitlement arising.

## **8. Renunciation**

A councillor may by notice in writing given to the Corporate Director of Resources elect to forego any part of his entitlement to an allowance under this scheme.

## **9. Part-year Entitlements**

- (a) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (b) Where a councillor does not hold office as such throughout a year, or the scheme is amended to change entitlement to basic allowance during a year, the basic allowance to which the councillor is entitled shall be treated as calculated on a daily basis, so that the entitlement shall be to the aggregate of the daily entitlements for each day on which the councillor holds office.
- (c) Where a councillor who receives a special responsibility allowance does not have the special responsibilities in question throughout a year, or this scheme is amended in a way which changes his or her entitlement to a special responsibility allowance during a year, the special responsibility allowance to which the councillor is entitled shall be treated as calculated on a daily basis, so that the entitlement shall be to the aggregate of the daily entitlements for each day on which the councillor has the special responsibilities.
- (d) A daily entitlement to basic allowance or special responsibility allowance is the annual amount of that allowance as it applies on the day in question, divided by the number of days in the year.
- (e) The Corporate Director of Resources is authorised to automatically adjust the special responsibility allowances to reflect changes in the numerical strength of the Political groups. In these circumstances any such changes will take effect from the beginning of the month after which such a change has taken place.

## **10. Claims and Payments**

Payments shall be made in respect of basic and special responsibility allowances, in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month. Payments shall be made in respect of childcare and dependant carers' allowances, and travelling and subsistence allowances, on the last working day of the month in respect of claims received by the processing deadline.

## **11. Attendance by Councillors**

- (a) Individual councillors are expected to attend meetings of the Executive/Committees to which they are appointed. Periodic reports of attendance level will be made to the Standards and Governance Committee.
- (b) Individual councillors' attendance will be published annually.

- (c) If an individual councillor's attendance falls below the benchmark of 60%, they will be invited to voluntarily return a proportion of their allowance, except when there are mitigating circumstances such as illness.

## SCHEDULE 1 - ALLOWANCES PAID PER ANNUM PER MEMBER

1. The following are specified as the special responsibilities in respect of which Special Responsibility Allowances are payable, and the amounts of those allowances:

<b>Post</b>	<i>Allowance per annum per Member</i> £
Chair of the Council	12,385
Vice Chair of the Council	4,108
Leader of the Council	40,447
Deputy Leader	21,588
Other Executive Members (8):	19,945
Chair of Health Overview and Scrutiny Committee	11,273
Housing and Leisure Overview and Scrutiny Committee	5,637
Chairs of Other Overview and Scrutiny Committees (4):	5,637
Vice-Chair of Overview and Scrutiny Committees (6):	1,879
Chair of Area Constituency Committees (6):	5,637
Chair of Strategic Planning Committee	7,110
Vice-Chair of Strategic Planning Committee	2,184
Chair of the Appeals Committee	5,637
Vice-Chair of Appeals Committee	939
Chair of Pension Fund Committee	5,637
Chair of Audit Committee	4,864
Chair of Standards and Governance Committee	4,509
Chair of Area Constituency Planning Committee (6)	3,891
Vice-Chair of Area Constituency Planning Committee (6)	1,485
Chair of Statutory Licensing Committee	3,570
Vice-Chair of Statutory Licensing Committee	1,879
Chair of Statutory Licensing Sub-Committee (3)	250
Chair of General Licensing and Registration Committee	4,010
Vice-Chair of General Licensing and Registration Committee	1,879
Chair of General Licensing and Registration Sub-Committee (3)	250
Champion for Young People	1,879
Champion for Older People	1,879
Champion for Climate Change	1,879
Leaders of Political Groups:	
Second largest Group membership	6,957
Third largest Group membership	3,598
NB the allowance for the third largest Group Leader is shared equally where there is more than one eligible group*	

## Secretaries of Political Groups

Largest Group membership	2,818
Second largest Group membership	1,879
Third largest Group membership	939

NB the allowance for the third largest Group Secretary is shared equally where there is more than one eligible group\*

(\* other eligible groups are those that have over 10% of the membership, which is to be interpreted as over 7 in number)

### **These allowances are payable in addition to the basic allowance.**

2. The following is specified as the co-optee allowance payable, and the amount of that allowance:

Independent Persons of the Standards and Governance Committee	939
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3. The following are specified as the special responsibilities in relation to the Police, Fire and Crime Panel in respect of which Special Responsibility Allowances are payable and the amounts of those allowances:

Chair of the Panel	9,394
Vice-Chairman of the Panel (2)	3,758
Members of the Panel (7)	1,879
Community Members (3)	1,879

4. The following are specified as the special responsibilities in relation to the Pension Board in respect of which Special Responsibility Allowances are payable and the amounts of those allowances:

Chairman of the Board	3,182
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Travel, subsistence and other expenses for members of the Board are the same as those for Members of the Council.

## **2023/24 SCHEME OF APPROVED DUTIES - Eligibility for travel and subsistence allowances**

All Members of the Council are entitled to receive payment of travelling and subsistence allowances in respect of expenditure necessarily incurred by them for the purpose of enabling them to perform an **Approved Duty**.

### **List of Approved Duties**

- (a) All meetings of the Council, the Executive.
- (b) Any Committees of the Council or of the Executive, and any Sub-Committees, Panels or Working Parties they may establish.
- (c) Meetings of the Police, Fire and Crime Panel.
- (d) Meetings of the Health and Wellbeing Board.
- (e) Visits by Executive Members, Designated Champions, Chairs and Vice-Chairs of Overview and Scrutiny Committees on Council business associated with those roles.
- (f) Meetings, outside of formal Council meetings, attended by Members with Officers, for the purpose of progressing Council business, provided that:
  - ♦ the journey is strictly necessary for the matter to be resolved in an effective way;
  - ♦ the issue could not be dealt with at the same time that other business is being undertaken, for example on the same day as a formal meeting, so as to avoid an unnecessary journey; and
  - ♦ is reasonably undertaken in pursuit of the Council's work.
- (g) Attendance of Members at training courses and seminars approved by the Chief Executive Officer.
- (h) Attendance at conferences, subject to the specific arrangements set out in the **Protocol on Members Attendance at Conferences** within the Council's Constitution.
- (i) Attendance as an authorised representative of the Council at meetings of specified outside bodies listed in Sections 1 and 2 of Schedule 5 of Part 3 to the Constitution. (Note: Expenses will not be payable where they are payable by the body appointed to, in which case, the claim should be submitted to the body concerned.) In particular it should be noted that the National Park Authorities have their own arrangements in relation to the payment of these allowances.
- (j) Attendance at Parish Council Meetings in connection with the work of the Council.
- (k) Attendance at charter trustee and mayoralty meetings.

Certain duties, specifically relating to formal meetings of the Council are covered by Regulations made under the Local Government Act 1972.



### **Duties for which travelling and subsistence will not be paid**

It should be noted that travel/subsistence allowances are not payable to Members of the Council for the following purposes:

- ◆ Acting as Governors of primary or secondary schools
- ◆ Constituency business
- ◆ Social functions
- ◆ Political group meetings.

## NORTH YORKSHIRE COUNCIL

### MEMBERS' ALLOWANCES SCHEME 2023/24

#### NOTES OF GUIDANCE FOR COUNCILLORS

##### 1.0 INTRODUCTION

- 1.1 The Members' Allowances Scheme adopted by North Yorkshire Council forms Part 6 of the Council's Constitution which is available on the internet. The Allowance Scheme covers the Basic Allowance and Special Responsibility Allowances and Childcare and Dependant Carers' Allowance. It also covers travelling and subsistence allowances and sets out the list of approved duties for the purpose of claiming these expenses. Any revisions to these allowances are agreed by the Council following a report of an Independent Remuneration Panel.
- 1.2 These notes of guidance should be read in conjunction with the Scheme, and cover a range of practical issues to assist elected Members of the Council to understand the operation of the Scheme. Separate Notes of Guidance are available for independent and co-opted Members of the Council.
- 1.3 The main point of contact for the operation of the Scheme is Finance Enquiries by email at [finance.enquiries@northyorks.gov.uk](mailto:finance.enquiries@northyorks.gov.uk). For My View system queries (e.g. password issues, problems submitting a claim) please contact Richard Connor on 01609 532223 or by email at [richard.connor@northyorks.gov.uk](mailto:richard.connor@northyorks.gov.uk). Otherwise please contact Paul who will deal with queries on these notes of guidance, or on any other matter relating to the operation of the Scheme, including any specific advice required on the circumstances in which a claim may be made under the terms of the Scheme.
- 1.4 **From previous experience of operating the Scheme, two areas in particular are highlighted by the Internal Audit Service as being areas where Members may have experienced some uncertainty about the requirements of the Scheme. Members should, therefore, take particular care to understand these requirements:**
- **The requirement to retain receipts for expenses claimed, and for these to be available for inspection if required. This includes the need to retain sufficient VAT receipts for fuel used to allow the Council to recover the VAT element of the mileage allowance ( see sections 6.3 and 6.6)**
  - **The need to ensure that there is no double claiming of expenses for those Members of more than one Authority or other public body when journeys for more than one of these organisations occurs on the same day. The guidance covers how claims might reasonably be allocated between the different bodies (see section 7)**
- 1.5 These notes of guidance do **not** apply to members of Education Appeals Panels. A separate scheme and notes of guidance are available which cover the rules for these members.
- 1.6 The Council acts as Administering Authority for the North Yorkshire Police and Crime Panel. Special Responsibility Allowances have been agreed for the roles of Chair, Vice Chair and Community Members of the Panel, and these notes of guidance apply to the payment of those allowances. It has been agreed that travelling and subsistence and

other allowances for elected members nominated to the panel should be met by the nominating body. This means that the North Yorkshire Council representative on the Panel is entitled to claim expenses under the terms of this Scheme. In addition, the Community Members of the Panel are entitled to claim travelling and subsistence and other allowances under the terms of this Scheme.

- 1.7 To support the completion of claims, Members are reminded of the importance of signing the official attendance book at the place at which the meeting is held to support claims for allowances, and are advised to keep a careful note of dates, times and places of meetings and the duration of any approved duty.
- 1.8 **The completeness and accuracy of items included on each claim are entirely the responsibility of the Member submitting that claim.** Whilst the Council retains the right to query individual items, it must be stressed that no specific arrangements are in place to check the details of individual claims in respect of matters such as the reasonableness of the mileage claimed, or the confirmation that a meeting was attended by a Member. The Council's Auditor, and the Internal Audit Service, are entitled to look at all claims and a local government elector is entitled to inspect the statutory register of payments made. The Corporate Director of Resources is concerned only to ensure that statements which are checked with attendance registers are correct as to date, place and reason for the approved duty.
- 1.9 All Members must use the MyView online system to access details about the allowances they receive, and to input travelling and subsistence claims. Training will be given to any Member who requires this. (see section 9)
- 1.10 In order to comply with the Local Authorities (Members' Allowances) (England) Regulations 2003, a summary of all expenses and allowances paid to, or on behalf of each councillor, is published annually on the council's website. Members should be aware that the summary includes the cost of travel tickets and accommodation booked by NYC staff *on behalf* of Members, as well as the amounts claimed via the MyView system to reimburse expenses paid from a Member's own pocket. The publication also includes a record of each Member's attendance at committee and council meetings. Members are made aware of the summary being published each year via an article that appears in Members News which also asks that Members check the data that relates to them. Members can access the most recent publication on the Councillors' Allowances webpage.

## 2.0 BASIC AND SPECIAL RESPONSIBILITY ALLOWANCES

- 2.1 These annual allowances to each elected Member are paid on a monthly basis. The Basic Allowance reflects the expectation that Members will meet the cost of phone calls from their home or mobile phone, and other out of pocket expenses including a broadband connection so that they can receive information from the Council and others by email, and more generally make use of the IT facilities provided to them.

## 3.0 INCOME TAX LIABILITY

- 3.1 There is no standard allowance for NYC Members in respect of expenditure incurred in connection with the role of Councillor.
- 3.2 However, Members may be able to claim a standard deduction of £135 per year in consideration of using their home for Council work.

- 3.3 To receive this allowance, applications should be made directly to HMRC (quoting your National Insurance Number) at the following address:

HM Revenue & Customs  
Customer Operations Employers Office  
Ref 406/N8001  
BP4009  
Chilingham House  
Benton Park View  
Newcastle upon Tyne NE98 1ZZ

#### 4.0 NATIONAL INSURANCE IMPLICATIONS

- 4.1 Basic and Special Responsibility Allowances are regarded as taxable earnings by HM Revenue & Customs and as such create a liability to pay Class 1 National Insurance contributions. From 6 April 2014 where these earnings exceed £663 per month, National Insurance Contributions will be payable.
- 4.2 Certain classes of Member are excused the standard rate of contribution. Members over state pensionable age are not required to pay National Insurance. Married women and certain widows who have elected in the past to pay the reduced contribution rate will pay, from 6 April 2014, 5.85% on all allowances in excess of £663 per month.
- 4.3 Members who are not required to pay full National Insurance contributions must apply to HM Revenue & Customs National Insurance Contributions Office for a certificate of age exemption, or a certificate of election for women paying reduced contributions, as appropriate, if they do not already possess one.
- 4.4 These certificates should be sent to Employment Support Services at County Hall, Northallerton, so that the correct deductions may be made from the allowances. In the absence of the relevant certificate, HM Revenue & Customs rules require the deduction of full rate contributions from payments.
- 4.5 The total National Insurance contributions paid by a Member on his or her Basic and Special Responsibility Allowances, when added to those paid on other income, may exceed the maximum annual contribution required by HM Revenue & Customs. For the year commencing 6 April 2014, this maximum is based on monthly earnings of £3,489.
- 4.6 Where this overpayment occurs on contributions made for employments in which Class 1 contributions have been made, then HM Revenue & Customs will refund these automatically after the end of the tax year.
- 4.7 If a Member is also self employed and pays Class 2 contributions then the same annual maximum payment applies and the Member will be entitled to reclaim any excess contribution. In this case it is essential that the Member applies direct to HM Revenue & Customs since they have no procedure to identify such overpayments.
- 4.8 If a Member expects to pay more than the annual maximum, then he or she may apply to HM Revenue & Customs for payment of National Insurance contributions to be deferred in one or more of his or her employments. This is obviously preferable to awaiting a refund of excessive contributions. Members wishing to apply for a deferment should contact HM Revenue & Customs National Insurance Contributions office for an explanatory leaflet (CA72A) and application form, or they can be downloaded from the HMRC website at the following link:

<http://www.hmrc.gov.uk/forms/ca72a-notes.pdf>

4.9 Deferments must be renewed each year. The links above relate to tax year 2013/14.

## 5.0 PENSION SCHEME

5.1 The 'Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014', will phase out councillors' membership of the LGPS. If you have any queries please contact the Pensions Section, on 01609 535879 (internal extension 5879) or by email at [pensions@northyorks.gov.uk](mailto:pensions@northyorks.gov.uk).

## 6.0 TRAVELLING ALLOWANCE AND SUBSISTENCE ALLOWANCE

### Which activities can I claim for?

6.1 Members are entitled to receive payment of travelling and subsistence allowances at the rates set out in the Scheme in respect of expenditure on travelling and subsistence necessarily incurred by them for the purpose of enabling them to perform an **approved duty**. Details of approved duties are included in Schedule 2 to the Members Allowances Scheme, and the Protocol on Members Attendance at Conferences is included as Schedule 3 to the same document. For ease of reference copies of both documents are attached as Appendices 1 and 2 to these notes of guidance. Travel and subsistence allowances may be payable for attendance by relevant Members at meetings of the outside bodies listed in Schedule 5 to Part 3 of the Constitution. Please note that there are a number of appointments to local bodies made by Area Constituency Committees, where expenses will only be payable if these are **not** met by the body. Please ensure that when you submit a claim, sufficient detail is provided to allow this to be confirmed against the list of approved duties, should there be a query. For less formal meetings, for example those involving meetings with officers rather than formal meetings of the body concerned, it would be helpful if the name of the lead officer involved in that meeting is provided.

### Travelling Allowance

6.2 The general conditions governing claims for payment of travelling allowance are as follows:

#### Rail Travel

- (a) all rail travel by Members on official business should be made in standard class accommodation and claimed at the most economical, reasonable rate depending on the rail company's prevailing ticket policy. The Scheme allows, however, with the approval of the Leader of the Council, for Members to be able to claim for first class rail journeys where this is appropriate;
- (b) wherever practicable, travel tickets should be purchased in advance, as this often means that better rates are available. Planning journey times and travelling on specified trains will also lead to better prices in many cases, particularly where journeys are over longer distances. Consideration should be given to purchasing tickets through the Council's booking agency arrangements. The Council is then invoiced by the agency, thereby avoiding the requirement for Members to incur expenditure personally and reclaim. This approach will normally apply when arrangements are made for a Member to attend a training course or conference

through the Learning and Development team, or through the relevant Corporate Director's support team;

- (c) the Council will reimburse Members who are eligible for a Senior Citizens Rail Card, or a Disabled Persons Rail Card, and who travel by rail on Council business. A Member who qualifies for one of these rail cards and is likely to travel on Council business should contact Finance Enquiries (contact details above), for details of eligibility and the operation of the scheme. It should be noted that in these circumstances where a member purchases a ticket directly, reimbursement will be made at the discounted rail card rate for eligible Members;
- (d) if Members need to purchase their own tickets they should do so in accordance with the above principles. It is important that Members retain the rail tickets used or a receipt for payment;

### **Car or Motorcycle**

- (e) Members using their own cars will be paid the following mileage rate:

Up to 10,000 miles per annum	45p per mile
Additional miles in excess of 10,000 per annum	25p per mile

These rates are aligned with Officers rates. If, during the year, the rates payable to officers are reviewed and vary the rates shown above, then the Scheme will be amended to pay the officer rates, from the date of that review.

Members using a motorcycle will be paid a rate dependent on the cc of the motorcycle. The payment will match the rates payable under the Officer Scheme, details of which are available on request.

- (f) return mileage, where travel is by road, is calculated by reference to the shortest practicable route from the member's place of residence or business to the nearest point to the place at which the approved duty is performed. The "place of residence" for this purpose is defined as the address to which Committee papers are sent or otherwise by agreement with the Corporate Director of Resources. Accurate mileage figures should be used by reference to your odometer reading. You are advised not to round up mileages or use approximate estimates. Where travel is by public transport, reimbursement will be made by reference to the Members place of residence or business. If a Member considers that a claim not following these guidelines is justified by the circumstances, then these will be considered on an exceptional basis, but prior approval must always be sought before the claim is submitted. Please contact Finance Enquiries in the first instance (contact details above).
- (g) all official travel to destinations outside North Yorkshire should be reimbursed at public transport rate or mileage rate, whichever is the most economical, where a reasonable public transport option exists.
- (h) where a means of transport other than the Member's car is available for part of the journey only, the car allowance is payable only in respect of the journeys to and from the Member's residence or place of business to the point where the other transport is available. This may apply, for example, where a Member travels with another Member for part of a journey, or travels to a rail station to commence the onward journey by train.

- (i) reasonable detail describing the start and end points of a journey, and where necessary for more complicated journeys, information about the route taken should be given. Times for the start and finish of journeys should be entered on the claim screen on MyView in the free text box available to describe the journey.
- (j) receipts or tickets for miscellaneous expenditure, e.g. car parking should be obtained wherever possible, and should be retained;
- (k) Members should ensure that their vehicle insurance covers them when travelling on the business of the Council, that the vehicle has a valid MOT if appropriate, and that they are licensed to drive the vehicle.
- (l) It is accepted that in some cases, Members may wish, for personal reasons, to use their car for a long journey where appropriate public transport, and typically rail, could be used. It is acceptable to claim rail fare in lieu of mileage in these circumstances. In this case the amount that should be claimed should be in line with the approach set out in (a) and (b) in the section on rail travel above, ie the amount claimed should relate to the most cost effective standard class fare taking advantage of advanced fares on specified trains to tie in with the journey times required. It should be made clear on the MyView claim that the rail fare has been claimed in lieu of mileage.

#### **Taxi or Hired Vehicle**

- (m) the rate for travel by taxi-cab or cab is not to exceed:-
  - (i) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid, and
  - (ii) in any other case, the amount of fare for travel by appropriate public transport.
- (n) the rate for travel by a hired motor vehicle other than a taxi-cab or cab is not to exceed the rate which would have been applicable had the vehicle belonged to the Member who hired it, except in approved cases when the rate may be increased to an amount not exceeding the actual cost of hiring;

#### **Air Travel**

- (o) air travel at economy rate may be claimed with the approval of the Leader of the Council, where this is appropriate;

#### **VAT Receipts for Mileage Claims**

6.3 Members who submit mileage claims for reimbursement **must ask for, and keep, sufficient Value Added Tax (VAT) receipts for the purchase of fuel to support their claim.** These receipts must be retained for four years. This procedure is necessary to allow the Council to recover VAT from HM Revenue & Customs (HMRC).

When you fill in the MyView claim, you will be asked to confirm that you have obtained and retained valid VAT receipts in support of the claim. A positive “Yes” will mean that the Council can recover VAT on the fuel element of the payment. An Answer of “No” means that your payment will not be processed.

Most petrol stations already ask customers purchasing fuel if they want a VAT receipt. The receipt supporting each claim must be dated before the date of the journey for which

the mileage is being claimed and should cover as a minimum the purchase of sufficient fuel for the mileage being claimed. To ensure sufficient receipts are retained, it may be simpler to obtain receipts for all fuel purchases and keep these filed in date order.

If you car share, or your partner also requires receipts, then as long as the receipt pre-dates all journeys and is sufficient to cover the mileage claimed by both partners, there should not be a problem. Under these circumstances, it may be useful to put the number of miles claimed by each partner on the back of the receipt.

Members must be able to provide their VAT receipts to HMRC for inspection if requested. Should the HMRC carry out an audit on the VAT that the Council has claimed on mileage payments paid, they are likely to ask to see some of the VAT receipts being held by employees and Members in support of these claims. It is important, therefore, that these are filed carefully and retained for four years.

### **Use of a Car Driven by a Third Party**

- 6.4 Members may, on occasion, be driven to a meeting or other approved duty in a car owned by a third party. It will be in order for the appropriate mileage allowance to be claimed in respect of that journey and for the Member to pass on the allowance to the third party with the following important provisos:
- (a) you should indicate in the notes field on the MyView record that the journey was made in a car driven by a third party;
  - (b) it is important that you ensure that there is appropriate insurance in place to cover the use of the car to transport you on Council business;
  - (c) to enable the Council to recover VAT on the allowance, the rules on VAT receipts set out in the section above should be followed, and you should retain these receipts for four years.

### **Subsistence Allowances**

- 6.5 Subsistence allowances for Members are based upon the time away from home and a meal actually being taken.

All allowances under the Scheme, including the time periods at which a claim may be appropriate, are aligned with those applying to officers. If, during the year, the rates payable to officers are reviewed and vary the rates shown above, then the Scheme will be amended to pay the officer rates, from the date of that review.

Details are as follows:

The maximum rates for meals as at April 2017, are:-

(i)	Breakfast allowance (when a journey commences before 7.30am)	£6.50
(ii)	Lunch allowance (when a journey commences before 12 noon and continues after 2pm)	£6.50
(iii)	Tea (when the absence continues after 6:30 pm)	£3.50



- (iv) Evening meal allowance (when the absence continues after 8.30pm) £11.00

When main meals (ie a full breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to daytime subsistence, the reasonable cost of the meals (including VAT) may be reimbursed in full, within the time limits specified above. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

In line with the officers scheme, maximum overnight allowances for Bed and Breakfast are £76.50 outside London and £110.00 in London. Other meals taken during the absence are payable in line with the rates set out in the table above. These allowances apply where a Member makes their own arrangements for accommodation and reclaims an allowance. Where the arrangements are made by officers on behalf of the Member, then the Council Travel Contract will be used to arrange appropriate accommodation at the most cost effective rate. Again in line with the officers' scheme it is recognised that there may be exceptional circumstances where consideration needs to be given to paying above these maximum rates. This may be necessary where other costs, eg conference fees, are part of a package, or where accommodation in a particular town or city are high and it can be shown that efforts have been made to find hotels or guest houses within the limits. Where such difficulties are likely to occur, it will normally be appropriate to ask officers to make the necessary arrangements using the Council Travel Contract.

Members should note that:-

- (i) sufficient detail should be included in the free text box of the MyView claim screen, to explain the basis of your claim.
- (ii) if a free meal is provided then no allowance for that meal can be claimed.
- (iii) subsistence allowances are limited to the reimbursement of actual expenditure, **for which receipts will be obtained and retained**, subject to the maximum rates in place at the time of the claim. When a meal is taken at County Hall, in the Staff Canteen, it will be provided free of charge and no further allowance should then be claimed. Members should quote their account number when taking a meal in the Staff Canteen. The costs of this will be recharged to the Council.
- (iv) it should be noted that where an evening meal allowance is claimed, a tea allowance may not be claimed for the same day.
- (v) in calculating the period of absence for the purpose of subsistence allowance, reasonable travelling time may be included; and
- (vi) subsistence allowance is payable when any expenditure has necessarily been incurred to enable the Members to perform the approved duty.

### **Retaining Receipts**

- 6.6 Requirements to retain VAT receipts for fuel used, to support mileage claims is referred to in **paragraph 6.3** above

In addition, receipts should be obtained wherever possible for all other items for which a travelling and subsistence claim is made including rail, taxi and air tickets, and supporting receipts for meals, accommodation costs and other out of pocket expenses.

Because claims will be input online using MyView, it will be necessary for these receipts should be retained by you for a period of six years. It is suggested that these are filed in a way that will readily allow receipts for a particular month to be retrieved, if required, to resolve queries or for audit purposes.

## 7.0 DUAL MEMBERSHIP

7.1 Particular rules cover allowances payable to a Member who holds membership of more than one body and is required to attend meetings of both on the same day (either before or after an approved Council duty).

7.2 Care is needed to ensure that there is no possibility of both bodies paying for part or all of the same journey. Members should provide sufficient detail in their claim, including journey times, as described in **paragraph 6.2(i)** to enable any queries to be dealt with easily.

### Travelling Allowances

7.3 A Member may not take the same expenditure on travelling into account for the purposes of more than one claim. It is necessary, therefore, to have a straightforward approach to determining which Authority should meet which part of the overall journey made on that day.

7.4 Starting with the first journey of the day, all journeys for the purpose of claiming mileage will be deemed to finish on arrival at the venue of the next meeting of the day, provided that the actual distance travelled is less than would otherwise have been claimed if the Member had returned home. Claims for travel should be submitted to the first Authority. (Authority A).

7.5 Where the actual distance incurred in travelling to the second venue is greater than would normally have been claimed then the excess should be claimed from the second Authority (Authority B).

7.6 The following examples illustrate this principle:

#### Example 1

A Member travels 20 miles from home to a meeting at Authority A, then travels 15 miles to get to a meeting at Authority B, before travelling the 30 miles home.

In this case the claim to Authority A should be the 35 miles (ie 20 +15) as this is less than the normal return journey home. The claim to Authority B will be just the journey back home at the end of the day ie 30 miles.

#### Example 2

A Member travels 20 miles from home to a meeting at Authority A, then travels 35 miles to get to a meeting at Authority B, before travelling the 50 miles home.

In this case the claim to Authority A should be the 40 miles (ie 20 for the outward trip to the first meeting and the first 20 miles of the onward journey, which would have represented the distance that would have been claimed if there had been a direct return home) The claim to Authority B will be the excess mileage on the

journey to the next meeting (35-20 =15), together with the final journey home, making an overall claim of 65 miles (15+50).

### **Example 3**

A Member travels 20 miles from home to a meeting at Authority A, then travels 10 miles to get to a further meeting for Authority A. At this stage the Member is 25 miles from home, but now goes on to a third meeting with Authority B which involves a journey of 35 miles. He then returns home travelling 40 miles.

In this case the claim to Authority A should be the 55 miles (ie 20 for the outward journey to the first meeting, 10 miles for the journey to the next meeting, and the first 25 miles of the onward journey, which would have represented the distance that would have been claimed if there had been a direct return home) The claim to Authority B will be the excess mileage on the journey to the next meeting (35-25 =10), together with the final journey home, making an overall claim of 50 miles (10+40).

The only exception to following this general approach would be if extraordinary circumstances applied. A Member would need to explain these at the time of making a claim with each claim being decided on its merits. Requests for exceptions should be referred to Finance Enquiries (contact details above).

### **Subsistence Allowance**

- 7.7 Where a Member performs duties on behalf of two authorities they may not take any period of absence from their usual place of residence into account for the purpose of more than one subsistence allowance claim;
- 7.8 Provided the time parameters as set out in paragraph 6.5 above are met, the principle to be applied would be for claims to be made against the body/organisation where the Member partook of a meal and/or refreshments.

### **8.0 CHILDCARE AND DEPENDANT CARERS' ALLOWANCE**

- 8.1 This allowance may be claimed by Members in respect of costs necessarily incurred by them in making arrangements for the care of children or other dependants to enable them to perform an **approved duty**.
- 8.2 The allowance is payable for the care of children living with the Member under the age of 14 and other dependent relatives requiring care because of age/disability (where other relatives includes parents, partners, siblings and others agreed by the Chief Executive).
- 8.3 For care arranged for children the allowance paid will be the lower of actual expenditure and the national minimum wage for adults aged 21 or over (currently £6.31 per hour from October 2013). This rate is usually reviewed by the Government each October.
- 8.4 All claims for childcare should be backed up by a statement signed by both the Member and carer certifying that childcare has been provided, expenditure has been incurred and that the carer does not live in the same household as the Member. If childcare is provided by a professional carer then a receipted invoice is required. These documents must be retained by the Member for six years.

8.5 For care arranged for elderly/disabled relatives, the allowance will be paid at the lower of actual expenditure and the charge for home care provided by the Council's Health and Adult Services Directorate (£7.20 for up to 15 minutes and £17.40 per hour for 2014/15). All claims should be supported by a receipted invoice, where the service has been provided by a care agency.

8.6 All claims for dependant care provided directly by a carer should be backed up by a statement signed by both the Member and carer certifying that care has been provided, expenditure has been incurred and that the carer does not live in the same household as the Member. These documents must be retained by the Member for six years.

## 9.0 METHOD OF PAYMENT OF ALLOWANCES

9.1 Members are responsible for completing their own travel and subsistence and child care and dependant allowance claims online using the MyView system. Claims should, whenever possible, be submitted at regular monthly intervals. All claims must be made within three months of the entitlement arising.

9.2 Training in the use of MyView is available to Members as part of the wider training available during the year on ICT systems, and can also be raised at the drop in sessions arranged by ICT Services.

9.3 The MyView system has the added benefit of providing a readily accessible record of previous claims submitted on MyView together with payroll related records of all Members Allowance Scheme payments, in the form of copies of payslips.

9.4 Payments will be made:-

(i) in respect of Basic and Special Responsibility Allowances in instalments of one-twelfth of the amount specified for the allowance in the Scheme, on the last working day of each month through the payroll system, and subject to the deduction of tax, national insurance and pension contributions as applicable. Adjustments will be made if required if the entitlement is not payable for a full month, for example when a change is required in respect of a Special Responsibility Allowance. Members should note that the Regulations governing the entitlement to these allowances specify that these are payable based on a daily calculation of entitlement. So whilst for convenience, the normal arrangement is to pay a twelfth each month, adjustment sums may need to reflect the need to finalise entitlement calculated on this daily basis.

(ii) in respect of childcare and dependant carer' allowances, and travel and subsistence allowances, on the last working day of each month through the payroll system, following the submission of your claim, provided this meets the processing timetable. Members should aim to complete their claim online using the MyView facility, by the last working day before the 10th of that month.

9.5 The MyView online can be accessed using the [MyView link](#) which can be accessed via the front page of the intranet, under 'Computer Systems'.

9.6 Guidance specifically for Members using this facility is available on the intranet under the Members Induction Material section –

<http://nyccintranet/search/site/My%20View%20Basic%20Expenses%20User%20Manual>

Please look for the **MyView Basic Expenses user manual**, included in the “Related Documents” section on this intranet page. There are also two useful tutorials on how to create a new claim and how to view a previous claim.

If you need assistance in using the MyView facility, please contact:

Richard Connor on 01609 532223 or by email at  
[richard.connor@northyorks.gov.uk](mailto:richard.connor@northyorks.gov.uk)

# PROTOCOL ON MEMBERS ATTENDANCE AT CONFERENCES

1. The Council will not meet the cost of conference attendance, including any related travelling and subsistence expenses, unless attendance at that conference has been authorised. A number of conferences have been approved by the Executive, as set out in paragraph 6 below. All other conferences will require specific authorisation as set out in this protocol.
2. All arrangements for attendance at conferences should be made through the Chief Executive's Office.
3. Travelling and subsistence allowances will be paid in accordance with the Members Allowances Scheme. In general, the Council will not meet the cost of accommodation associated with attending a conference held within the County although arrangements will be flexible dependent on the associated transport costs compared with accommodation costs.
4. If any Member obtains information on a conference they would wish to attend, they should contact the Chief Executive's Office, to discuss the possible attendance. In the event of there being several expressions of interest, attendance will normally be restricted to a maximum of five Members (three Members from the controlling group and two from other groups).
5. Attendance at party political and political conferences is specifically excluded from this protocol. All expenses associated with attendance at these events will be met by the relevant group, or the individual concerned.
6. The following conferences have been approved by the Executive for the attendance detailed below. Further authorisation from the Chief Executive's Office is not required. In all cases, however, they will need to be informed of arrangements made. All references to Executive and Scrutiny Members should be taken to mean those Members with the relevant portfolio.
  - ◆ Local Government Association Annual Conference and the CCN Annual Conference – representatives appointed at the annual meeting of the Council, unless they are unable to attend, in which case they may appoint an alternative Member to attend in their place.
  - ◆ Pension Fund conferences.
7. In the case of conferences associated with training events, Members will be entitled to claim expenses if that conference attendance is approved by the Chief Executive Officer. In the first instance, the request should be passed to the Chief Executive's Office.
8. It is open, at any time, to an individual Member to attend a conference on their own initiative provided they meet all travel, subsistence and attendance costs including registration fees.
9. Attendance by Officers at Conferences will be a matter for the relevant Directorate both in arrangement and funding terms.

# PART 7

## Management Structure

The following is the description of the overall structure of the Council referred to in Article 12.01(e).

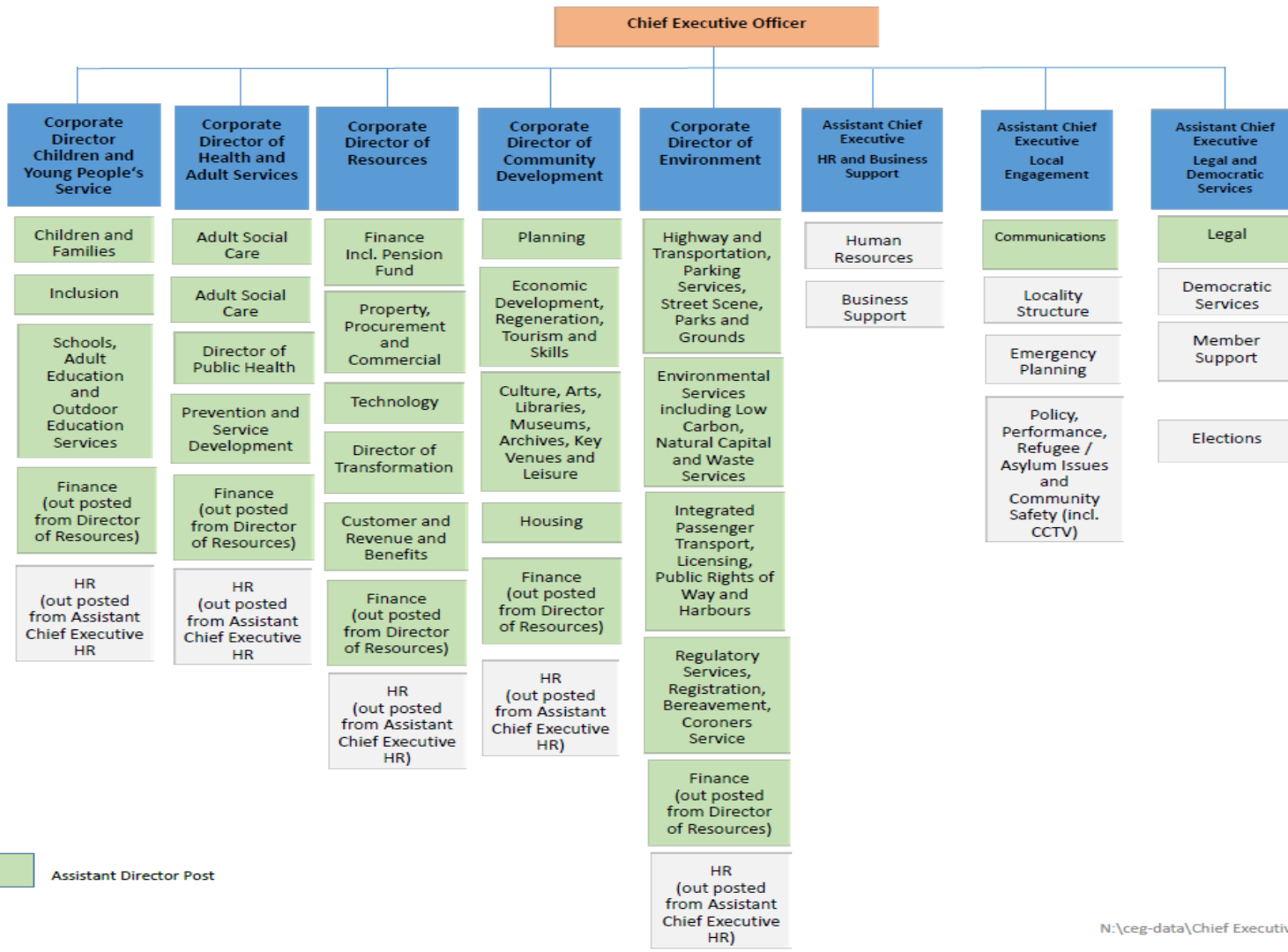
### 1. Role of Management Board

1.1 The Management Board brings together the Corporate Directors and Assistant Chief Executives of the Council, under the Chairmanship of the Chief Executive Officer.

- ◆ Chief Executive of North Yorkshire Council
  
- ◆ Assistant Chief Executive                      Legal and Democratic Services
- ◆ Assistant Chief Executive                      HR and Business Support
- ◆ Assistant Chief Executive                      Local Engagement
  
- ◆ Corporate Director                              Environment
- ◆ Corporate Director                              Health and Adult Services
- ◆ Corporate Director                              Children and Young People's Services
- ◆ Corporate Director                              Resources
- ◆ Corporate Director                              Community Development

1.2 Its role is to:

- ◆ provide leadership for and management of the Council's paid staff;
- ◆ ensure that the policies and Executive decisions of the Council are implemented;
- ◆ make sure that policies and decisions are consistent with each other and with the corporate priorities of the Council;
- ◆ take overall responsibility for the Council's day to day performance and delivery of the Best Value Performance Plan;
- ◆ develop on a corporate basis proposals for the Council's budget and policy framework;
- ◆ encourage active collaboration between Directorates and resolve disputes between them.



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