

# NORTH YORKSHIRE COUNTY COUNCIL



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## CONSTITUTION

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This document explains the structure and workings of North Yorkshire County 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 37 of the Local Government Act 2000.

# CONSTITUTION OF NORTH YORKSHIRE COUNTY COUNCIL

## Contents

	<u>Page</u>
Part 1 – <a href="#">Summary</a> and Explanation	11
Part 2 – <a href="#">Articles of the Constitution</a>	16
<a href="#">Article 1</a> - The Constitution	17
<a href="#">Article 2</a> - Members of the Council	20
<a href="#">Article 3</a> - Citizens and the Council	23
<a href="#">Article 4</a> - The Full Council	26
<a href="#">Article 5</a> - Chairing the Council	30
<a href="#">Article 6</a> - Overview and Scrutiny Committees	32
<a href="#">Article 7</a> - The Executive	38
<a href="#">Article 8</a> - Regulatory and Other Committees	41
<a href="#">Article 9</a> - The Standards Committee	43
<a href="#">Article 10</a> - Area Committees	47
<a href="#">Article 11</a> - Joint Arrangements	50
<a href="#">Article 12</a> - Staff	53
<a href="#">Article 13</a> - Decision Making	62
<a href="#">Article 14</a> - Finance, Contracts and Legal Matters	65
<a href="#">Article 15</a> - Review and Revision of the Constitution	67
<a href="#">Article 16</a> - Suspension, Interpretation and Publication of the Constitution	69
Part 3 – <a href="#">Responsibility for Functions</a> – including delegation of power	71
1. General	76
2. Functions of the Full Council	77
3. Functions of the Executive	78
4. Table: Responsibility for Local Choice Functions	80
5. Delegation of Functions by the Council	83
6. Delegation of Functions by the Executive	83
<a href="#">Schedule 1</a> – Council Committees, their membership and their powers:	85
▪ Planning and Regulatory Functions Committee	86
▪ Planning and Regulatory Functions Sub-Committee	91
▪ Standards Committee	93
▪ Audit Committee	94
▪ Appeals Committee	97
▪ Employment Appeals Committee	99
▪ Chief Officers Appointments and Disciplinary Committee	101
▪ Pension Fund Committee	104
▪ Area Committees	106
▪ Governors Committee	118

	<b><u>Page</u></b>
<a href="#"><u>Schedule 2</u></a> – The Executive:	121
▪ Executive Members and their Responsibilities	122
▪ Register of Executive Committees	124
▪ Delegation of Executive Functions	125
▪ Executive Members Delegation Scheme	129
 <a href="#"><u>Schedule 3</u></a> - Membership of Overview and Scrutiny Committees	 132
<a href="#"><u>Schedule 4</u></a> - Officers' Delegation Scheme	140
<a href="#"><u>Schedule 5</u></a> - Appointments to Outside Bodies	154
 Part 4 – <a href="#"><u>Rules of Procedure</u></a>	 164
Council Procedure Rules	165
Access to Information Procedure Rules	190
Budget and Policy Framework Procedure Rules	215
Executive Procedure Rules	224
Overview and Scrutiny Procedure Rules	231
Financial Procedure Rules	246
Contract Procedure Rules	278
Staff Employment Procedure Rules	298
Property Procedure Rules	307
 Part 5 – <a href="#"><u>Codes and Protocols</u></a>	 322
Members' Code of Conduct	323
Protocol for Members' Guidance re Members' Code of Conduct	331
Protocol - The role of the Leader and Chief Executive Officer in the Ethical Framework	333
Officers' Code of Conduct	337
Protocol on Member/Officers Relations	339
Protocol for Official Press Releases	350
Protocol on Working with Group Research and Communications Officers	352
Guidance Note for Councillors and Officers on Outside Bodies	355
 Part 6 – <a href="#"><u>Members' Allowances Scheme</u></a>	 368
<a href="#"><u>Protocol on Members Attendance at Conferences</u></a>	377
 Part 7 – <a href="#"><u>Management Structure</u></a>	 380

# INDEX

Access to information	
- <a href="#">additional rights of Members</a>	202
- <a href="#">agenda/reports</a>	191
- <a href="#">decision matrix</a>	208
- <a href="#">by Overview and Scrutiny Committees</a>	202
- <a href="#">procedure rules</a>	191
<a href="#">Acquisition of property</a>	307
<a href="#">Allocations Committee</a>	166
<a href="#">Allowances scheme – Members</a>	368
<a href="#">Amendments</a>	184
form	
mover has no right of reply	
Annual <a href="#">meeting of Council</a>	168
<a href="#">Appeals Committee</a>	97
membership	
Powers	
Appointments	
- <a href="#">Chief Officers</a>	303
- <a href="#">Committees</a>	168
- <a href="#">Group Research and Communications Officers</a>	301
- <a href="#">Head of Paid Service</a>	303
- <a href="#">Leader and Executive</a>	166
- Leader has right to object (staff)	
- <a href="#">Outside Bodies</a>	153
<a href="#">Approved duties</a> – Members	376
Area Committees	
general	47
<a href="#">memberships</a>	104
terms of reference	114
<a href="#">Audit Committee</a>	
<a href="#">membership</a>	94
Powers	95
<a href="#">Basic allowance – Members</a>	368
<a href="#">Budget and policy framework</a>	217
Budgetary control principles	
- <a href="#">capital</a>	261
- <a href="#">revenue</a>	256
<a href="#">Call in</a>	239
<a href="#">Capital Plan</a>	262
- approving	
- monitoring	
- variations to	
<a href="#">Care and Independence Overview &amp; Scrutiny Committee</a>	
<a href="#">membership</a>	133
scope	32
<a href="#">Chairman of the Council</a>	30

<a href="#">Chief Finance Officer</a> – functions	55
<a href="#">Chief Officers Appointments and Disciplinary Committee</a>	
<a href="#">membership</a>	101
<a href="#">powers</a>	102
<a href="#">Citizens rights</a>	13
<a href="#">Code of Conduct</a> – Members	323
- officers	338
<a href="#">Complaints</a>	23
<a href="#">Conduct – code</a>	333
<a href="#">Conduct</a> – in meetings	187
<a href="#">Conferences – Members attendance</a>	377
<a href="#">Confidence – information</a> provided in	204
<a href="#">Conflict of interests</a>	227
<a href="#">Contract Procedure Rules</a>	278
<a href="#">Corporate &amp; Partnerships Overview &amp; Scrutiny Committee</a>	
<a href="#">membership</a>	134
<a href="#">scope</a>	32
Council	
<a href="#">amendments</a>	184
<a href="#">dates</a> of meetings	168
<a href="#">functions</a>	71-84
<a href="#">motions</a> on notice	181
<a href="#">motions without notice</a>	181
<a href="#">order of business</a>	170
<a href="#">policy framework</a>	26
<a href="#">procedure rules</a>	167
<a href="#">questions – public</a>	
questions to Executive Members	} 164-189
questions to other Chairmen	
questions to Scrutiny Chairs	
<a href="#">report on special urgency decisions</a>	199
rules of <a href="#">debate</a>	183
County Area Committee for the Harrogate District	
<a href="#">membership</a>	108
<a href="#">powers</a>	114
Grants Sub-Committee	109
County Committee for <a href="#">Hambleton</a>	
<a href="#">membership</a>	107
<a href="#">powers</a>	114
<a href="#">Craven Area Committee</a>	
<a href="#">membership</a>	106
<a href="#">powers</a>	114
<a href="#">Decision notices</a>	206
<a href="#">Decision making principles</a>	62

<a href="#">Decisions</a>	- by <a href="#">Executive</a> Members – reports	201
	- by officers – reports	
	- <a href="#">key</a> - definition	62
	- <a href="#">matrix</a>	208
	- outside major <a href="#">policy framework</a>	216
	- review of decisions outside framework	
<a href="#">Delegations</a>	- by <a href="#">Council</a>	83
	- by <a href="#">Executive</a>	78, 129
	- by <a href="#">Leader</a>	225
	- scheme to <a href="#">officers</a>	142
	- <a href="#">sub-delegation of Executive functions</a>	226
<a href="#">Delegations by Council</a>		83
<a href="#">Delegations by Executive</a>		78, 129
Disclosure of <a href="#">exempt information</a>		196
<a href="#">Disposal of property</a>		308, 315
Executive		
	<a href="#">agenda</a>	229
	<a href="#">Article 7</a>	38
	<a href="#">attendance at meetings</a>	227
	Committee(s)	38, 71, 85
	<a href="#">composition</a>	38
	<a href="#">conflicts of interest</a>	227
	<a href="#">functions</a>	71
	<a href="#">Members</a>	122
	Member's rights to speak	204
	portfolios	122
	<a href="#">Procedure Rules</a>	195
	<a href="#">term of office</a>	38
<a href="#">ExecutiveMembers</a>		122
Executive powers – <a href="#">delegations</a>		125
<a href="#">Exempt information</a>		195
<a href="#">Financial Procedure Rules</a>		246
<a href="#">Forward Plan</a>		210
	- failure to include item	
	- general exception	
	- special urgency	
Full Council		
	functions	78-84
	policy framework	
<a href="#">Gifts – register of</a>		336
<a href="#">Governors Committee</a>		
	membership	118
	powers	119
<a href="#">Group Research and Communications Officers</a>		301
	- appointment	
	- <a href="#">protocol</a>	345

<a href="#">Hambleton – County Area Committee</a>	
<a href="#">membership</a>	107
powers	114
Harrogate - County Area Committee	
- membership	108
- powers	114
- Grants Sub-Committee	109
<a href="#">Head of Paid Service – functions</a>	53
<a href="#">Health – Scrutiny Committee</a>	
<a href="#">membership</a>	135
scope	32
<a href="#">Hospitality – register of gifts and</a>	345
Information	
- provided in confidence	32
- rights of Overview and Scrutiny Committees	32,132
Interests	38, 122
– <a href="#">conflicts of interests on Executive</a>	
– Members	
- personal	
- prejudicial	
- overview and scrutiny	
<a href="#">Key</a> decision	62
- definition	237
- <a href="#">powers of Overview and Scrutiny Committee</a>	197
- <a href="#">procedure before taking</a>	
<a href="#">Leader</a> – election/term of office	38
<a href="#">Local Member</a>	350
Major <a href="#">Policy Framework</a>	26
- <a href="#">decisions outside framework</a>	219
- objections procedure	
Members	
- <a href="#">allowances scheme</a>	368
- <a href="#">attendance at conferences</a>	377
- <a href="#">code of conduct</a>	323
- <a href="#">conduct</a>	187
- <a href="#">disclosure of exempt information</a>	196
- giving account at Overview and Scrutiny Committee	
- Interests	
- <a href="#">personal</a>	328
- prejudicial	329
- <a href="#">right to speak</a> at meetings	204
Meetings	
- <a href="#">exclusion of public</a>	196
- Members right to speak	204
- right to attend	
<a href="#">Monitoring Officer functions</a>	54
<a href="#">Motions</a>	
- on notice	179-181
- without notice	
<a href="#">Notice</a>	179-181
- <a href="#">of motions</a>	
- of questions - Members	
- public	

Officers - attendance at <a href="#">Overview and Scrutiny Committee</a>	233
- <a href="#">Delegation Scheme</a>	140
- <a href="#">support to Members</a>	336
Outside bodies	154
- <a href="#">guidance note for Councillors</a>	355
Overview & Scrutiny Committees	32, 133
<a href="#">agenda items</a> /work programme	233
appointment of Chairmen	32, 133
area of responsibility	32
<a href="#">call in</a>	238
chairmen's right to speak at Executive	
conflict of interest	
functions	
general <a href="#">approach</a>	234
matters for more than one Committee	
Members giving account	
Member interests	328,329
<a href="#">memberships</a>	132
<a href="#">officers giving account</a>	237
officers support to	
<a href="#">policy review and development</a>	235
procedures	
<a href="#">procedure rules</a>	231
<a href="#">reports to Executive</a>	235
<a href="#">whipping</a>	240
Pension Fund Committee	
membership	104
powers	105
<a href="#">Personal interests – Member</a>	328
<a href="#">Planning and Regulatory Functions Committee</a>	87
code of good practice	
membership	
powers	
whipping	240
<a href="#">Policy development</a> - Overview & Scrutiny Committee role	34
Policy framework	26, 218
decisions outside framework	
objections procedure	
Portfolios – Executive Members	122
<a href="#">Powers – delegation</a> to officers	142
<a href="#">Prejudicial interests</a> – Member	329
<a href="#">Press releases</a>	350
<a href="#">Proper Officer</a> functions	56
Property	
- <a href="#">acquisitions</a>	307
- Disposals	
<a href="#">Property Procedure Rules</a>	307
Protocol	
- <a href="#">Group Research and Communications Officers</a>	352
- Member/officer relations	
- <a href="#">Members attendance at Conferences</a>	377
- Members <a href="#">Code of Conduct</a>	323
- <a href="#">for press releases</a>	350



Public	<a href="#">questions</a> attendance at meetings	176
<a href="#">Questions</a>	to Executive Members to Scrutiny Chairmen to other Chairmen to public	} 164-189
<a href="#">Quorum</a>		175
<a href="#">Quotations</a>		286
<a href="#">Richmondshire Area Committee</a>		
	<a href="#">membership</a>	110
	powers	114
Rules of <a href="#">debate</a>		183
<a href="#">Ryedale Area Committee</a>		
	<a href="#">membership</a>	111
	powers	114
“Scarborough” Area Committee ( <a href="#">Yorkshire Coast &amp; Moors</a> )		
	membership	113
	powers	114
Scheme of Delegation to Officers		
<a href="#">Scrutiny of Health Committee</a>		
	<a href="#">membership</a>	135
	scope	32
Scrutiny Committees – see Overview and Scrutiny Committees		32
<a href="#">Sealing of contracts</a>		283
<a href="#">Selby Area Committee</a>		
	membership	112
	powers	114
<a href="#">Special urgency decisions – report to Council</a>		198
Speeches – length of		26, 165
	- on Leader/Scrutiny Chair report - on motion or amendment - procedure rule 10 - public statements	
<a href="#">Staff</a>		
	<a href="#">Employment Procedure Rules</a>	277
<a href="#">Standards Committee</a>		
	functions	43
	membership	93
<a href="#">Statutory officers</a>		140
<a href="#">Statements</a>		171
	- Executive Members - Overview and Scrutiny Committee Chairmen - Public	
<a href="#">Subsistence allowances</a> – Members		368
<a href="#">Task groups</a> – Overview & Scrutiny Committees		35
<a href="#">Tenders</a>		287

<a href="#"><u>Transport, Economy and Environmental Overview &amp; Scrutiny Committee</u></a>	
membership	136
scope	32
<a href="#"><u>Travel allowances – Members</u></a>	376
<a href="#"><u>Treasury management</u></a>	151
<a href="#"><u>Virement</u></a>	220
<a href="#"><u>Voting</u></a>	185
<a href="#"><u>Whipping</u></a>	240
<a href="#"><u>Yorkshire Coast and Moors Area Committee</u></a>	
membership	113
powers	114
<a href="#"><u>Young People Overview &amp; Scrutiny Committee</u></a>	
membership	137
scope	32

# **Part 1**

## **SUMMARY AND EXPLANATION**

### **The Council's Constitution**

North Yorkshire County 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 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 document.

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

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 Council meeting (Article 4).
- ♦ Chairing the Council (Article 5).
- ♦ Overview and scrutiny of decisions (Article 6).
- ♦ The Executive (Article 7).
- ♦ Regulatory and other committees (Article 8).
- ♦ The Standards Committee (Article 9).
- ♦ Area 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 72 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 their constituents, 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 Standards Committee advises them on the code of conduct.

All Councillors meet together at meetings of the Council 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 eight other Councillors appointed by him/her form the Executive. The Council also appoints Committees, including seven area Committees to deal with local matters and five overview and scrutiny committees (and other ad hoc joint scrutiny of health overview and scrutiny committees established as and when required) to look at the effectiveness of the Executive and help develop Council policy.

## **How decisions are made**

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. 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 personal or confidential matters are being discussed. 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. 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.

## **Overview and Scrutiny**

There are five 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. They 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 six 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.

## **Area Committees**

In order to give local citizens a greater say in Council affairs, 7 area committees have been created. These cover the same areas as the seven district/borough councils in North Yorkshire namely Craven, Hambleton, Harrogate, Richmondshire, Ryedale, Selby and Scarborough. They are responsible for local matters involving, for example, highways and rights of way. They involve Councillors for each particular area and meetings are held in public.

## **The Council's Staff**

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.

## **Citizens' Rights**

Citizens have a number of 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, for example, personal 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 sensitive private 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 Standards Committee if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct for Members;
- ♦ inspect the Council's accounts and make their views known to the external auditor.
- ♦ 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. This register is available for inspection by the public at County Hall, Northallerton during normal office hours, by contacting the Monitoring Officer or by viewing the electronic version of the register 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.*

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## **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 North Yorkshire County 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 objectives:-

Our Vision

“North Yorkshire is a place of equal opportunity where all can develop their full potential, participate in a flourishing economy, live and thrive in secure communities, see their high-quality environment and cultural assets maintained and enhanced, and receive effective support when they need it.”

## Our objectives

Following extensive consultation the County Council has affirmed six key objectives;

- to ensure good access for all;
- to help people to live in safe communities;
- to help all children and young people to develop their full potential;
- to promote a flourishing economy;
- to maintain and enhance our environment and heritage; and
- to improve health and wellbeing and give people effective support when they need it.

### **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.

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# Article 2 – Members of The Council

## 2.01 Composition and eligibility

- (a) **Composition:** The Council comprises 72 Members, otherwise called Councillors. One Councillor is elected by the voters of each of 64 electoral divisions, and two are elected to each of 4 electoral divisions in the County in accordance with a scheme drawn up by the Electoral Commission's Boundary Committee for England.
- (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 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 on 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.

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# 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; and
  - (ii) 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 when;
  - (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; and
  - (iv) 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 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;
  - (iii) the Council's Standards Committee about a breach of the Councillor's 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.



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# Article 4 – The Full Council

## 4.01 Meanings

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

- ♦ Community Safety Strategy
- ♦ Local Transport Plan
- ♦ Plans and strategies which together comprise the Development Plan
- ♦ Sustainable Community Strategy
- ♦ Youth Justice Plan (Youth Offending Team Plan)
- ♦ Council's Corporate Plan (aka the Council Plan)
- ♦ Food Law Enforcement Service Plan
- ♦ Admissions Policy for Community and Voluntary Schools
- ♦ Asset Management Planning Framework
- ♦ Asset Management Framework: Our Overall Approach to Property
- ♦ Behaviour Support Plan
- ♦ Children and Young People's Plan
- ♦ Communications Strategy
- ♦ Community Transport Strategy
- ♦ Compact with the Third Sector
- ♦ Corporate Procurement Strategy
- ♦ Corporate Risk Management Strategy
- ♦ Definitive Map Modification Orders (including Guidance note for Members re DMMOs) - Policy
- ♦ E-Government Strategy
- ♦ Education Capital Local Policy Statement
- ♦ Equality and Diversity Policy
- ♦ Household Waste Recycling Centre Policies
- ♦ Infant Class Size Plan
- ♦ Learning Disability Plan 2005/2008
- ♦ "lets talk less rubbish" (Revised Joint Municipal Waste Strategy)
- ♦ LMS Formula
- ♦ Local Cultural Strategy
- ♦ Mental Health Policy for Working Age Adults 2006-11
- ♦ North Yorkshire Children's Trust Governance Arrangements
- ♦ Obstructions on Public Rights of Way - Policy on removal
- ♦ OFSTED Post Inspection Action Plan
- ♦ "Our Future Lives" (Strategy for Older People)
- ♦ Physical Disability Strategy
- ♦ Rights of Way Improvement Plan
- ♦ Signing Policy for Tourist Destinations
- ♦ Small Schools Policy Statement
- ♦ Special Educational Needs Policy
- ♦ Special Educational Needs Strategy
- ♦ Supporting People Five Year Strategy
- ♦ Sustainable Development Policy Statement
- ♦ Treasury Management Policy and Strategy
- ♦ Winter Maintenance of Highways - Policy
- ♦ "95 Alive" Road Safety Strategy
- ♦ New Look, No Shush! – Library and Information Services Strategy 2008-2023

- (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;
- (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.

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# Article 5 – Chairing The Council

## 5.01 Role and function of the Chairman

The Chairman will be elected by the Council at its annual meeting. The Chairman (and, in their absence, the Vice-Chairman) 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 Chairman by attending such civic and ceremonial functions as the Council and/or the Chairman determines appropriate.

*Note: For the year 2010/11, the Chairman of the Council is Councillor Caroline Seymour and the Vice-Chairman is Councillor John Fort BEM..*

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# 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 21 of the Local Government Act 2000 as amended or regulations under section 32 of the Local Government Act 2000 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 and Environment Services	<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, helping people develop their skills, including lifelong learning.</p> <p>Sustainable development, climate change strategy, countryside management, waste management, environmental conservation and enhancement and cultural issues.</p>
Young People	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 Strategic Health Authority.</p> <p>The aim is to act as a lever to improve the health of local people, ensuring that the needs of the local people are considered as an integral part of the delivery and development of health services.</p> <p>To focus on action to achieve health improvement; to examine health care in the context of the wider determinants of health; to examine how health services address the needs of local communities; especially to address health inequalities; to ensure that local health and health related issues are being tackled jointly and in a co-ordinated way across agencies</p> <p>To contribute to the annual health checks by providing commentaries to the Health Care Commission on the performance of NHS Trusts serving North Yorkshire and on the experiences that the Committee has had with those Trusts.</p>
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## 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 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;
  - (iv) question members of the Executive and/or committees and senior Officers about their views on issues and proposals affecting the area; and
  - (v) 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 Chairman. 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 Scrutiny and Corporate Performance is currently designated as Scrutiny Officer.

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# 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 Chairman nor Vice-Chairman 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) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council; or
- (e) the day of the post-election annual meeting which follows his/her 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 s/he thinks fit. Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another member of the Executive to take his/her place. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her 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 his/her place.

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

Other Executive Members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office, either individually or collectively, by the Leader under 7.02 above.

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

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this 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 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.

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# **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 2.7 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 Planning and Regulatory Functions Committee – no whipping**

In meetings of the Planning and Regulatory Functions Committee 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 he/she speak or vote (or fail to speak or vote) in any particular manner.

All planning matters will be dealt with in accordance with the Planning Code of Good Practice, a copy of which is available from the Monitoring Officer.

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# Article 9 - The Standards Committee

## 9.01 Standards Committee

The Council has established a Standards Committee.

The responsibility for receiving and considering complaints that a Member may have breached the Members' Code of Conduct lies with the **standards committees** of local and other relevant public authorities (NOT Standards for England anymore).

What this means is that if a person wishes to complain about the conduct of a Member of North Yorkshire County Council, s/he must submit his/her complaint, in writing, to:

The Standards Committee  
c/o The Monitoring Officer  
North Yorkshire County Council  
County Hall  
NORTHALLERTON  
North Yorkshire  
DL8 2AD

Standards Committee can only deal with complaints about the behaviour of a Member and cannot deal with complaints about things that are not covered by the Members' Code of Conduct. If a complaint is made to the Committee it must be about why the complainant thinks a Member has **not followed the Code** of Conduct.

The Standards for England (an independent, national body) is a key part of the ethical framework, providing advice and guidance to authorities on the framework and acting as a 'light touch' regulator. Standards for England may still investigate more serious complaints in particular, limited circumstances.

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 County Council at the address above.

## 9.02 Composition

The Standards Committee will be composed of six Councillors (who may not include the Leader) and four persons who are not Councillors or Officers of the Council or any other body having a standards committee (the independent members). The independent members will be entitled to vote at meetings and the Committee will be chaired by one of the independent members.

## 9.03 Roles, Terms of Reference and Functions

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

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- (b) assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;

- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation and effectiveness of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to private and personal interests set out in the Members' Code of Conduct;
- (g) receiving and assessing complaints that Councillors, co-opted members and church and parent governor representatives may have breached the Code of Conduct for Members;
- (h) reviewing Standards Committee decisions to take no action on a complaint that the Code has been breached, where such review is requested by the complainant;
- (i) determining complaints (other than those being determined by Standards for England/the First Tier Tribunal (Local Government Standards in England) that Councillors, co-opted members and church and parent governor representatives may have breached the Code of Conduct for Members;
- (j) dealing with any reports from a case tribunal or interim case tribunal, any reports to the Committee by an Ethical Standards Officer, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer (see 12.03 (d)) to the Monitoring Officer;
- (k) a general overview of ethical issues in relation to the Authority, including in particular any investigations undertaken, and reports issued, by the Local Government Ombudsman;
- (l) advising the Council on any amendments to its Constitution which might be desirable in the light of issues concerned with ethics and conduct;
- (m) dealing with any other complaints about Councillors' conduct, unrelated to the Code of Conduct, referred by the Chief Executive Officer. In such circumstances the Standards Committee may investigate, afford the Member a hearing, and may then advise the Member as to what action they should take. Should the member subsequently fail to take such action, they may be censured by the Standards Committee;
- (n) granting exemptions to officers in politically restricted posts to allow them to engage in political activities;
- (o) exercising all functions in respect of the publication of Standards Committee independent Member vacancies;
- (p) assisting in the recruitment of independent members to the Standards Committee (but not approving individual appointments).

- (q) taking decisions on withholding Members' allowances or requesting repayment of allowances in relation to Members suspended under Part III of the Local Government Act 2000, in the circumstances indicated below:
- i. The Standards Committee shall have the ability to withhold any part of a Member's basic allowance, special responsibility allowance, co-optees' allowance or travel and subsistence allowance payable for any period where, or in respect of duties from which, s/he is suspended or partially suspended under Part III of the Local Government Act 2000;
  - ii. The Standards Committee shall have the ability to require repayment of any allowance (or part thereof) already paid in respect of any period during which the Member concerned is suspended or partially suspended under Part III, ceases to be a Member of the authority or is in any other way not entitled to receive the allowance in respect of that period; and
  - iii. That the withholding of the specified allowances or the requirement to repay any allowance in the circumstances set out above should continue during any period of appeal by the Member concerned under Part III of the Local Government Act 2000 and associated legislation. In the event of any appeal being successful in removing the suspension or partial suspension, then any withheld or repaid amount may be reimbursed to the Member where appropriate.

*Note: (a) – (j) and (n) above are compulsory.*

*All other terms of reference are included through local choice.*

#### **9.04 Membership**

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

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# Article 10 - Area Committees

## 10.01 Area Committees

The Council may appoint area committees 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.

## 10.02 Form, Composition and Function

- (a) **Table of area committees:** The Council will appoint the area committees as set out below:

NAME OF COMMITTEE	COMPOSITION
Craven Area Committee	All County Councillors representing electoral divisions in Craven District.
County Committee for Hambleton	All County Councillors representing electoral divisions in Hambleton District.
County Area Committee for the Harrogate District	All County Councillors representing electoral divisions in Harrogate Borough.
Richmondshire Area Committee	All County Councillors representing electoral divisions in Richmondshire District.
Ryedale Area Committee	All County Councillors representing electoral divisions in Ryedale District.
Yorkshire Coast and Moors County Area Committee	All County Councillors representing electoral divisions in Scarborough Borough.
Selby Area Committee	All County Councillors representing electoral divisions in Selby District

All area committees shall have power to co-opt additional members, but no co-opted members shall have the right to vote unless the law so permits and the area committee so decides. 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 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 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 Committees will exercise overall responsibility for the finances made available to them.
- (e) **Liaison with Executive:** The agenda for Executive meetings shall include feedback from area committees, and reports covering the major items of business at each area committee shall be presented under this agenda item as soon as convenient after the area committee meeting in question.

### **10.03 Conflicts of interest – Membership of Area 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 committee of which an Overview and Scrutiny Committee Councillor is also a member, then the Councillor concerned may not vote at the overview and scrutiny committee meeting if s/he was present at the area committee meeting in question, unless a dispensation to do so is given by the Standards Committee. Such a councillor may have a right to speak at the overview and scrutiny meeting if permitted under the Members' Code of Conduct..
- (b) **General policy reviews.** Where an overview and scrutiny committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

### **10.04 Area committees – access to information**

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

Agendas and notices for area committee meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

### **10.05 Executive members on area committees**

A member of the Executive may serve on an area committee if otherwise eligible to do so as a Councillor.



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# Article 11 - Joint Arrangements

## 11.01 Arrangements to promote wellbeing

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

## 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.

### **11.06 Appointments to Outside Bodies**

Before appointing any person as the County Council's representative on any of the bodies listed below, the person or body with power to make the appointment shall consult the Planning and Regulatory Functions Committee.

Drax Power Station Consultative Committee  
Gale Common Consultative Committee  
Selby Coalfield Joint Consultative Committee

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# 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 (other than Group Research & Communications Officers) 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 – Adult and Community Services
  - ♦ Corporate Director – Business and Environmental Services
  - ♦ Corporate Director – Children and Young People’s Service
  - ♦ Corporate Director – Finance and Central Services
- (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 – Finance and Central Services         |
| ♦ Monitoring Officer -    | Assistant Chief Executive (Legal and Democratic Services) |
| ♦ Scrutiny Officer -      | Head of Scrutiny and Corporate Performance                |

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 him/her 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 he or she 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 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 Committee.
- (d) **Receiving reports:** The Monitoring Officer will receive and act on complaint referrals made by the Standards Committee and any reports made by Ethical Standards Officers and decisions of the case tribunals. *(Note: Ethical Standards Officers are persons appointed by Standards for England ("SFE") to investigate cases of alleged breaches of the Members' Code of Conduct, where these are referred to the SFE by local standards committees. Case tribunals are bodies appointed by the First Tier Tribunal (Local Government Standards in England) to adjudicate on cases referred to them by standards committees or Ethical Standards Officers).*
- (e) **Conducting investigations:** The Monitoring Officer will conduct investigations into matters referred by the Standards Committee or by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.
- (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 he or she 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
83(1)	To receive the declaration of acceptance of office by the Chairman, Vice-Chairman or Councillor of the County Council.	Assistant Chief Executive (Legal and Democratic Services) or, in his/her absence, a Principal Committee Administrator.
83(3)	To witness the declaration of acceptance of office by the Chairman, Vice-Chairman or Councillor of the County Council.	Assistant Chief Executive (Legal and Democratic Services) or, in his/her absence, a Principal Committee Administrator.
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 his/her absence, a Principal Committee Administrator.
88(2)	To convene a meeting of the Council for the election of Chairman of the Council on a casual vacancy occurring.	Assistant Chief Executive (Legal and Democratic Services) or, in his/her absence, a Principal Committee Administrator.
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 his/her absence, a Principal Committee Administrator.
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 his/her 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 his/her absence a Principal Lawyer.



<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
191(2)	To receive applications concerning surveying under Section 1 of the Ordnance Survey Act 1841.	Corporate Director – Business and Environmental Services.
210(6) and (7)	Duties related to charities.	Corporate Director – Finance and Central Services.
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).
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).
236(10)	To send copies of byelaws made and confirmed by the County Council to the Council of every district.	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)

<b>SECTION</b>	<b>DUTIES</b>	<b>PROPER OFFICER</b>
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(3)	Substitution of Proper Officer for Clerk of County Council in Section 9(1) of Registration Service Act 1953 – the determination of a deputy to become interim Superintendent Registrar or interim Registrar of Births and Deaths if the latter ceases to hold office.	Head of Trading Standards and Regulatory Services

Schedule 29 para 41(4)	<p>Substitution of Proper Officer for Clerk of County Council:</p> <ol style="list-style-type: none"> <li>1. In Section 9(2) of Registration Service Act 1953 – appointment of interim Superintendent Registrar or Registrar of Births and Deaths where no deputy.</li> <li>2. In Section 13(2)(h) details of running of service hours-in-business Superintendent Registrars.</li> </ol>	Head of Trading Standards and Regulatory Services
	<ol style="list-style-type: none"> <li>3. In Section 13(3)(b) general supervisory powers over administration of Registration Service Act.</li> </ol>	
Schedule 29 para 41(5)	Substitution of Proper Officer for Clerk of County Council in Section 20(b) of Registration Service Act 1953 – prescription of duties, in Regulations of Clerks of County Council under Registration Acts.	Head of Trading Standards and Regulatory Services
Section 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)

SECTION	DUTIES	PROPER OFFICER
Section 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)
Section 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)

(b) Highways Act 1980

SECTION	DUTIES	PROPER OFFICER
Section 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)
Section 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

SECTION	DUTIES	PROPER OFFICER
Section 15	To receive notification from Members of the formation of, and changes to, political groups.	Assistant Chief Executive (Legal and Democratic Services).
Section 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

SECTION	DUTIES	PROPER OFFICER
35	To be the Returning Officer for elections of Councillors of the County.	Chief Executive Officer.

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' Code of Conduct and the Protocol on 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.

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# 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:
    - ♦ 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
    - ♦ to be significant in terms of its effects on more than one community.
  - (ii) For the purposes of (i) 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 does not include:
    - ♦ a decision taken for the purpose of implementing an earlier key decision;

- ♦ a decision concerning a bid for funding;
  - ♦ a decision taken on expenditure within budget approved by Council on items necessary for normal operational service delivery.
- (iii) 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 or dispensation obtained from the Standards Committee, no Councillor will take, or participate in, a decision in which he or she has a prejudicial interest (as defined in the Members' Code of Conduct); and where an individual Executive member has delegated power to take a decision, but, has a prejudicial interest the matter will be referred to the Executive for a decision.

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# **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 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 him/her, 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 him/her.

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# 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 (d) below changes to the Constitution will only be approved by the full Council.
- (b) **Standards Committee.** The Standards Committee may advise the Council on any amendments to the Constitution which might be desirable in the light of issues concerned with ethics and conduct.
- (c) **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.
- (d) 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 (d)(ii) above shall be reported to the next meeting of the full Council.

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# **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 Chairman 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 County Council's Intranet and its Internet 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 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.

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# Part 3

## Responsibility for Functions

### Contents

#### *Explanatory introduction*

1	<a href="#">General</a>
2	<a href="#">Functions of the Full Council</a>
3	<a href="#">Functions of the Executive</a>
4	<a href="#">Table: Responsibility for Local Choice Functions</a>
5	<a href="#">Delegation of Functions by the Council</a>
6	<a href="#">Delegation of Functions by the Executive</a>
<a href="#">Schedule 1</a>	Council Committees, their membership and their powers: <ul style="list-style-type: none"><li>♦ <a href="#">Planning and Regulatory Functions Committee</a></li><li>♦ <a href="#">Standards Committee</a></li><li>♦ <a href="#">Audit Committee</a></li><li>♦ <a href="#">Appeals Committee</a></li><li>♦ <a href="#">Employment Appeals Committee</a></li><li>♦ <a href="#">Chief Officers Appointments and Disciplinary Committee</a></li><li>♦ <a href="#">Pension Fund Committee</a></li><li>♦ <a href="#">Area Committees</a></li><li>♦ <a href="#">Governors Committee</a></li></ul>
<a href="#">Schedule 2</a>	<a href="#">The Executive:</a> <ul style="list-style-type: none"><li>♦ <a href="#">Executive Members and their Responsibilities</a></li><li>♦ <a href="#">Register of Executive Committees</a></li><li>♦ <a href="#">Delegation of Executive Functions</a></li><li>♦ <a href="#">Executive Members' Delegation Scheme</a></li></ul>
<a href="#">Schedule 3</a>	<a href="#">Membership of Overview and Scrutiny Committees</a>
<a href="#">Schedule 4</a>	<a href="#">Officers' Delegation Scheme</a>
<a href="#">Schedule 5</a>	<a href="#">Appointments to Outside Bodies</a>

### **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), Overview and Scrutiny Committees (whose powers are set out in Article 6), and the Standards Committee (whose powers are set out in Article 9).*
2. *Prior to 18 July 2001, when the County Council passed a resolution under Section 29 of the Local Government Act 2000 for the operation of executive arrangements, the legal framework in relation to delegation of powers was relatively simple. Legally, all powers were given to the County Council as a corporate body, and the County Council 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. *Now that the County Council is operating an executive structure under the Local Government Act 2000 (as amended), the position is not so simple. Instead of all functions being those of the County 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 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 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 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.*

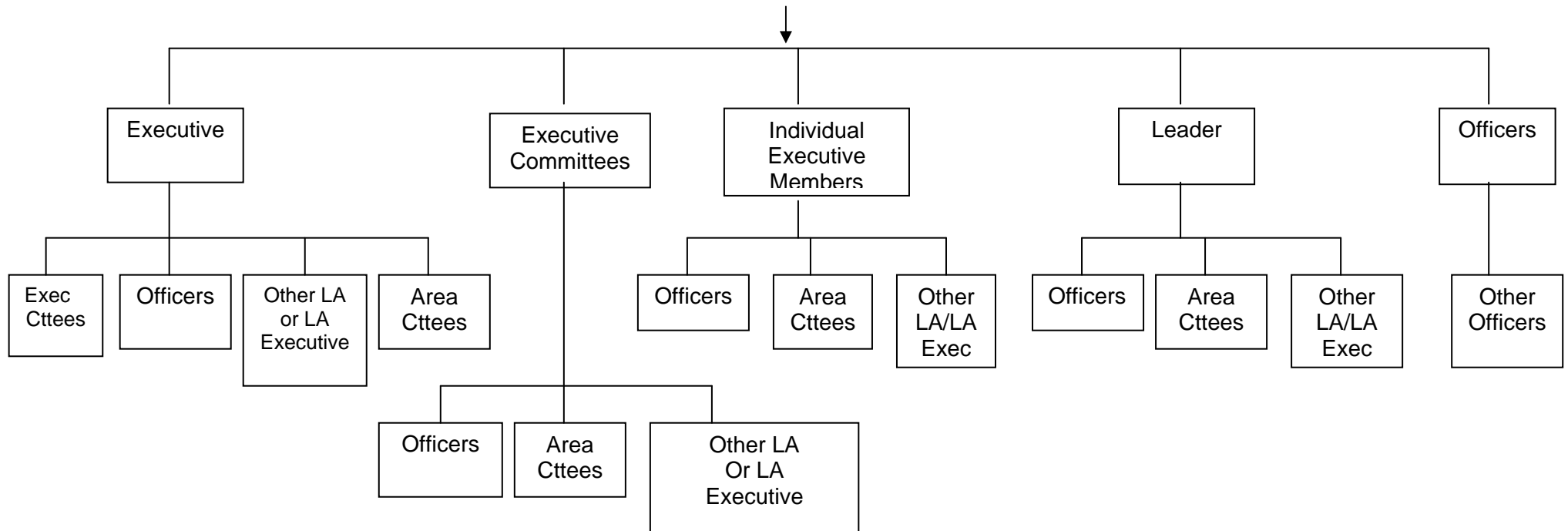
## Executive Functions

Responsibility of Executive  
under Local Government  
Act 2000

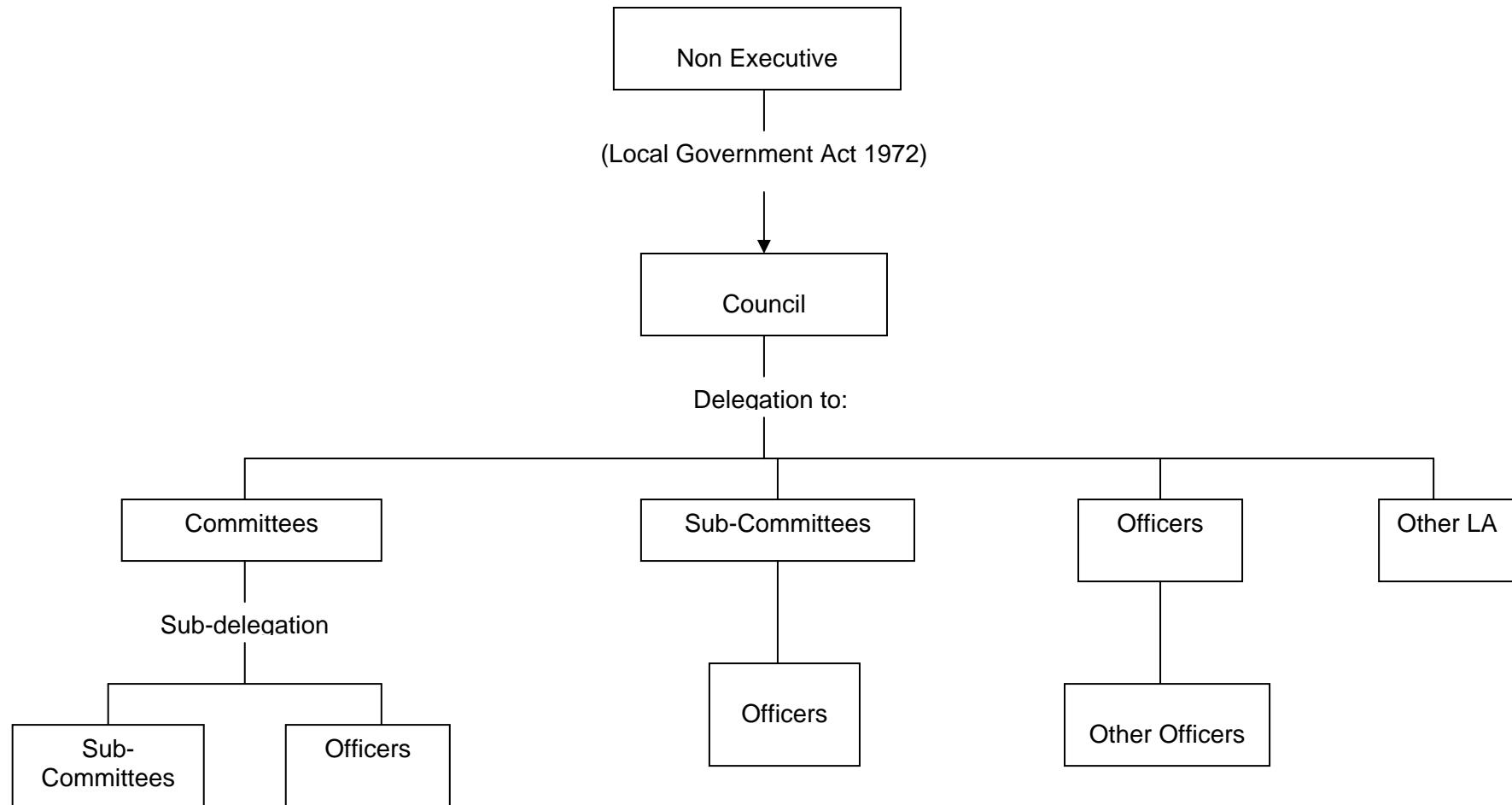
May be discharged by

LEADER

or s/he may arrange for functions to be discharged by:



## Non-Executive Functions



# Responsibility for Functions

## 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 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 him/her 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 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 Planning and Regulatory Functions Committee as set out in Schedule 1. Responsibility for local choice functions is set out in 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 and conduct are matters for the Standards Committee. The terms of reference of the Standards Committee are set out in Article 9.03.**

### **2.5 In accordance with the Human Rights Act 1998, the Council has established an Appeals Committee 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 committees and the Planning and Regulatory Functions Committee as set out in Schedule 1 (the powers in question are those marked \*).**

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

**3.1** All functions of North Yorkshire County 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.	Planning and Regulatory Functions 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. The determination of an appeal against any decision made by or on behalf of the Council.	Appeals Committee  Employment Appeals Committee  The Executive	To the extent set out in the terms of reference of the Appeals Committee.  To the extent set out in the terms of reference of the Employment Appeals Committee  All other appeals.
3. The making of arrangements for appeals against the exclusion of pupils from schools	Appeals Committee	NB that the appeals themselves are heard by lay and independent panel members appointed by the Appeals Committee.
4. The making of arrangements in relation to school admission appeals.	Appeals Committee	NB that the appeals themselves are heard by lay and independent panel members appointed by the Appeals Committee.
5. The making of arrangements in relation to appeals by Governing Bodies.	Appeals Committee  Employment Appeals Committee	To the extent set out in the terms of reference of the Employment Appeals Committee
6. Making arrangements for questions to be put on the discharge of the functions of the North Yorkshire Police Authority	Full Council	



Function	Decision making body	Extent of responsibility
7. The making of appointments of Members to the North Yorkshire Police Authority.	Full Council	
8. The discharge of any function relating to the control of pollution or the management of air quality.	Planning and Regulatory Functions Committee	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.
	The Executive	All other functions.
9. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Executive	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.
	Planning and Regulatory Functions Committee	Exercise of the powers for all other purposes.
10. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Executive	} Division of responsibility as for 9 above.
	Planning and Regulatory Functions Committee	
11. The making of agreements under Section 278 of the Highways Act 1980 for the execution of highway works.	The Executive	

Function	Decision making body	Extent of responsibility
<p>12. The appointment (and the revocation of any such appointment) of any individual:</p> <p>(a) to any office other than employment by the authority;</p> <p>(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.</p>	<p>The Executive</p> <p>Governors Committee</p> <p>Full Council</p>	<p>In connection with functions which are the responsibility of the Executive.</p> <p>The revocation of any appointment of an LEA appointed school governor.</p> <p>All other appointments.</p>
<p>13. Making agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>The Executive</p> <p>Full Council</p>	<p>In connection with functions which are the responsibility of the Executive.</p> <p>In all other cases.</p>
<p>14. Functions under Sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements</p>	<p>The Executive</p>	

## **5. DELEGATION OF FUNCTIONS BY THE COUNCIL**

- 5.1** The Council delegates to the Planning and Regulatory Functions Committee, the Standards Committee, the Audit Committee, the Appeals Committee, the Employment Appeals Committee the Chief Officers Appointments and Disciplinary Committee, the Pension Fund Committee and the Governors Committee the powers set out as the delegated powers of those committees in Article 9.03 and Part 3 of this Constitution.
- 5.2** The Council delegates to the area committees named in Article 10 the non-executive functions which are contained in the delegated powers of area 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 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 to Scarborough Borough Council certain functions in relation to highways which are functions of the full Council. This delegation operates within the areas, and in relation to the powers, specified in an agency agreement between the Council and Scarborough Borough Council.
- 5.5** 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.
- 5.6** The delegation of these powers operates under Section 101 of the Local Government Act 1972 and all other powers enabling the Council.
- 5.7** The non-executive powers delegated to Officers are subject to the general provisions in the Officers Delegation Scheme.
- 5.8** 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.

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# **Schedule 1**

Council Committees: their membership and their powers

1. [Planning and Regulatory Functions Committee](#)
2. [Planning and Regulatory Functions Sub-Committee](#)
3. [Standards Committee](#)
4. [Audit Committee](#)
5. [Appeals Committee](#)
6. [Employment Appeals Committee](#)
7. [Chief Officers Appointments and Disciplinary Committee](#)
8. [Pension Fund Committee](#)
9. [Area Committees](#)
10. [Governors Committee](#)

# Planning and Regulatory Functions Committee

## 1. Membership

COUNTY COUNCILLORS (11)				
1.	BLACKBURN, John		Conservative	
2.	BLADES, David		Conservative	
3.	GOSS, Andrew		Liberal Democrat	
4.	HAIGH, Ron		Conservative	
5.	HESELTINE, Robert		NY Independent	
6.	HOULT, Bill		Liberal Democrat	
7.	KNAGGS, Michael		Conservative	
8.	LEE, Andrew	(Vice-Chairman)	Conservative	
9.	PEART, Dave		Conservative	
10.	SOWRAY, Peter	(Chairman)	Conservative	
11.	TROTTER, Cliff		Conservative	
TOTAL MEMBERSHIP - (11)		Quorum - (4)		
CON	LIB DEM	NY IND	IND	TOTAL
8	2	1	0	11

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. IRETON, David 2. JEFFELS, David 3. PEARSON, Chris 4. WELCH, Richard</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. WEBBER, Geoff 2. De COURCEY-BAYLEY, Margaret-Ann 3. SEYMOUR, Caroline 4. SIMPSON, Brian</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. BARRETT, Philip 2. 3. 4.</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p> <p>1. 2.</p>

# PLANNING AND REGULATORY FUNCTIONS COMMITTEE

## Delegated Powers

### Planning Powers

1. To exercise the County Council's powers and duties as a development control authority to deal with all planning applications and matters relating to monitoring, review and enforcement of planning control which are for the County Council to determine. This includes all functions listed in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
2. The obtaining of:
  - (a) information under Section 33a of the Town and Country Planning Act 1990 as to interests in land: and
  - (b) particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

except to the extent that it is necessary to exercise those powers in respect of actions which are preliminary to the exercise of power to make compulsory purchase orders.

*The Planning and Regulatory Functions Committee will exercise its planning functions having regard to the Planning Code of Good Practice.*

### Regulatory Powers

- |    |   |   |
|----|---|---|
| 3. | Power to issue, amend or replace safety certificates (whether general or special) for sports grounds. | The Safety of Sports Grounds Act 1975.  |
| 4. | Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.  | Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).  |
| 5. | Power to register animal trainers and exhibitors.   | Section 1 of the Performing Animals (Regulation) Act 1925 (c.38).   |
| 6. | Duty to keep list of persons entitled to sell non-medicinal poisons.                                  | Section 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (C.66).  |
| 7. | Power to license the employment of children.  | Part II of the Children and Young Persons Act 1933 (c.33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c.37). |
| 8. | Power to approve premises for the solemnisation of marriages.   | S.46A of the Marriages Act 1949 (c.76) and the Marriages (Approved (Premises) Regulations 1995 (S.1 1995/510).  |
| 9. | Power to sanction use of parts of buildings for storage of celluloid.                                 | Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35).  |

10.	Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c.16).
11.	Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.1 1995/11).
12.	Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
13.	Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
14.	Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.1 1998/871).
15.	Functions under any “relevant statutory provision” within the meaning of Part 1 (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 authority’s capacity as an employer.	Part I of the Health and Safety at Work etc Act 1974 (c.37).
16.	All matters relating to elections, including all powers of the County Council listed in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	
17.	Power to make recommendations to Council to confer title of Honorary Alderman.	Section 249 of the Local Government Act 1972.
18.	Power to make, amend, revoke or re-enact byelaws, except making and enforcing new street byelaws.	Any provision of any enactment (including a local Act), whenever passed, and Section 14 of the Interpretation Act 1978 (c.30).
19.	Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
20.	Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.
21.	Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38).
22.	Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.1 1997/1160).
23.	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.	



24. Functions relating to the control of pollution and the management of air quality which involve an application for a licence, approval, consent, permission or regulation; direct regulation of a person; or any related enforcement actions.
25. All other licensing and registration functions listed in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which are functions of County Councils.
26. The making and advertising of Orders for the creation, stopping up, extinguishment or diversion of public rights of way where an objection is received from any person or body entitled under the relevant statute to the proposed making of the Order, and the confirmation of creation, extinguishment and diversion Orders to which no objection has been received following public advertisement
- \*Note responsibility for the confirmation of Orders where there are unresolved objections lies with the Secretary of State for Environment, Food and Rural Affairs – responsibility for the granting of Stopping up Orders lies with the Magistrates Court.
27. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:
- (i) an exchange of lands affected by an Order under Section 19(3) of, or paragraph (6), or Schedule 3 to the Acquisition of Land Act 1981; or
  - (ii) a Release Order issued to the County Council under section 17 of the Commons Act 2006; or
  - (iii) a variation of rights of common in respect of any entry in the Register of Common Land.
28. Power to register variations of rights of common.
- Sections 26, 116, 118 and 119 of the Highways Act 1980 and Sections 257 and 258 of the Town and Country Planning Act 1990
- Section 15 of the Commons Act 2006
- Section 7 of the Commons Act 2006

- |     |   |  |
|-----|---|--|
| 29. | Power to keep the Definitive Map and Statement of the Public Rights of Way under review and to modify the map under section 53 of the Wildlife and Countryside Act 1981; and to receive an annual report on all Definitive Map Modification Orders (including those refused by officers); <i>(NB: The Policy on Definitive Map Modification Orders and the accompanying Guidance Note for Members should be followed when dealing with Definitive Map Modification Orders).</i> | Section 53(2) of the Wildlife and Countryside Act 1981 |
| 30. | To appoint a Sub-Committee of five members of the Committee to perform the functions set out at 26-29 above.  | Section 101 Local Government Act 1972                  |

# Planning and Regulatory Functions Sub-Committee

## 1. Membership

COUNTY COUNCILLORS (5)					
1.	BLACKBURN, John	Conservative			
2.	HAIGH, Ron	Conservative			
3.	HESELTINE, Robert	NY Independent			
4.	HOULT, Bill	Liberal Democrat			
5.	TROTTER, Cliff	Conservative			
TOTAL MEMBERSHIP - (5)                      Quorum - (3)					
CON		LIB DEM	NY IND	IND	TOTAL
3		1	1	0	5

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. BLADES, David 2. KNAGGS, Michael 3. LEE, Andrew 4. PEART, Dave 5. SOWRAY, Peter</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. GOSS, Andrew</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1.</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p> <p>1.</p>

## TERMS OF REFERENCE

### **Regulatory Powers**

- |     |  |   |
|-----|--|---|
| 26. | The making and advertising of Orders for the creation, stopping up, extinguishment or diversion of public rights of way where an objection is received from any person or body entitled under the relevant statute to the proposed making of the Order, and the confirmation of creation, extinguishment and diversion Orders to which no objection has been received following public advertisement   | Sections 26, 116, 118 and 119 of the Highways Act 1980 and Sections 257 and 258 of the Town and Country Planning Act 1990 |
|     | *Note responsibility for the confirmation of Orders where there are unresolved objections lies with the Secretary of State for Environment, Food and Rural Affairs – responsibility for the granting of Stopping up Orders lies with the Magistrates Court.  |   |
| 27. | Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:<br><br>(j) an exchange of lands affected by an Order under Section 19(3) of, or paragraph (6), or Schedule 3 to the Acquisition of Land Act 1981; or<br><br>(iv) a Release Order issued to the County Council under section 17 of the Commons Act 2006; or<br><br>(v) a variation of rights of common in respect of any entry in the Register of Common Land. | Section 15 of the Commons Act 2006  |
| 28. | Power to register variations of rights of common.  | Section 7 of the Commons Act 2006   |
| 29. | Power to keep the Definitive Map and Statement of the Public Rights of Way under review and to modify the map under section 53 of the Wildlife and Countryside Act 1981; and to receive an annual report on all Definitive Map Modification Orders (including those refused by officers); <i>(NB: The Policy on Definitive Map Modification Orders and the accompanying Guidance Note for Members should be followed when dealing with Definitive Map Modification Orders).</i>                          | Section 53(2) of the Wildlife and Countryside Act 1981  |
| 30. | To appoint a Sub-Committee of five members of the Committee to perform the functions set out at 26-29 above.   | Section 101 Local Government Act 1972   |

# STANDARDS COMMITTEE

## 1. Membership

COUNTY COUNCILLORS - (6)		
1.	BARRETT, Philip	NY Independent
2.	JEFFELS, David	Conservative
3.	MARSHALL, J W	Liberal Democrat
4.	POPPLE, Peter	NY Independent
5.	SOWRAY, Peter	Conservative
6.	WEBBER, Geoff	Liberal Democrat
MEMBERS OTHER THAN COUNTY COUNCILLORS – (3) VOTING		
1.	BAINBRIDGE, Hilary	Independent Member (to 2014)
2.	GILBERTSON, Hilary	Independent Member (to 2014)
3.	HOLT, Dr Janet	Independent Member (to 2011)
4.	CRONIN, Henry (Chairman)	Independent Member (16.12.2012)
TOTAL MEMBERSHIP – (10)		QUORUM – (3) including one Independent

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. TINDALL, Herbert 2. BATEMAN, Bernard MBE 3. BLADES, David 4. RICHARDSON, Paul</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. BARNES, Keith 2. FOX, John 3. HOULT, Bill 4. SEYMOUR, Caroline</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. BLACKIE, John</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p>

Note: The Standards Committee is not subject to the rules on political balance.

## TERMS OF REFERENCE

As set out in Article 9.03 of the Constitution

# AUDIT COMMITTEE

## 1. Membership

COUNTY COUNCILLORS - (8)		
1.	ARTHUR, Karl	Conservative
2.	CHATT, Bill	NY Independent
3.	VACANCY	Independent
4.	De COURCEY-BAYLEY, Mrs Margaret-Ann	Liberal Democrat
5.	HARRISON-TOPHAM, Roger	Conservative
6.	JORDAN, Mike	Conservative
7.	MULLIGAN, Patrick	Conservative
8.	PEARSON, Chris	Conservative
MEMBERS OTHER THAN COUNTY COUNCILLORS - (3) NON-VOTING		
1.	CRONIN, Henry*	
2.	DAGLISH, James*	
3.	PORTLOCK, David*	
TOTAL MEMBERSHIP - (11) QUORUM - (3) County Councillors		

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. BATEMAN, Bernard MBE 2. SOWRAY, Peter 3. KENYON, Jane 4. PEART, Dave</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. BARNES, Keith 2. HOULT, Bill 3.</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. HESELTINE, Robert 2. 3. 4.</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p> <p>1. 2.</p>

Note: Members (including any Substitute Members) should only serve if they have received the necessary training.

\* For term of office see County Council resolution of 19 May 2010

# AUDIT COMMITTEE

## TERMS OF REFERENCE

1. In respect of **Internal Audit**
  - to approve the Internal Audit Strategy, 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 authority.
  - consider the annual report from the Chief Internal Auditor.
  - assist the County Council to achieve Value for Money.
  - to review the effectiveness of the system of Internal Audit on an annual basis.
2. To review the workplan and performance of External Audit.
3. To review, and recommend to the Executive, changes to Finance, Contract and Property Procedure Rules.
4. In respect of **financial statements**  
For both the County Council and the North Yorkshire Pension Fund
  - to approve the respective annual Statements of Final Accounts
  - to reserve and review the Annual Audit Letters and associated documents issued by the External Auditor
  - to approve changes in accounting policy
5. In respect of **Corporate Governance**
  - to assess the effectiveness of the authority's Corporate Governance arrangements
  - to review progress on the implementation of Corporate Governance arrangements throughout the authority.
  - to approve an Annual Governance Statement
  - to review the annual Statements of Assurance provided by the Chief Executive and Corporate -Directors.
  - to liaise, as necessary, with the Standards Committee on any matter(s) relating to the Codes of Conduct for both Members and Officers.
6. In respect of **Risk Management**
  - to assess the effectiveness of the authority's Risk Management arrangements.
  - to review progress on the implementation of Risk Management throughout the authority.
7. In respect of **Information Governance**
  - to review all corporate policies and procedures in relation to Information Governance.
  - to oversee the implementation of appropriate Information Security standards.
8. To meet not less than four times a year on normal business and review its Terms of Reference on an annual basis.

9. To consider any other relevant matter referred to it by the County Council, Executive or any other Committee. In addition any matter of concern can be raised by this Committee to the full County Council, Executive or any other Member body.



# APPEALS COMMITTEE

## 1. Membership

COUNTY COUNCILLORS (4)		
1. BLACKBURN, John		Conservative
2. HULME, Margaret	(Chairman)	Conservative
3. IRETON, David	(Vice-Chairman)	Conservative
4. POPPLE, Peter		NY Independent
TOTAL MEMBERSHIP - (4)		Quorum - (3)
CON	NY Ind	TOTAL
3	1	4

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. TINDALL, Herbert  2. ARNOLD, Val  3. ARTHUR, Karl  4. BATT, John  5.  6.</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1.  2.  3.  4.  5.  6.</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. BLACKIE, John  2.  3.  4.  5.  6.</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p> <p>1.  2.</p>

**NOTE:** *It was the view of the Members' Group on New Political Structures that a group of about 12 Members should develop particular expertise and experience on appeals matters, but that only four 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.*

# APPEALS COMMITTEE

## TERMS OF REFERENCE OF THE 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 of relevant decisions of Governing Bodies of Voluntary Aided Schools where the Governing body so requests in respect of:-
  - (a) Grants to students including home to school transport.
  - (b) Admissions to schools except those decisions coming within the scope of Independent Appeals Panels established under the Schools Standards and Framework Act 1998.
2. Appointment of Lay and Independent Members to Panels from 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, selection for admission to schools (where relevant), permanent exclusion from a school and reinstatement to a school.
3. The making of arrangements for appeals against the exclusion of pupils from schools, and in relation to school admission appeals.
4. 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 when it is exercising this function).*
5. To consider and determine appeals relating to school curriculum issues.
6. To hear and determine any appeal against a decision to terminate the appointment of an LEA Governor taken by the Governors' Committee.

# EMPLOYMENT APPEALS COMMITTEE

## 1. Membership

COUNTY COUNCILLORS (4)					
1.	BARKER, Arthur			Conservative NY Independent Conservative Liberal Democrat	
2.	BLACKIE, John				
3.	HAIGH, Ron (Chairman)				
4.	HOULT, Bill (Vice-Chairman)				
TOTAL MEMBERSHIP - (4)                      Quorum - (3)					
CON		LIB DEM	NY IND	INDS	TOTAL
2		1	1	0	4

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. IRETON, David 2. HARRISON-TOPHAM, Roger 3. BLACKBURN, John 4. TINDALL, Herbert</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. BARNES, Keith 2. De COURCEY-BAYLEY, Margaret-Ann 3. FOX, John 4. WEBBER, Geoff</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. POPPLE, Peter 2. 3. 4.</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p> <p>1. 2.</p>

*NOTE: It was the view of the Members' Group on New Political Structures that a group of about 12 Members should develop particular expertise and experience on appeals matters, but that only four 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 of relevant decisions of the Governing Bodies of voluntary aided schools where the Governing Body so requests in respect of:-
  - All dismissals, except
    - (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 s/he has authorised to act in his/her 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 and an HR Adviser, 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 3.7 of the Officers' Delegation Scheme.
  - Group grievances or collective disputes.
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 him/her 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.

### *Notes:*

1. *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 him/her short of dismissal.*

# CHIEF OFFICERS APPOINTMENTS AND DISCIPLINARY COMMITTEE

## 1. Membership

COUNTY COUNCILLORS - (7)					
1.	BARNES, Keith			Liberal Democrat	
2.	LES, Carl			Conservative	
3.	MARSDEN, Penny			Independent	
4.	MARSHALL, Brian			Independent	
5.	METCALFE, Chris			Conservative	
6.	WATSON, John OBE			Conservative	
7.	WEIGHELL, John			Conservative	
MEMBERS OTHER THAN COUNTY COUNCILLORS - 0					
TOTAL MEMBERSHIP - (7)                      Quorum - (3)					
CON		LIB DEM	NY IND	IND	TOTAL
4		1	0	2	7

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. FORT, John 2. PATMORE, Caroline</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. De COURCEY-BAYLEY, Margaret-Ann 2. SEYMOUR, Caroline 3. SIMPSON, Brian 4. WEBBER, Geoff</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. BLACKIE, John</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p>

*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 his/her terms and conditions necessitating a referral to this Committee.*
4. To consider from time to time the terms and conditions of Chief Officers and make necessary changes to them.

### Disciplinary

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 and as detailed in the Council's Disciplinary Policy and Procedure for the Chief Executive Officer, in relation to disciplinary action in respect of the Chief Executive Officer on the grounds of conduct, capability or for other substantial reasons; 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, 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 a Designated Independent Person to investigate the allegation(s) is required;
- (c) where necessary, the appointment of a Designated Independent Person to investigate the allegation(s);
- (d) the consideration of whether precautionary action is required (including the power to suspend the Chief Executive 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 Designated Independent Person reports;
- (f) where appropriate, the referral of the matter back to the Designated Independent Person 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 Designated Independent Person's report.

*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.*

# PENSION FUND COMMITTEE

## 1. Membership

COUNTY COUNCILLORS – (7)				
1.	BATEMAN, Bernard MBE		Conservative	
2.	BLACKIE, John		NY Independent	
3.	De COURCEY-BAYLEY, Margaret-Ann		Liberal Democrat	
4.	HARRISON-TOPHAM, Roger		Conservative	
5.	MULLIGAN, Patrick		Conservative	
6.	SWIERS, Helen		Conservative	
7.	WEIGHELL, John		Conservative	
MEMBERS OTHER THAN COUNTY COUNCILLORS - (2)				
VOTING				
1.	MOORE, Richard	City of York		
2.	CLARK, Jim	Local Government NorthYorkshire and York		
TOTAL MEMBERSHIP - (9) QUORUM - (3)				
CON	LIB DEM	NY IND	NON COUNTY COUNCILLORS	TOTAL
5	1	1	2	9

## 2. Substitute Members

<p><b>CONSERVATIVE</b></p> <p>1. WATSON, John OBE 2. LES, Carl 3. SOWRAY, Peter 4. HAIGH, Ron</p>	<p><b>LIBERAL DEMOCRAT</b></p> <p>1. MARSHALL, J W 2. HOULT, Bill 3. SEYMOUR, Caroline 4. SIMPSON, B</p>
<p><b>NY INDEPENDENT</b></p> <p>1. CHATT, Bill 2. 3. 4.</p>	<p><b>INDEPENDENT</b></p> <p>1. 2.</p>

## 3. Substitute Members

GUNNELL, Julie PHILLIPS, Brian	City of York Local Government North Yorkshire and York Local Government North Yorkshire and York
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# **PENSION FUND COMMITTEE**

## **Delegated Powers**

1. To exercise the powers of the County Council to invest monies forming part of the Pension Fund, including:-
  - ♦ to determine and periodically review the Investment Strategy of the Fund
  - ♦ to appoint managers to manage and invest Fund monies on the County Council's behalf;
  - ♦ to receive reports from the appointed managers, at least once every three months, setting out the action they have taken under their appointment;
  - ♦ to receive reports, at least once every three months from the Investment Adviser, Investment Consultant and the Performance Measurer, regarding the investment performance of the appointed investment managers and the 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 Fund and / or advising / reporting thereon; and
  - ♦ to approve a Statement of Final Accounts and associated governance statements for submission to the Audit Committee
  - ♦ from time to time reporting to the Executive.
2. To exercise all the County 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.
3. To carry out the County Council's functions relating to local government pensions scheme (LGPS) under
  - ♦ The Local Authority (Discretionary Payments) Regulations 1996;
  - ♦ The Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998 (as amended);
  - ♦ The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000;
  - ♦ The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended);
  - ♦ The Local Government Pension Scheme (Administration) Regulations 2007 (as amended);
  - ♦ The Local Government Pension Scheme (Transitional Provisions) Regulations 2008.

and any future Regulations that relate specifically to the Council's responsibility to administer the LGPS in North Yorkshire.

# AREA COMMITTEES

## CRAVEN AREA COMMITTEE

### Membership

COUNTY COUNCILLORS (7)			<u>Electoral Division</u>
1.	BARRETT, Philip	NY Independent	South Craven
2.	ENGLISH, Polly	Liberal Democrat	Skipton West
3.	HESELTINE, Robert	NY Independent	Skipton East
4.	IRETON, David	(Chairman) Conservative	North Craven
5.	MARSHALL, Shelagh	(Vice-Chairman) Conservative	Mid Craven
6.	MULLIGAN, Patrick	Conservative	Airedale
7.	WELCH, Richard	Conservative	Ribblesdale
MEMBERS OTHER THAN COUNTY COUNCILLORS - (7)			
1.	CRAWFORD, David	Craven District Council	
2.	MANLEY, Carole	Skipton Chamber of Trade	
3.	CLIFFORD, Colin	Settle Chamber of Trade	
4.	NICOLSON, Roger	Voluntary Sector	
5.	BULCOCK, Hazel	Voluntary Sector	
6.	HART, Peter	Parish Council Representative	
7.	PRICE, Alan Colin	Parish Council Representative	
TOTAL MEMBERSHIP - (15)		Quorum - (3)	

# COUNTY COMMITTEE FOR HAMBLETON

## Membership

COUNTY COUNCILLORS (11)			<u>Electoral Division</u>
1.	BARKER, Arthur	Conservative	Swale
2.	BLADES, David	Conservative	Romanby and Broomfield
3.	DADD, Gareth	Conservative	Thirsk
4.	HALL, Tony	Conservative	Northallerton
5.	HUXTABLE, Neville	Conservative	Sowerby
6.	MOORHOUSE, Heather (Vice-Chairman)	Conservative	Great Ayton
7.	PATMORE, Caroline	Conservative	Stillington
8.	SEYMOUR, Caroline	Liberal Democrat	Stokesley
9.	SOWRAY, Peter	Conservative	Easingwold
10.	SWALES, Tim (Chairman)	Conservative	North Hambleton
11.	WEIGHELL, John	Conservative	Bedale
NON-VOTING CO-OPTED MEMBERS - (9)			
1.	FEATHERSTONE, Percy		Hambleton District Council
2.	PREST, John		Hambleton District Council
3.	SMITH, David H		Hambleton District Council
4.	SMITH, John		Hambleton District Council
5.	BLACKWOOD, Ken		Parishes (Northallerton)
6.	FOLLETT, John A		Parishes (Thirsk)
7.	JONES, Martin		Parishes (Bedale)
8.	READMAN, Gary		Parishes (Stokesley)
9.	TAYLOR, Brian		Parishes (Easingwold)
TOTAL MEMBERSHIP - (20)		Quorum - (3)	

## COUNTY AREA COMMITTEE FOR THE HARROGATE DISTRICT

### 1. Membership

#### COUNTY COUNCILLORS - (18)

		<u>Electoral Division</u>
1. BARNES, Keith	Liberal Democrat	Harrogate Oatlands
2. BATEMAN, Bernard MBE (Chairman)	Conservative	Ripon North
3. BATT, John	Conservative	Knaresborough
4. CLARK, Jim	Conservative	Harrogate Harlow
5. De COURCEY-BAYLEY, Margaret-Ann	Liberal Democrat	Harrogate Starbeck
6. FORT, John BEM	Conservative	Pateley Bridge
7. FOX, John	Liberal Democrat	Harrogate Central
8. GARNETT, Heather	Conservative	Lower Nidderdale and Bishop Monkton
9. GOSS, Andrew	Liberal Democrat	Harrogate Bilton and Nidd Gorge
10. HOULT, Bill	Liberal Democrat	Knaresborough
11. MacKENZIE, Don	Conservative	Harrogate Saltergate
12. MARSHALL, J W	Liberal Democrat	Harrogate Central
13. RICHARDSON, Paul	Conservative	Masham and Fountains
14. SAVAGE, John	Liberal	Ainsty
15. TROTTER, Cliff (Vice-Chairman)	Conservative	Pannal and Lower Wharfedale
16. WATSON, John OBE	Conservative	Boroughbridge
17. WEBBER, Geoff	Liberal Democrat	Harrogate Bilton and Nidd Gorge
18. WILLIAMS, Andrew	NY Independent	Ripon South

#### NON-VOTING CO-OPTED MEMBERS – (14)

1. CHAPMAN, Trevor	Harrogate Borough Councillor
2. MARTIN, Stuart	Harrogate Borough Councillor
3. NASH, Bob	Harrogate Borough Councillor
4. ROTHWELL, Dr Keith	Harrogate Borough Councillor
5. BERRY, Major Geoffrey, TD, OLJ	Parish Councillor
6. CLARK, Eric	Parish Councillor
7. HOLDSWORTH, Mrs Anne	Parish Councillor
8. LAKER, Chris	Parish Councillor
9. LEATHER, Martin	Parish Councillor
10. BARNES, Lynette	Ripon Council for Voluntary Service
11. WEAVER, Karen	Harrogate and Area Council for Voluntary Service
12. COSTELLOE, Lyn	Harrogate District Community Transport Limited
13. DUNSBY, Brian	Harrogate Chamber of Trade and Commerce
14. THOMAS, Richard	School Governor Representative

TOTAL MEMBERSHIP - (32)

Quorum - (5 County Councillors)

# COUNTY AREA COMMITTEE FOR THE HARROGATE DISTRICT GRANTS SUB-COMMITTEE

## 1. Membership

COUNTY COUNCILLORS – (5)				
1.	BATEMAN, Bernard MBE	(Chairman)	Conservative	
2.	De COURCEY-BAYLEY, Margaret-Ann		Liberal Democrat	
3.	SAVAGE, John		Conservative	
4.	TROTTER, Cliff	(Vice-Chairman)	Conservative	
5.	WEBBER, Geoff		Liberal Democrat	
CON		LIB DEM	NY IND	IND
3		2	0	0
<u>NON-VOTING CO-OPTED MEMBERS</u>				
1.	NASH, Harrogate Borough Councillor Bob			
2.	CLARK, Parish Councillor Eric			
TOTAL MEMBERSHIP – (6) QUORUM – (3 County Councillors)				

## 2. Substitute Members

Conservative		Liberal Democrat	
1	CLARK, Jim	1	BARNES, Keith
2	FORT, John BEM	2	MARSHALL, J W
3	BATT, John		

## 3. Delegated Authority

- 3.1 The Sub-Committee has authority to approve applications for financial assistance to be funded from the allocations for County Councillors where the local Member's recommendation is identical to the view of the Sub-Committee. Therefore, the Sub-Committee does not have decision making powers in the following circumstances:-
- To refuse applications
  - To give conditional approval for applications
  - Where the local Member's recommendation is either unknown or differs to the view of the sub-Committee.
- 3.2 To determine the use of the County Community Fund allocation for the Harrogate area on the basis of proposals developed by the LSP.

## RICHMONDSHIRE AREA COMMITTEE

### Membership

COUNTY COUNCILLORS - (6)		
		<u>Electoral Division</u>
1. BLACKIE, John	NY Independent	Upper Dales
2. HARRISON-TOPHAM, Roger (Chairman)	Conservative	Middle Dales
3. HESELTINE, Michael (Vice-Chairman)	Conservative	Richmondshire North
4. LES, Carl	Conservative	Catterick Bridge
5. PARSONS, Stuart	Liberal Democrat	Richmond
6. STECKLES, Melva	Conservative	Central Richmondshire
MEMBERS OTHER THAN COUNTY COUNCILLORS – (12)		
1. VACANCY	Parish Councillor (Catterick Bridge)	
2. SPARK, Malcolm	Parish Councillor (Central Richmondshire)	
3. ASHFORTH, David	Parish Councillor (Middle Dales)	
4. BURROWS, Thomas George	Parish Councillor (Richmond)	
5. BROWN, Thomas William Harold	Parish Councillor (Upper Dales)	
6. SIMPSON, Alan	Parish Councillor (Richmondshire North)	
7. KERR, Michael Alan	Voluntary Sector (Catterick Bridge)	
8. GRANT, Helen	Voluntary Sector (Central Richmondshire)	
9. VACANCY	Voluntary Sector (Middle Dales)	
10. VACANCY	Voluntary Sector (Richmond)	
11. RITCHIE Jane	Voluntary Sector (Upper Dales)	
12. HOWARTH, Maureen	Voluntary Sector (Richmondshire North)	
TOTAL MEMBERSHIP - (18)		
Quorum - ( 3 County Councillors)		

# RYEDALE AREA COMMITTEE

## Membership

COUNTY COUNCILLORS - (6)			<u>Electoral Division</u>
1. ARNOLD, Val	Conservative		Kirkbymoorside
2. CLARK, John	Independent (Liberal)		Pickering
3. HAIGH, Ron	(Vice-Chairman) Conservative		Thornton Dale & The Wolds
4. KNAGGS, Michael	(Chairman) Conservative		Malton
5. SHAW, Stephen	Conservative		Norton
6. WOOD, Clare	Conservative		Hovingham & Sheriff Hutton
MEMBERS OTHER THAN COUNTY COUNCILLORS - (8)			
1. COWLING, Mrs L			District Councillor
2. HODGSON, Mrs M			District Councillor
3. VACANCY			District Councillor
4. ANDREWS, Paul			Parish Councillor
5. MENNELL, Donald			Parish Councillor
6. LLOYD-WILLIAMS, David			Parish Councillor
7. FAIRBURN, Elizabeth			Parish Councillor
8. SALKELD, Mr Rob			Ryedale Voluntary Action
TOTAL MEMBERSHIP - (14)		Quorum - (3)	

## CO-OPTED MEMBERS' SUBSTITUTES:

Substitutes for Ryedale District Councillors:

- |    |               |                     |
|----|---------------|---------------------|
| 1. | HOPE, Mr, E   | District Councillor |
| 2. | SHIELD, Mrs E | District Councillor |

*Only persons who have been appointed by the Committee as Substitute Members and have agreed to comply with the County Council's requirements regarding completion of the necessary standards documentation (including registering their interests in the Register of Members' Interests, where necessary), may attend a meeting in place of a Co-opted Member. Notice that a Substitute is to attend a meeting must be given to The Assistant Chief Executive (Legal and Democratic Services), either in writing (**democratic.services@northyorks.gov.uk**) or orally, prior to the commencement of the meeting.*

# SELBY AREA COMMITTEE

## Membership

COUNTY COUNCILLORS - (10)			<u>Electoral Division</u>
1. ARTHUR, Karl	Conservative		Selby Barlby
2. CASLING, Elizabeth	Conservative		Escrick
3. HULME, Margaret	Conservative		South Selby
4. JORDAN, Mike	(Vice-Chairman)	Conservative	Sherburn in Elmet
5. LEE, Andrew	Conservative		Cawood and Saxton
6. McCARTNEY, John	NY Independent		Osgoldcross
7. MARSHALL, Brian	Independent (Labour)		Selby Barlby
8. METCALFE, Chris	Conservative		Tadcaster
9. PEARSON, Chris	Conservative		Mid Selby
10. PEART, David	(Chairman)	Conservative	Selby Brayton
MEMBERS OTHER THAN COUNTY COUNCILLORS - (8)			
1. CHILVERS, Ian	Selby D C		
2. MACKMAN, Mrs Carol	Selby D C		
3. PACKHAM, R	Selby D C		
4. SPETCH, Mrs Ann	Selby D C		
5. LAURENSEN, Stephen M	Parish Council (South)		
6. STEPHENSON, Mrs Rita	Parish Council (North)		
7. Vacancy	Selby District AVS		
8. Vacancy	Chamber of Trade		
TOTAL MEMBERSHIP - (18)		Quorum - (4)	



# YORKSHIRE COAST AND MOORS COUNTY AREA COMMITTEE

## Membership

COUNTY COUNCILLORS - (14)			Electoral Division
1.	BACKHOUSE, Andrew	Conservative	Newby
2.	BLACKBURN, John	Conservative	Hertford and Cayton
3.	CHATT, Bill	NY Independent	Woodlands
4.	COCKERILL, Mike	NY Independent	Filey
5.	JEFFELS, David	Conservative	Seamer and Derwent Valley
6.	JEFFERSON, Janet (Vice-Chairman)	NY Independent	Castle
7.	KENYON, Jane	Conservative	Whitby/Mayfield cum Mulgrave
8.	MARSBURG, Pat	Independent	Falsgrave & Stepney
9.	MARSDEN, Penny	Independent	Weaponness & Ramshill
10.	PLANT, Joe	Conservative	Whitby/Streonshalh
11.	POPPLE, Peter	NY Independent	Northstead
12.	SIMPSON, Brian	Liberal Democrat	Eastfield & Osgodby
13.	SWIERS, Helen (Chairman)	Conservative	Scalby & The Coast
14.	TINDALL, Herbert	Conservative	Esk Valley
MEMBERS OTHER THAN COUNTY COUNCILLORS – (9)			
1.	ALLANSON, G W	Scarborough Borough Council	
2.	ARMSBY, J	Scarborough Borough Council	
3.	CLEGG, Mrs D	Scarborough Borough Council	
4.	WATSON, B F	Scarborough Borough Council	
5.	JEFFERSON, M L	Parish Councils	
6.	REEVES, Mrs P A	Parish Councils	
7.	THOMPSON, Richard	Parish Councils	
8.	VICKERS, Mrs E	Parish Councils	
9.	STURROCK, Stephanie	Coast and Moors Voluntary Action	
TOTAL MEMBERSHIP - (23)		Quorum - (4 County Councillors)	
CO-OPTED MEMBERS' SUBSTITUTES			
1.	PRESTON, J M	Scarborough Borough Council	
2.	WEIGHTMAN, Richard	Coast and Moors Voluntary Action	
<p>Only persons who have been appointed by the Committee as Substitute Members and have agreed to comply with the County Council's requirements regarding completion of the necessary standards documentation (including registering their interests in the Register of Members' Interests, where necessary), may attend a meeting in place of a Co-opted Member. Notice that a Substitute is to attend a meeting must be given to The Assistant Chief Executive (Legal and Democratic Services), either in writing (<b>democratic.services@northyorks.gov.uk</b>) or orally, prior to the commencement of the meeting.</p>			

# AREA COMMITTEES

## Delegated Powers

*Notes: 1. In relation to area committees, see also Article 10 of the Constitution;*

*2. Area committees should not make decisions which significantly affect parts of North Yorkshire outside the Committee's area.*

1. To promote in their areas the development of key local strategies where the County Council should work in partnership with District Councils or others, for example on community safety, community transport, community strategies and community education, and economic development and regeneration, in furthering the County Council's duty to promote economic, social and environmental wellbeing in the County, and to work with others to achieve them.
  - The above includes the power for area committees to endorse district community strategies on behalf of the County Council; appoint representatives of the County Council to the relevant Community Safety Partnership; and for County Council payments to such Partnerships to be made through area committees.
2. To 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.
3. To use its budget to fund any activity or purpose upon which the County Council is legally entitled to incur expenditure and which does not conflict with the policy framework (subject to such conditions in relation to financial commitments, budgetary control and accounting arrangements, as the Executive may from time to time agree).
4. Area Committees should, in relation to the use of their budget, have regard to the community strategy for their area when considering spending, as this will help ensure that the community strategy is attended to in local spending decisions.
5. To act as a consultee in the process of the setting of the County Council's annual budget and precept.
6. To request and/or receive reports in relation to service developments affecting their area, with power to make representations thereon to the decision making body.
7. To make appointments to outside bodies in accordance with paragraphs 2 and 3 of Schedule 5 to Part 3 of the Constitution.
8. To consider and make recommendations to the Executive on programmes of schemes for the construction and improvement of highways for which the County Council has or will become responsible as Highway Authority.
9. 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 provision and regulation of parking places both off and on the highway where an objection is received from any person or body entitled under the relevant statute;
- (d) Traffic Regulation Orders, pedestrian crossings and speed limits where an objection is received from any person or body entitled under the relevant statute;
- (e) the stopping up or diversion of highways where an objection is received from any person or body entitled under the relevant statute;
- (f) the stopping-up and provision of access to premises from highways;
- (g) the promotion of road safety information, advice or training;
- \*(h) power to issue licences authorising the use of land as a caravan site;
- \*(i) power to licence the use of moveable dwellings and camping sites;
- \*(j) power to enter into agreements with respect to means of access to the countryside, and to provide access in the absence of agreement under sections 35 and 37 of the Countryside and Rights of Way Act 2000
- (k) power to remove land from the register of common land and town or village greens;
- \*(l) power to register variation of rights of common;
- \*(m) power to issue licences authorising the use of land as a caravan site;
- \*(n) power to licence the use of moveable dwellings and camping sites;
- \*(o) power to keep the Definitive Map and Statement of the Public Rights of Way under review and to modify the map under section 53 of the Wildlife and Countryside Act 1981; and to receive an annual report on all Definitive Map Modification Orders (including those refused by officers); *(NB: The Policy on Definitive Map Modification Orders and the accompanying Guidance Note for Members should be followed when dealing with Definitive Map Modification Orders.)*
- \*(p) power to enter into agreements with respect to means of access to the countryside, and to provide access in the absence of agreement under sections 35 and 37 of the Countryside and Rights of Way Act 2000.

- 10.** Being consulted on community education priorities and proposals.
- 11.** To deploy a General Maintenance Unit in their area for one month on priorities they identify.
- 12.** To determine the use of the County Community Fund allocation to their area on the basis of proposals developed by the LSP.
- 13.** To make grants to village halls.
- 14.** To respond to any consultation under the Local Government (Miscellaneous Provisions) Act 1982, Section 3;

15. To consider other matters referred to it by the Council, the Executive or overview and scrutiny committees.

NB: Items marked \* are delegated to area committees by the Council; other items are delegated to area committees by the Executive.

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## GOVERNORS COMMITTEE

### 1. Membership

COUNTY COUNCILLORS - (4)				
1. 2. 3. 4.				
MEMBERS OTHER THAN COUNTY COUNCILLORS - (0)				
TOTAL MEMBERSHIP - (4)      Quorum - (3)				
<b>CON</b>	<b>LIB DEM</b>	<b>NY IND</b>	<b>IND</b>	<b>TOTAL</b>
				4

### 2. Substitute Members

<u>CON</u>	<u>LIB DEM</u>
1. 2.	1.
<u>NY INDEPENDENT</u>	<u>INDEPENDENT</u>
1.	1.

# **GOVERNORS COMMITTEE**

## **Delegated Powers**

1. To consider and determine any proposal to terminate the appointment of LEA appointed school governors.

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# Schedule 2

## The Executive

1. [Executive Members and their Responsibilities.](#)
2. [Register of Executive Committees.](#)
3. [Delegation of Executive Functions.](#)
4. [Executive Members Delegation Scheme](#)

# Executive Members and their Responsibilities

The following Councillors are members of the Executive:

Name	Address	Electoral Division	Areas of Responsibility
WEIGHELL, John K	Southlands Exelby Road BEDALE North Yorkshire DL8 2ES Tel: 01677 422275 Fax: 01677 427854 E-mail: <a href="mailto:cllr.john.weighell@northyorks.gov.uk">cllr.john.weighell@northyorks.gov.uk</a>	Bedale	<b>Leader of the Council</b> and Chairman of the Executive  Budget and external organisations
WATSON, John OBE	Evergreen Cottage Main Street Kirk Deighton Wetherby LS22 4DZ Tel:01937 586011 Fax: 01937 586011 E-mail: <a href="mailto:cllr.john.watson@northyorks.gov.uk">cllr.john.watson@northyorks.gov.uk</a>	Boroughbridge	<b>Deputy Leader of the Council</b>  Schools, 16-19 year old education, early years provision and youth service
DADD, Gareth	The Old Black Bull Thormanby YORK YO61 4NN <a href="mailto:Cllr.gareth.dadd@northyorks.gov.uk">Cllr.gareth.dadd@northyorks.gov.uk</a>	Thirsk	Highways and planning services
LES Carl	The Lodge @ Leeming Bar The Great North Road BEDALE North Yorkshire DL8 1DT Tel: 01677 423702 Fax: 01677 427632 E-mail: <a href="mailto:cllr.carl.les@northyorks.gov.uk">cllr.carl.les@northyorks.gov.uk</a>	Catterick Bridge	Corporate services,(including corporate and ethical governance), finance and Performance management procurement
METCALFE, Chris	17 West Mount Tadcaster LS24 9LB Tel: 01937 832501 (Home) Fax: 01937 830501 E-mail: <a href="mailto:cllr.chris.metcalfe@northyorks.gov.uk">cllr.chris.metcalfe@northyorks.gov.uk</a>	Tadcaster	Adult and Library Services

Name	Address	Electoral Division	Areas of Responsibility
PATMORE Caroline	The Old Post Office Oulston YORK YO61 3RA Tel: 01347 868731 Fax: 01347 868711 E-mail: <a href="mailto:cllr.caroline.patmore@northyorks.gov.uk">cllr.caroline.patmore@northyorks.gov.uk</a>	Stillington	Leader Executive Member for (Children's Act 2004), children's services, special education needs and youth justice
WOOD, Clare L	Brockfield Hall Warthill YORK YO19 5XJ Tel: 01904 489362 Fax: 01904 488982 Email: <a href="mailto:cllr.clare.wood@northyorks.gov.uk">cllr.clare.wood@northyorks.gov.uk</a>	Hovingham and Sheriff Hutton	Rural services, waste disposal, public passenger transport, trading standards and economic development

# Register of Executive Committees

*There is currently one Committee of the Executive. The membership of Executive committees may only include members of the Executive.*

## COUNTY COMMUNITY FUND EXECUTIVE COMMITTEE

### 1. Membership

COUNTY COUNCILLORS - (4)				
1.	\$		Conservative	
2.	\$		Conservative	
3.	\$		Conservative	
4.	\$		Conservative	
MEMBERS OTHER THAN COUNTY COUNCILLORS - (0)				
TOTAL MEMBERSHIP - (4)      Quorum - (3)				
CON	LAB	LIB DEM	IND	TOTAL
4	0	0	0	4

Powers: To determine funding for projects submitted by the Local Strategic Partnerships in the County for funding from the “Partnership Support” and “Small Projects” strands of the investment of additional revenue deriving from the removal of the Council Tax discount on second homes;

and

To determine the general points of principle and specific criteria for the funding of such projects.

# 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 him/her to the Executive, individual Executive Members, Executive Committees or Officers. Sub-delegations may also be made, e.g to area 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 committees
- joint committees
- officers
- other local authorities
- the Appeals Committee

This section also deals with the role of the Looked After Children 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 his or her 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 a prejudicial interest (as defined 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 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 his/her 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 Committees.**

- 3.1 The Executive delegates to the area committees named in Article 10 the executive functions listed in the delegated powers of area committees in Part 3 of this Constitution and not marked \*. (This marking is to distinguish executive and non-executive functions in the area committees' powers).
- 3.2 The delegation of these powers operates under Section 18 of the Local Government Act 2000 and all other powers enabling the Executive.
- 3.3 When area 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 15 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 Executive of Scarborough Borough Council certain functions in relation to Highways which are functions of the Executive. This delegation operates within the areas and in relation to the powers, specified in an agency agreement between the Council and Scarborough Borough Council.
- 5.2 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 [Not used]**

- 6.1 [Not used]

## **7. Outside Body Appointments**

- 7.1 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.

## **8. Adoption Panels**

- 8.1 The Executive will appoint one or more panels to discharge the functions of adoption panels under the Adoption Agencies Regulations 2005. Each such panel must include at least one member of the Executive (being an Executive member for Children's Services) or of the Young People Overview and Scrutiny Committee.

*Note: There are currently two such Panels:*

- *The Harrogate Child Placement Panel*
- *The Northallerton Child Placement Panel*

## **9. Looked After Children Members' Group**

- 9.1 The Looked After Children 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 Looked After Children Members' Group shall be reported to the Executive and full Council as part of the quarterly monitoring process.
- 9.2 The Looked After Children Members' Group may refer any issues directly to the Young People Overview and Scrutiny Committee.
- 9.3 The Looked After Children Members' Group will present an annual report directly to the Council at the Annual Council meeting.
- 9.4 The Looked After Children Members' Group will comprise between five and ten members, appointed annually by the Executive, and may include members and co-opted members from the Young People Overview and Scrutiny Committee. *(Note that if an item of work for the Young People Overview and Scrutiny Committee involves scrutiny of a decision or work that has involved or been significantly influenced by the Looked After Children Members' Group, those members of the Looked After Children Members' Group who are also members of the Young People Overview and Scrutiny Committee will not be able to participate in the scrutiny process for that item).* The Chairman of the Group will be appointed by the Executive.
- 9.5 The role of the Looked After Children Members' Group will include the following (which is not exhaustive):
- (a) Monitoring and reporting to the Executive Member on all aspects of the Council's responsibilities as a Corporate Parent in relation to looked after children, and on any specific issues they are required to consider.
  - (b) The monitoring shall include performance against key indicators for the quality, stability and outcomes of Looked After arrangements for all children and young people in the preceding year.
  - (c) Enquiring into issues about looked after children who are also disabled.

- (d) The numbers of teenage pregnancies arising in relation to looked after children and their health and sex education.
- (e) Health issues affecting the Council's looked after children.
- (f) The educational attainment of the Council's looked after children and the work of the Virtual Head Teacher.
- (g) Considering the minutes and reports from the Young Person's Council.
- (h) The recruitment and retention of social workers and staff and the morale of all service staff and officers.
- (i) Any issues affecting looked after children in relation to drugs, alcohol and smoking.
- (j) The transition arrangements for all looked after children as they enter adulthood.
- (k) The work of the Young People's Champion.
- (l) The Looked After Children Members' Group will undertake inspections under Regulation 33 of residential homes. This will involve reporting any concerns from the residential homes and receiving any concerns raised by officer inspections of residential schools.
- (m) Any other relevant matter considered appropriate by the Lead Member for consideration by the Group.



# 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 County Council services and are consistent with the budget and policy framework.
5. To make a formal response on behalf of the County 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.
6. In respect of grant or other external funding:
  - (a) Following consultation with the relevant Corporate Director and the Corporate Director – Finance and Central Services, to authorise the submission of bids for grant or other external funding in excess of £100,000; and
  - (b) Following consultation with the relevant Corporate Director, the Corporate Director – Finance and Central Services and the Assistant Chief Executive (Legal and Democratic Services) to authorise the Corporate Director – Finance and Central Services to accept any offer of grant or other external funding in excess of £100,000 in line with the requirements of paragraph 8.4 of the Financial Procedure Rules;

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 Rule 8.0 et seq.
7. Following consultation with the relevant Corporate Director and with the approval of the Corporate Director – Finance and Central Services, to authorise the disposal of any asset(s) for which the estimated disposal value is greater than £10,000 but less than £100,000 (NB this excludes land and buildings ie “property” – please see the specific delegations to the Executive Member for Corporate Affairs 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 County Council on outside or joint bodies which are relevant to their area of responsibility.

11. To determine those matters related to the provision of personal social services which are outside of the powers of the Corporate Director – Children and Young People’s Service and Corporate Director - Adult and Community Services as set out in paragraph 4.2 (vi), (vii), (viii), (ix) and (x) and paragraph 4.3 (i) and (ii) of the Officers’ Delegation Scheme.
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.
14. The Executive Member for Corporate Services, Finance, Performance Management and Procurement (or in his/her temporary absence such other member of the Executive as he/she may nominate) has the following specific responsibilities and powers in relation to property, in accordance with the Council’s Property Procedure Rules:
  - a) To approve 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) where the acquisition is £1,000,000 or less in value.
  - b) To approve the acquisition of property by lease or licence or other agreement for a rent or licence fee or other annual payment where the annual rent or fee is £100,000 or less.
  - c) To approve the exercise of any option within the limits set for leases in Property Procedure Rule 6.1.4(b) or the limits set for other Property Contracts in Property Procedure Rule 6.1.3(b).
  - d) To approve redeployments of property (other than for disposal) not held by the Council on a lease or licence, of £1,000,000 or less in value.
  - e) To approve redeployments of property (other than for disposal) held by the Council on a lease or licence where the annual rent or fee is £100,000 or less.
  - f) Subject to Rule 8.1.4 of the Property Procedure Rules (disposals of property at undervalue), to approve the disposal of property (other than by lease or licence or other agreement for a rent or licence fee or other annual payment) of £1,000,000 or less in value.
  - g) Subject to Rule 8.1.4 of the Property Procedure Rules (disposals of property at undervalue), to approve the disposal of property by lease or licence or other agreement for a rent or licence fee or other annual payment where the annual rent or fee or other annual payment is £75,000 or less
  - h) To approve any release or variation of restrictive covenants up to £1,000,000 in value.
  - i) To approve disposals of property at undervalue in accordance with the maximum market values and undervalue thresholds as set out in Property Procedure Rule 8.1.4.

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## **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

COUNTY COUNCILLORS - (13)				
1.	BATT, John			Conservative
2.	FOX, John			Liberal Democrat
3.	HALL, Tony	(Chairman)		Conservative
4.	HOULT, Bill			Liberal Democrat
5.	MARSBURG, Pat			Independent
6.	MARSHALL, Brian			Independent
7.	PEART, Dave			Conservative
8.	PLANT, Joseph			Conservative
9.	POPPLER, Peter	(Vice-Chairman)		NY Independent
10.	SAVAGE, John			Liberal
11.	STECKLES, Melva			Conservative
12.	SWIERS, Helen			Conservative
13.	TINDALL, Herbert			Conservative
MEMBERS OTHER THAN COUNTY COUNCILLORS (2)				
NON VOTING				
1.	BIRD, Alex	Voluntary Sector	Substitute: BLACKBURN, Peter	
2.	HARDY, Bridget	Voluntary Sector	Substitute:	
TOTAL MEMBERSHIP - (15) QUORUM - (4)				
	CON	LIB DEM	NY IND	IND
	8	2	1	2
	TOTAL			
	13			

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. KENYON, Jane 2. MOORHOUSE, Heather 3. GARNETT, Heather 4. PEARSON, Chris</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. MARSHALL, J W 2. SEYMOUR, Caroline</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. McCARTNEY, John</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p>
<p style="text-align: center;"><b>LIBERAL</b></p> <p>1. CLARK, John</p>	

# Corporate and Partnerships Overview and Scrutiny Committee

## 1. Membership

COUNTY COUNCILLORS - (13)					
1.	ARNOLD, Val			Conservative	
2.	ARTHUR, Karl			Conservative	
3.	BARRETT, Phillip			NY Independent	
4.	BATEMAN, Bernard			Conservative	
5.	CASLING, Liz	(Chairman)		Conservative	
6.	HUXTABLE, Neville			Conservative	
7.	IRETON, David			Conservative	
8.	JEFFELS, David			Conservative	
9.	LEE, Andrew			Conservative	
10.	MCCARTNEY, John			NY Independent	
11.	SHAW, Stephen			Conservative	
12.	SIMPSON, Brian			Liberal Democrat	
13.	WEBBER, Geoff	(Vice-Chairman)		Liberal Democrat	
TOTAL MEMBERSHIP - (13) QUORUM - (3)					
CON		LIB DEM	NY IND	IND	TOTAL
9		2	2	0	13

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. SOWRAY, Peter 2. KNAGGS, Michael 3. HAIGH, Ron 4. FORT, John</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>2. PARSONS, Stuart 3. BARNES, Keith</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. JEFFERSON, Janet</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p>

# Scrutiny of Health Committee

## 1. Membership

COUNTY COUNCILLORS - (13)					
1.	ARNOLD, Val			Conservative	
2.	BACKHOUSE, Andrew			Conservative	
3.	BLACKIE, John	(Vice-Chairman)		NY Independent	
4.	CLARK, Jim	(Chairman)		Conservative	
5.	CLARK, John			Liberal	
6.	ENGLISH, Polly			Liberal Democrat	
7.	GOSS, Andrew			Liberal Democrat	
8.	HULME, Margaret			Conservative	
9.	KNAGGS, Michael			Conservative	
10.	MARSHALL, Shelagh			Conservative	
11.	MCCARTNEY, John			NY Independent	
12.	MOORHOUSE, Heather			Conservative	
13.	PEARSON, Chris			Conservative	
MEMBERS OTHER THAN COUNTY COUNCILLORS - (7)					
VOTING					
1.	FIRTH, Helen		Craven D.C.		
2.	SHEPHERD, Mrs Shirley A		Hambleton D.C.		
3.	GALLOWAY, Ian		Harrogate B.C.		
4.	JOHNSON, R		Richmondshire D.C.		
5.	RAPER, J		Ryedale D.C.		
6.	VICKERS, Mrs Eileen		Scarborough B.C.		
7.	SAYNER, Ruth E.		Selby D.C.		
TOTAL MEMBERSHIP - (20) QUORUM - (5)					
CON		LIB Dem	NY IND	IND	TOTAL
8		2	2	1	13

## 2. Substitute Members

<b>CONSERVATIVE</b> 1. KENYON, Jane 2. LEE, Andrew 3. SOWRAY, Peter 4. RICHARDSON, Paul		<b>LIBERAL DEMOCRAT</b> 1. de COURCEY-BAYLEY, Margaret-Ann 2. BARNES, Keith	
<b>NY INDEPENDENT</b> 1. CHATT, Bill		<b>District Councillors</b> 1. ROBERTS, John (Craven) 2. BLADES, D (Hambleton) 3. MURKETT, D S (Hambleton) 4. VACANT (Harrogate) 5. HARRIS, J (Richmond) 6. SHIELDS, E (Ryedale) 7. RODGERS, Ms S (Scarborough) 8. McSHERRY, Mrs K (Selby)	
<b>LIBERAL</b> 1. SAVAGE, John			

# Transport, Economy and Environment Overview and Scrutiny Committee

## 1. Membership

COUNTY COUNCILLORS - (13)					
1.	BARKER, Arthur			Conservative	
2.	BLACKBURN, John			Conservative	
3.	COCKERILL, Mike			NY Independents	
4.	HESELTINE, Michael			Conservative	
5.	HESELTINE, Robert			NY Independents	
6.	JEFFELS, David	(Chairman)		Conservative	
7.	JORDAN, Mike			Conservative	
8.	MARSHALL, J W			Liberal Democrat	
9.	MACKENZIE, Don			Conservative	
10.	PARSONS, Stuart	(Vice-Chairman)		Liberal Democrat	
11.	SAVAGE, John			Liberal	
12.	TROTTER, Cliff			Conservative	
13.	WELCH, Richard			Conservative	
TOTAL MEMBERSHIP - (13) QUORUM - (3)					
CON		LIB DEM	NY IND	IND	TOTAL
9		2	2	0	13

## 2. Substitute Members

<p><b>CONSERVATIVE</b></p> <p>1. SWALES, Tim 2. TINDALL, Herbert 3. HUXTABLE, Neville 4. IRETON, David</p>	<p><b>LIBERAL DEMOCRAT</b></p> <p>1. GOSS, Andrew 2. WEBBER, Geoff</p>
<p><b>NY INDEPENDENT</b></p> <p>1. BARRETT, Phillip 2. BLACKIE, John 3.</p>	<p><b>INDEPENDENT</b></p> <p>1. 2.</p>
<p><b>LIBERAL</b></p> <p>1. CLARK, John</p>	



# Young People Overview and Scrutiny Committee

## 1. Membership

<b>COUNTY COUNCILLORS - (13)</b>				
1.	BACKHOUSE, Andrew	(Vice-Chairman)		Conservative
2.	BARNES, Keith	(Chairman)		Liberal Democrat
3.	BATT, John			Conservative
4..	BLADES, David			Conservative
5.	CASLING, Liz			Conservative
6.	JEFFERSON ,Janet			NY Independents
7.	MOORHOUSE, Heather			Conservative
8.	MULLIGAN, Patrick			Conservative
9.	PLANT, Joseph			Conservative
10.	RICHARDSON, Paul			Conservative
11.	SEYMOUR, Caroline			Liberal Democrat
12.	SWALES, Tim			Conservative
13.	TROTTER, Cliff			Conservative
<b>MEMBERS OTHER THAN COUNTY COUNCILLORS - (9)</b>				
<b>VOTING</b>				
1.	JUDD, Rev. Adrian		Church of England	
2.	HUDDLESTON, Jos		Non-Conformist Church	
3.	McGOURAN, Helena		Roman Catholic Church	
4.	MORRIS, Mrs Suzanne		Parent Governor	
5.	STOWELL, Dr Patricia		Parent Governor	
<b>NON VOTING</b>				
	HEAD, Chris		Secondary Teacher Representative	
	SWIFT, Mrs Anne		Primary Teacher Representative	
	RISI, Bjorn	Voluntary Sector	Substitute: }	ALLEN, Maggie
	BROMFIELD, Judith	Voluntary Sector	Substitute: }	
<b>TOTAL MEMBERSHIP - (22) QUORUM - (5)</b>				
	<b>CON</b>	<b>LIB DEM</b>	<b>NY IND</b>	<b>IND</b>
	10	2	1	0
	<b>TOTAL</b>			
	13			

## 2. Substitute Members

<p style="text-align: center;"><b>CONSERVATIVE</b></p> <p>1. BARKER, Arthur</p> <p>2. FORT, John</p> <p>3. PEARSON, Chris</p> <p>4. JEFFELS, David</p>	<p style="text-align: center;"><b>LIBERAL DEMOCRAT</b></p> <p>1. HOULT, Bill</p> <p>2. WEBBER, Geoff</p>
<p style="text-align: center;"><b>NY INDEPENDENT</b></p> <p>1. HESELTINE, Robert</p>	<p style="text-align: center;"><b>INDEPENDENT</b></p> <p>\$</p>

# Joint Scrutiny of Health Committee With Durham, Hartlepool and Stockton Councils

## 1. Membership

COUNTY COUNCILLORS - (5)				
1.	DADD, Gareth		Conservative	
2.				
3.				
MEMBERS OTHER THAN COUNTY COUNCILLORS - (2)				
VOTING				
1.	RAPER, John		Ryedale D.C.	
2.	PRESTON, J		Scarborough B.C.	
TOTAL MEMBERSHIP - (16) QUORUM - (5)				
	CON	LIB DEM	LAB	IND
	2	1	0	0
				TOTAL
				3

## 2. Substitute Members

<b>CONSERVATIVE</b>		<b>LIBERAL DEMOCRAT</b>	
1. \$		1. \$	
2. \$		2. \$	
3. \$		3. \$	
4. \$		4. \$	
<b>NY INDEPENDENT</b>		<b><u>District Councillors</u></b>	
1. \$		1. \$	
2. \$		2.	
3. \$			
4. \$			

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# **Schedule 4**

## **Officers' Delegation Scheme**

North Yorkshire County Council has functions given to it by statute. Certain functions rest with the authority as a whole. These powers can be delegated to Officers under s101 Local Government and Housing Act 1989. Other functions, called Executive Functions rest with the Council's Executive, and can be delegated by the Executive to Officers. Within this scheme, functions delegated are marked either Executive or Council to indicate the origin of the delegation.

### **1. The Statutory Officers**

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

#### **1.1 The Head of Paid Service – The Chief Executive**

(s4 Local Government 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.

#### **1.2 The Monitoring Officer – The Assistant Chief Executive (Legal and Democratic Services)**

(s5 Local Government and Housing Act 1989)

- (a) Duty to prepare a report if it appears to her that any proposal, decision or omission has or would give rise to any contravention of law or has caused any maladministration or injustice.
- (b) Duty to investigate a complaint against a Member of the authority where the complaint has been referred to her under section 60 Local Government Act 2000.
- (c) Duty to arrange for the determination of a complaint against a Member of the authority referred to her under section s64 Local Government Act 2000.

#### **1.3 The Chief Financial Officer – Corporate Director - Finance and Central Services**

(s151 Local Government Act 1972)

- (a) Responsibility for the administration of the authority's financial affairs
- (b) Duty to prepare a report if it appears to him 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.

#### **1.4 The Director of Children Services – Corporate Director – Children’s Services**

(s18 Children Act 2004)

- (a) the functions of the authority in their 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.

#### **1.5 The Director of Adult Social Services – Corporate Director - Adult and Community 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.

#### **1.6 The Scrutiny Officer – (Head of Scrutiny and Corporate Performance)**

(Section 21 ZA Local Government Act 2000)

- (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.

<b>2.0</b>	<b><u>General</u></b>	
<b>2.1</b>	<p>Delegated powers are exercised in accordance with:</p> <ul style="list-style-type: none"> <li>Any statutory requirements and restrictions;</li> <li>the budget and policy framework set by Council, and other Council policies;</li> <li>any financial limits and procedures set out in the revenue or capital budgets and Financial, Contract and Property Procedure Rules;</li> <li>the Codes of Member and Officer Conduct; and</li> <li>any provision contained in this Constitution.</li> </ul>	
<b>2.2</b>	<p>Any delegation does not include</p> <ul style="list-style-type: none"> <li>any matter reserved to full Council;</li> <li>any matter which by law may not be delegated to an Officer;</li> </ul>	
<b>2.3</b>	Officers must keep Members properly informed of actions taken within the scope of these delegations in accordance with the Member/Officer protocol set out in Part 4 of this Constitution.	
<b>2.4</b>	In exercising delegated powers, Officers shall have regard to any report by the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer under their statutory obligations.	

<b>3.0</b>	<b><u>All Chief Officers</u></b>	
<b>3.1</b>	To 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;	Executive and Council
	<p>These powers are to be exercised:</p> <ul style="list-style-type: none"> <li>in accordance with any instructions given by the Chief Executive;</li> <li>within any budgets or policies approved by the Council, and not committing the Council's budget to growth for future financial years;</li> <li>in accordance with financial, contract and property procedure rules;</li> <li>having regard to any legal advice from The Assistant Chief Executive (Legal and Democratic Services); and</li> <li>in accordance with any legal requirements and restrictions.</li> </ul>	
<b>3.2</b>	It shall always be open to an Officer to consult with the appropriate Executive Member 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.	

<p><b>3.3</b> Subject to complying with the matters set out at 3.1 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.</p> <p><b>3.4</b> The delegation includes authorisation of any document including those which require the common seal of the Council to be affixed.</p> <p><b>3.5</b> A delegation to a Chief Officer includes authority for any officer within his 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. <i>(Note: No powers may be delegated to Group Research &amp; Communications Officers).</i></p> <p><b>3.6</b> In exercising delegated powers, Chief Officers shall consult with such other Officers as they determine appropriate and shall have regard to any advice given.</p>	Council
<p><b>3.7</b> 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.</p>	Council
<p><b>3.8</b> Chief Officers are authorised to take any action with respect to the:</p> <ul style="list-style-type: none"> <li>(a) recruitment, appointment, promotion, training, grading and discipline of staff;</li> <li>(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);</li> <li>(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 - Financial and Central Services being satisfied that adequate provision is made in the budget of the Business Unit and to the Assistant Chief Executive (Human Resources and Organisational Development) raising no objection to proposals affecting the grading, determination of wages and salary scales, or determination and application of conditions of service.</li> </ul>	Council
<p><b>3.9</b> To make a formal response on behalf of the County 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 Portfolio Holder(s) in order to determine whether an officer or Member response is most appropriate.</p> <p><b>3.10</b> To accept the terms and conditions and governance documentation for a Partnership agreement in respect of a partnership involving the County Council, subject to Rule 21 of the Financial Procedure Rules, to the implications for the Council of this Partnership being consistent with the Budget and Policy Framework, and subject to the approval of the partnership by the Executive where</p>	

<p>(a) it is considered to be high risk under the County Council's Partnership Governance Risk Assessment Framework</p> <p>and/or</p> <p>(b) the annual financial contribution to the partnership exceeds £100k</p> <p>and/or</p> <p>(c) the County Council intends to apply for a grant or other external funding which will exceed £100k over the term of that funding, and for which the County Council intends to act as Accountable Body.</p>	
<p><b>3.11</b> To accept the terms and conditions of an Accountable Body agreement in respect of a partnership involving the County Council, subject to Rule \$ of the Financial Procedure Rules and in respect of grants and other external funding, to Clause 4.5(o) of this Delegation Scheme, and subject to the implications for the Council of this Accountable Body status being consistent with the Budget and Policy Framework.</p>	
<p><b>3.12</b> 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.</p>	
<p><b><u>4.0 Specific Delegations</u></b></p>	
<p><b><u>4.1 To the Chief Executive Officer</u></b></p>	
<p>(a) To exercise the functions of the Head of the Paid Service.</p>	Statutory
<p>(b) To manage and co-ordinate budget processes, strategic planning and information.</p>	Council
<p>(c) To authorize attendance at meetings by Members as an approved duty and the payment of Members' allowances.</p>	Council
<p>(d) To incur expenditure in the event of a civil emergency.</p>	Executive
<p>(e) In cases of emergency to take any decision which could be taken by the Council, the Executive or a committee.</p>	Council and Executive
<p>(f) Through the County Emergency Planning Officer, to exercise the functions of the Executive for civil aid and emergency planning.</p>	Executive
<p>(g) To make payments or provide other benefits in cases of maladministration etc under Section 92 of the Local Government Act 2000.</p>	Council
<p>(h) To exercise all of the functions in relation to elections listed in Part D of Schedule 1 to the Local Authority (Functions and Responsibilities) (England) Regulations 2000 which are functions of the County Council.</p>	Council
<p>(i) To carry out the County Council's functions relating to local government pensions under Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972.</p>	Council
<p>(j) In consultation with the Leader of the Council, the Corporate Director-Finance and Central Services and The Assistant Chief Executive (Legal and Democratic Services), to endorse the payment of indemnity to any Member</p>	



<p>or officer, up to a maximum of £50,000, where such indemnity is not covered by insurance. Any sums above £50,000 to be referred to the Executive.</p> <p>(k) To approve recommendations from external partnerships in relation to the distribution of Area Based Grant and Single Capital Pot Grant, in consultation with the relevant Executive Member.</p>	
<p><b><u>4.2 To the Corporate Director – Children and Young People’s Service</u></b></p>	
(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.	Statutory and Executive
(b) To terminate the appointments of all school governors appointed by the local education authority, with effect from 31 August in a County Council election year, so that reappointment of governors can be made following the elections for a 4 year term, based on the proportional strengths of the groups on the Council at that time.	Council

(c) To approve appointments of local education authority school governors on the nomination of the political group to whom the right of nomination has been allocated.	Council
(d) 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 Director of Adult and Community Services, so far as it relates to adults.	Executive
(e) 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;	Council and Executive
(f) the provision of accommodation and advice and assistance to children under sections 23C to 24D of the Children Act 1989;	Executive
(g) 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;	Council and Executive
(h) 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.	Executive
(i) To exercise discretion to reopen the adopters’ list, as necessary; the action taken to be reported to the Executive.	
(j) To approve, after consultation with the Executive Members for Children’s Services, any notifications to the Department of Health to pool resources under the Health Act Flexibilities so far as they relate to Children.	Executive
(k) To make representations under the Licensing Act 2003 and the Gambling Act 2005 to protect children from harm or being exploited by gambling.	Council
(l) 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.	Council
(m) To appoint Interim Executive Boards to schools.	

<p>(n) 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 2004.</p> <p>(o) To negotiate and agree on behalf of North Yorkshire County Council the terms of the Memorandum of Understanding between the four Local Authorities that comprise the North and East Yorkshire Sub-regional Group for 16-19 provision.</p> <p>(p) To represent the Council at the North and East Yorkshire Sub-Regional Group and to take all decisions on behalf of the Council at meetings of and in connection with the Group (provided the decisions are consistent with the Council Budget and Policy Framework), subject to a requirement to report back to the appropriate Executive Member.</p>	
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<p><b>The following matters are excluded from this delegation:</b></p> <p>(i) Major changes in the pattern of provision for:-</p> <ul style="list-style-type: none"> <li>• Meeting special educational needs;</li> <li>• Educational provision for all age groups falling within the Council's statutory duties or permissive powers.</li> </ul> <p>(ii) Making or terminating appointments to governing bodies of schools, outdoor centres and to any outside bodies, except as set out in ©, (d) and (e) above, unless such power is specifically delegated by the body empowered to make such appointments. <i>(NB: The power to make and revoke appointments as LEA appointed school governors is a <u>non-executive</u> function).</i> Any proposal to terminate the appointment of any LEA appointed school governor is to be decided by the Governors Committee.</p> <p>(iii) 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.</p> <p>(iv) Determining priorities for the community education service.</p> <p>(v) Approving the content of major/minor works and temporary classroom programmes where the cost of the project in question is more than £5,000.</p> <p><b>NOTE: The delegated powers are subject to the financial limits contained in current policies, as follows:-</b></p> <p>(vi) Upon the recommendation of the Child Placement Panel, grants of up to £3,000 within the Scheme for financial assistance to substitute parents.</p> <p>(vii) On an ex gratia basis and subject to such conditions as the Executive may from time to time prescribe, claims for reimbursement up to £500 with regard to damage to, or loss of, foster parents' own property arising from the acts of foster children placed with them by the County Council.</p> <p>(viii) Single payments to substitute families for equipment on loan or single items to maximum £1,000 to enable placement of children.</p> <p>(ix) Single payments to young people leaving the Council's care for independent living up to a maximum of £800 in any one case.</p>	
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(x) Expenditure, not exceeding £10,500 in individual cases, on adapting premises and providing special aids to assist disabled persons and to purchase equipment up to a sum of £6,000 in the case of stair lifts and vertical lifts so far as the disabled person is a child.	
<b>4.3 <u>To the Corporate Director – Adult and Community Services</u></b>	
(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.	Statutory
(b) To exercise the Council's powers relating to public health and the take up of welfare benefits.	Executive
<p>(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..</p> <p>(d) To exercise the functions of the Council in relation to public libraries, the County Archives, and the provision of schools library services, except for the withdrawal or modification of public facilities.</p> <p>(e) To exercise all the functions of the County Council for the Coroner's Service.</p> <p>(f) To approve premises for the solemnisation of marriages and to exercise all functions of the County Council for the Registration of Births, Deaths and Marriages.</p> <p>(g) 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.</p> <p><b>NOTE: The delegated powers are subject to the financial limits contained in current policies, as follows:-</b></p> <p>(i) Expenditure, not exceeding £10,500 in individual cases, on adapting premises and providing special aids to assist handicapped persons and to purchase equipment up to a sum of £6,000 in the case of stair lifts and vertical lifts.</p> <p>(ii) In the case of disregard of property in relation to residential charges: there is no financial leeway permitted by policy.</p> <p><b>NOTE: The following matters are excluded from this delegation</b></p> <p>(i) Major changes in the pattern of provision of library services, including permanent closure of libraries.</p> <p>(ii) Major changes in the pattern of provision for the Registration Service or the Coroners' Service</p>	<p>Executive</p> <p>Executive</p> <p>Executive</p> <p>Executive</p>
<b>4.4 <u>To the Corporate Director – Business and Environmental Services</u></b>	
(a) To exercise the functions of the Council under legislation relating to control of pollution and management of air quality (regulatory and licensing functions only);	Council

(b)	To exercise the functions of the Council under Part III of the Wildlife and Countryside Act 1981 in relation to rights of way, in accordance with the Council's policy on Definitive Map Modification Orders.	Council
(c)	To amend the procedures for dealing with Definitive Map Modification Orders, power to be exercised in consultation with the appropriate Executive Member and The Assistant Chief Executive (Legal and Democratic Services);	Council
(d)	To exercise all functions of the Council as Highway Authority including but not limited to traffic and vehicle regulation, public transport, car parking and road safety together with any related enforcement action, making and entering into agreements pursuant to the Highways Act 1980	Council and Executive

(e)	To exercise all of the functions in relation to town and country planning (including minerals and waste planning) and development control including those Council functions listed in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (including any necessary enforcement action where this is considered expedient) and also including the authority to approve or refuse planning applications where there are objections which are <i>not</i> on material planning grounds, PROVIDED ALWAYS that where the Corporate Director Business and Environmental Services is minded to refuse a planning application, he/she shall firstly consult the Chairman of the Planning and Regulatory Functions Committee before doing so. The Corporate Director Business and Environmental Services shall be authorised to determine whether an objection is on material planning grounds and shall report back to the Planning and Regulatory Functions Committee on any planning applications determined by him/her under these delegated powers.	Council and Executive
(f)	To exercise the functions of the Council relating to the physical environment of the County, rights of way (in so far as not covered under (b) above) and open spaces.	Executive
(g)	To exercise the functions of the Council relating to waste disposal and related issues.	Executive
(h)	Obtaining information under Section 330 of the Town and Country Planning Act 1990, Section 5A Acquisition of Land Act 1981 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, and undertaking surveys pursuant to Section 15 Local Government (Miscellaneous Provisions) Act 1976, preliminary to the exercise of power to make compulsory purchase orders or other purposes.	Executive and Council
(i)	To manage the leased car scheme.	
(j)	To award work up to the value of £100,000 under the terms and conditions of the existing term maintenance contract in respect of the Minor Works Programme and the Bridge Strengthening Programme.	
(k)	To exercise the functions of the County Council relating to the economic environment of the County, including economic development measures, European funding and tourism.	
(l)	To exercise the functions as weights and measures and food authority and for trading standards and consumer protection, animal health, sports grounds, nursing agencies, performing animals and explosives licensing,	

<p>listed in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which are functions of County Councils 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 authority's capacity as an employer in Part C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which are functions of County Councils, together with Parts III and IV of the North Yorkshire County Council Act 1991 (including any necessary enforcement action and the power to authorise any Trading Standards Officer, Enforcement Officer, Animal Health Inspector or other officer of the Trading Standards and Regulatory Services Unit to prosecute and to appear on the Council's behalf before a Magistrates' Court).</p>	
<p>(m) To exercise all other functions for trading standards and consumer protection not included in (m) above.</p>	
<p>(n) To exercise the functions of the Council in relation to arts and museums where appropriate in conjunction with the Corporate Director – Adult and Community Services.</p>	
<p>(o) To exercise the Authority's functions in relation to the Planning (Hazardous Substances) Act 1990.</p>	
<p>(p) Functions and powers related to enforcement against unlawful works on registered common land; to protect unclaimed registered common land or town and village greens, and to institute proceedings for offences in respect of unclaimed land. (Sections 41 and 45 Commons Act 2006)</p>	

<p><b>NOTE: The following matters are excluded from this delegation:-</b></p>	
<p>(i) Giving permission or consent to development where there are unresolved objections on material planning grounds (the issue of whether the objection is on material planning grounds shall be determined by the Corporate Director, Business and Environmental Services), or where the development is or would be significantly inconsistent with any provision or proposal of the Development Plan;</p>	
<p>(ii) Authorising the making of new street byelaws and orders;</p>	
<p>(iii) Authorising any of the following, where objections have been received from a person entitled under the relevant statute:</p> <ul style="list-style-type: none"> <li>• Traffic regulation orders, pedestrian crossings and speed limits;</li> <li>• Stopping up or diversion of highways;</li> <li>• Creation, stopping up extinguishment or diversion of public footpaths and bridleways;</li> <li>• Provision of parking places off and on the highway; and</li> <li>• Private street works.</li> </ul>	
<p>(iv) Any other matter which has specifically been delegated for decision by an Area Committee.</p>	
<p>(v) Approval of the consultation draft or final version of the Sub-Regional Investment Plan (SRIP);</p>	
<p>(vi) Response to consultations on relevant strategies from partners;</p>	

<p>(vii) Approval of capital programme projects;</p> <p>(viii) Policy and criteria for grant and loan schemes;</p> <p>(ix) Grants to outside bodies where no scheme is in place;</p> <p>(x) Major changes in the pattern of provision for Trading Standards and Regulatory Services; and</p> <p>(xi) The issue of a new safety certificate in respect of a sports ground in North Yorkshire, or the withdrawal of an existing certificate. The power to amend existing safety certificates is however delegated.</p> <p><b>4.5 <u>To the Corporate Director – Finance and Central Services</u></b></p>	
<p>(a) 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.</p>	Statutory
<p>(b) To manage from day to day the:-</p> <p>(i) County Fund and all subsidiary accounts.</p> <p>(ii) Any earmarked or specific funds established from time to time by the Council.</p>	Council

<p>(iii) Pension Fund, including:-</p> <ul style="list-style-type: none"> <li>• The exercise of the Council's functions as administering authority, where such exercise does not involve use of discretion;</li> <li>• The power to seek professional advice and to devolve day to day handling of the fund to professional advisors within the scope of the Pensions Regulations; and</li> <li>• To change the mandate of a 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 Fund's investments. Any such action to be reported to the Pension Fund Committee as soon as practicable.</li> </ul>	
<p><b>NOTE: The Corporate Director – Finance and Central Services is not empowered to change the fund manager structure of the Pension Fund.</b></p>	
<p>(c) To operate the Local Government Pension Scheme Regulations 1997 (as amended), the Local Government Pension Scheme Regulations 2007/2008 (as amended), the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (as amended), the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009, the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended), and the Local Government Pension Scheme (Administration) Regulations 2008 (as amended), including the exercise of discretions.</p>	Council
<p>(d) To implement increase payments under the Pension Increase Acts.</p>	Council
<p>(e) To implement national and local pay awards.</p>	

(f)	To borrow and lend money in accordance with the Treasury Management Statement and annual Strategy.	Council
(g)	To manage the Housing Loan Scheme.	Executive
(h)	To make leasing arrangements.	Executive
(i)	To manage all insurance and related risk management issues, including insurance to cover liability under the indemnity policy for Members and officers.	Executive
(j)	To administer and oversee compliance with Financial Procedure Rules.	Executive
(k)	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.	Council
(l)	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.	Executive
(m)	To exercise the functions of the Council relating to its small holdings estate.	Executive
(n)	To authorise the acquisition, disposal or redeployment of property and assets as set out in the Property Procedure Rules and Financial Procedure Rules.	Executive

(o)	To authorise the submission of bids for grant or other external funding, the acceptance of any grant or other external funding and the agreement of terms and conditions of grant/funding offers up to and including (but not exceeding) £100,000, in accordance with Rule 8 of the Financial Procedure Rules, and subject to the implications for the Council being consistent with the budget and policy framework.	Executive /Council
<b>4.6</b>	<b><u>To The Assistant Chief Executive (Legal and Democratic Services)</u></b>	
(a)	To exercise the functions of Monitoring Officer.	Statutory
(b)	To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal.	Executive
(c)	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.	Executive
(d)	To periodically update the Guidance Notes for Members re Definitive Map Modification Orders (to reflect changing circumstances) in consultation with the Corporate Director – Business and Environmental Services.	Council
(e)	To make appointments, on the nomination of political groups, to Valuation Tribunals	Executive
(f)	To arrange temporary appointments of other Authorities' Standards Committees' Independent Members to the Standards Committee.	Council
(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):	Council
(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;	Council
(ii)	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 his/her 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;	Council
(iii)	Where the Chief Officers Appointments and Disciplinary Committee so directs, to agree the specific appointment of a named individual as Designated Independent Person with the Chief Executive Officer;	Council
(iv)	To agree the terms of remuneration and working methods for the Designated Independent Person with the individual appointed.	Council

<b>4.7</b>	<b><u>To the Assistant Chief Executive (Human Resources and Organisational Development)</u></b>	
(a)	To develop and implement a communications strategy for the Council.	Executive
(b)	To manage the provision of training contracts awarded by the Employment Training Services and those of a related nature aimed at skilling individuals for employment.	Executive



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# 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 County Councillors unless they are payable by the body appointed to.

A	B	C	D
Outside Body	No of Seats	Appointed By	Report back by/to
Area Tourism Partnership – East	1	Executive	
Adoption Panel (Harrogate)	1	Executive	
Adoption Panel (Northallerton)	1	Executive	
Askham Bryan College Corporation	1	Executive	
Bradford District Care NHS Foundation Trust	1	Executive	
Breckenbrough School Limited Governing Body	2	Executive	Member/DEd
County Councils Network	4	Executive	
Drax Power Station Consultative Committee*	6 + Subs	Executive	DEnvS
Durham Tees Valley Airport Consultative Committee	1 + Sub	Executive	
Eggborough Power Limited Consultative Committee*	6 + Subs	Executive	DEnvS
Environment Agency Yorkshire Regional Flood Defence Committee	1 + Sub (+1-CY)	Executive	Member/DoFS
Fostering Panel (Central)	1	Executive	
Fostering Panel (Eastern)	2	Executive	
Fostering Panel (Western)	1	Executive	
Harrogate and District NHS Foundation Trust	1	Executive	
Harrogate (White Rose) Theatre Trust Ltd	1 + Sub	Executive	Member/HLAAM
Harrogate District Community Transport (Little Red Bus)	1	Executive	
Leeds Bradford International Airport Cons Committee	1 + sub	Executive	Member/DEnvS
Leeds City Region Leaders' Board	1 + Sub	Executive	
Local Government Association Rural Commission	1 + sub	Executive	
Local Government Yorkshire and Humber (LGYH)	1 (Leader) + Sub	Executive (+3 to attend annual meeting)	
LGYH Employers' Committee	3	Executive	
Local Government Association (LGA)	4	Executive	Member/Executive
Local Government North Yorkshire and York	1 (Leader) + Sub	Executive	CES/Executive
National Association of Areas of Outstanding Natural Beauty	1	Executive	
North Eastern Sea Fisheries Committee	4	Council	Member/DoFS
North York Moors Historical Railway Trust Limited	2 + Sub	Executive	
North York Moors National Park Authority	5	Council	Member/?
North York Moors National Park Local Access Forum	1	Executive	
North Yorkshire Admissions Forum	5	Executive	
North Yorkshire County Catering Board	4	Executive	
North Yorkshire Early Years and Childcare Partnership	5	Executive	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Report back by/to</b>
North Yorkshire Fire and Rescue Authority	12 + Subs	Council	Chairman/Council
North Yorkshire Forum for Voluntary Organisations	3	Executive	Member/DSS
North Yorkshire Local Access Forum	3	Executive	
North Yorkshire Police Authority	7	Council	Chairman?/Council
North Yorkshire Strategic Housing Board	1 + Sub	Executive	
North Yorkshire Strategic Partnership	4 + Subs (Leader, Executive Member for Community Planning; plus 1 each from Con, Lib Dem & Lab Grps)	Executive	
North Yorkshire Youth	1 + Sub	Executive	Member/DEd
NYNet	1	Executive	
Outdoor Education Service Consultative Committee	8	Executive	
Regional Planning and Infrastructure Commission	1	Executive	
Regional Rural Affairs Forum for Yorkshire and the Humber	1	Executive	
Reserve Forces and Cadets Association for Yorkshire and the Humber	2 (not over 64 years)	Executive	
Richmond and Catterick Garrison Renaissance	1	Executive	
Market Towns Steering Group			
Ripon City Partnership Ltd Executive Committee	2	Executive	
Robin Hood Airport Doncaster Sheffield Consultative Committee	1 + Sub	Executive	
Rural Action Yorkshire	1 + Sub	Executive	Member
Selby Coalfield Joint Consultative Committee	9 (do not appoint June 2009)	Executive	
South Tees Hospitals NHS Foundation Trust - Council of Governors	1	Executive	
SPARSE Rural Services Network	1 + Sub	Executive	
Standing Advisory Council/ Standing Conference on Religious Education	5	Executive	Ded
Stephen Joseph Theatre, Scarborough	1 (+1 observer)	Executive	
Supporting People Elected Members Group	3 + Subs	Executive	
Tees, Esk and Wear Valleys NHS Foundation Trust Council of Governors	1	Executive	
University of Hull – Court	2	Executive	Member/Ded/DBCS
University of Leeds – Court	1	Executive	Member/Ded/DBCS
University of York – Court	2	Executive	Member/Ded/DBCS
Veritau Ltd (shared Internal Audit Service) Board of Directors	1 (Executive Member for Corporate Services)	Executive	

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<b>Outside Body</b>	<b>No of Seats</b>	<b>Appointed By</b>	<b>Report back by/to</b>
York and North Yorkshire Development Board (trading as york-england.com)	1 + Sub	Executive	
York and North Yorkshire Inward Investment Board	1	Executive	
York and North Yorkshire Playing Fields Association	2	Executive	
York and North Yorkshire Safer Communities Forum	1 Executive Member for Community Safety	Executive	
York and North Yorkshire Waste Management Partnership	1	Executive	
York Archaeological Trust for Excavation and Research Limited	1	Executive	
York Hospitals NHS Foundation Trust	2	Executive	
York St John University Governing Body (nominated)	1	Executive	Member/Ded
Yorkshire and Humberside Regional Broadband Joint Committee	1	Executive	
Yorkshire Dales National Park Authority	5	Council	Member
Yorkshire Libraries and Information	1	Executive	Member/HLAAM
Yorkshire Purchasing Organisation	2 + Sub	Executive	Member/DoFS
Yorkshire Tourist Board (trading as Welcome to Yorkshire)	1 + Sub	Executive	
Yorventure Management Group	1 + Sub	Executive	
Yorwaste Limited	1	Executive	Member/Executive

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

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

	No of seats
Citizens Advice Bureau Craven	1
Citizens Advice Bureau Hambleton	1
Citizens Advice Bureau Harrogate	1
Citizens Advice Bureau Richmondshire	1
Citizens Advice Bureau Ripon	1
Citizens Advice Bureau Ryedale	1
Citizens Advice Bureau Scarborough and District	1
Citizens Advice Bureau Selby	1
Craven Local Strategic Partnership	1
Craven Transport Forum	1
Fairburn Ings Nature Reserve Management Committee	2
Forest of Bowland AONB Joint Advisory Committee	1
Gouthwaite Reservoir Board of Management	3
Groundwork North Yorkshire	1
Hambleton Community Safety Partnership	1
Hambleton Local Strategic Partnership	1
Harrogate and District Deaf Society	1
Harrogate and District Safer Communities Partnership	1
Harrogate District Action for the Environment Group	1 (+1 sub)
Harrogate District Cultural Partnership	1 (+1 sub)
Harrogate District Local Strategic Partnership	1 (+1 sub)
Harrogate District Sports Council	1 (+1 sub)
Hartlepool Power Station Local Community Liaison Committee	1 (+1 sub)
Howardian Hills AONB Joint Advisory Committee	2
Knaresborough Community Centre Management Committee	1
Links Knaresborough Youth Club Management Committee	1 (+1 sub)
National Coal Mining Museum for England Liaison Committee	1 (+1 sub)
Nidderdale AONB Joint Advisory Committee	3
Nidderdale Pool and Leisure Centre Joint Management Board	1
North Yorkshire and Cleveland Coastal Forum Executive Committee	3 (+ subs)
North Yorkshire Coast Community Partnership	1
North Yorkshire Moors and Coast Safer Communities Partnership	1
Northallerton and District Voluntary Service Association	1
Renaissance Knaresborough Management Committee	1
Richmond Swale Valley Community Initiative	1
Richmondshire Community Safer Partnership	1
Richmondshire Local Strategic Partnership	1
Ryedale District Community Safety Partnership	1
Ryedale Strategic Partnership	1
Safer Craven Community Partnership	1
Scarborough Borough Council's Central Urban Area Committee's Participatory Budgeting Sub-Committee	1
Scarborough Boarugh Council's Northern Area Committee's Participatory Budgeting Sub-Committee	1
Scarborough Boarugh Council's Southern Area Committee's	1

	<b>No of seats</b>
Participatory Budgeting Sub-Committee	
Scarborough Boarugh Council's Central Rural Area Committee's	2
Participatory Budgeting Sub-Committee	
Scarborough United Scholarships Foundation with the John Kendall Trust	1
Selby District Association for Voluntary Services	2
Selby District Community Safety Partnership (LSP)	1
Selby Local Strategic Partnership (LSP)	1
	<hr/>
	58+
	Subs

**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 Committee.
- The relevant Area 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 - Finance and Central Services.
- Expenses will not be paid by the County 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>
Amotherby Educational Foundation	1
Appleton Wiske Educational Foundation	1
Atkinson and Clarke Educational Foundation (Newton-le-Willows/Patrick Brompton)	1
Bellerby Educational Foundation	1
Boyle and Petyt Foundation (Bolton Abbey)	1
Captain Cook Schoolroom Museum	1
Carleton Endowed School Trust (Skipton)	2
Castle Bolton and Redmire Education Foundation	1
Christopher Wharton Educational Foundation	1
Clark's Old School Foundation Wigglesworth	1
Constance Elizabeth Beckwith Bequest (Easingwold and Husthwaite)	1
Coulthurst Craven Sports Centre Management Committee	1
Edward Atkinson Charity (Camblesforth)	1
Elizabeth Barnett Charity (East Witton)	1
Eskdaleside-cum-Ugglebarnby Educational Foundation	1
Flaxby Free School Trust	1
Hargraves and Green Educational Foundation (Giggleswick/Austwick)	1
Hartley Trust (Long Preston/Hellifield)	1
Heber Charity (Thornton-le-Beans)	1
Horsehouse School Charity (Carlton Highdale)	1
Horton-in-Ribblesdale Exhibition Foundation Governors	2
Horton-in-Ribblesdale Foundation Governors	1
Ingleborough Community Centre Joint Management Committee (Ingleton)	6
Jepsons Educational Foundation (Ripon North)	1
John Dakyn, East Cowton Fund	1
John Dakyn's Educational Charity at Kirby Hill	2
John Stockton Educational Foundation (Kirbymoorside)	3
King James's Foundation at Knaresborough	1
Kirkby Overblow Educational Foundation	1
Lady Lumley's Educational Foundation (Pickering)	1
Langcliffe Educational Foundation	1
Longstaffes Education Foundation, High Bentham	1
Lupton Foundation (High and Low Bishopside)	2
Malton School Endowment	5
Mary Waud Foundation (Cliffe School Charity)	1
Masham Town Hall Charity	1
Middleton Trust	1

	<b>No of Seats</b>
Oglethorpe and Dawson Educational Foundation	3 (at least 1 women)
Old Meeting House Trust, Helmsley	1
Oswaldkirk and Ampleforth Education Foundation	1
Poad's Educational Foundation (Newton upon Rawcliffe)	1
Preston Education Foundation (Stokesley)	2
Prowde's Educational Charity	1
Raikes Foundation (Pateley Bridge)	2
Rev James Graves' Foundation at Thorpe Bassett	1
Rev Michael Sydall Educational Foundation (Catterick)	1
Richard Taylor Educational Foundation (Bilton)	1
Richmond School Trust	5
Ripon Grammar School Foundation Governors	4
Settle Area Swimming Pool Committee	2
Sir John Horsfall Exhibition Foundation (Glusburn and Sutton-in-Craven)	1
St John's Catholic School for the Deaf, Boston Spa	1
Staintondale Educational Charity	1
Sylvester Petyt's Foundation (Skipton)	1
Thirsk and Sowerby Swimming Baths Charity Management Committee	1
William Cockin Educational Foundation (Melsonby)	1
William Hardcastle Charity	2
Wistow Church of England School Charity	1
Yorebridge Grammar School Foundation	5
	<hr/> 91



#### 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 County 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.

	<b>No of seats</b>
East Yorkshire Valuation Tribunal (Assistant Chief Executive (Legal and Democratic Services))	7
North Yorkshire Valuation Tribunal (Assistant Chief Executive (Legal and Democratic Services))	40
North Yorkshire and Cleveland War Pensions Committee	2
School Museum Service Governing Body	1
	<hr/> 50

\* In making appointments to the two bodies marked\*, the Executive should ensure that the Chairman or Vice-Chairman and at least three Members of the Planning and Regulatory Functions Committee be nominated to serve, and that there is representation from the local area.

## **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 County 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 County Council. Governing bodies may consider paying out of pocket expenses.

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

Members appointed to take part in inspections of Children's Homes –

The Looked after Children Member's Group -

## **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.

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# 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.](#)
6. [Financial Procedure Rules.](#)
7. [Contract Procedure Rules.](#)
8. [Staff Employment Procedure Rules.](#)
9. [Property Procedure Rules](#)

# Council Procedure Rules

## CONTENTS

1	<a href="#"><u>Annual Meeting of the Council</u></a>
2	<a href="#"><u>Ordinary Meetings</u></a>
3	<a href="#"><u>Extraordinary Meetings</u></a>
4	<a href="#"><u>Appointment of Substitute Members of Committees and Sub-Committees</u></a>
5	<a href="#"><u>Time and Place of Meetings</u></a>
6	<a href="#"><u>Notice of and Summons to Meetings</u></a>
7	<a href="#"><u>Chairman and Vice-Chairman</u></a>
8	<a href="#"><u>Quorum</u></a>
9	<a href="#"><u>Questions and Statements by the Public</u></a>
10	<a href="#"><u>Questions by Members</u></a>
11	<a href="#"><u>Motions on Notice</u></a>
12	<a href="#"><u>Motions Without Notice</u></a>
13	<a href="#"><u>Rules of Debate</u></a>
14	<a href="#"><u>Previous Decisions and Motions</u></a>
15	<a href="#"><u>Voting</u></a>
16	<a href="#"><u>Minutes</u></a>
17	<a href="#"><u>Record of Attendance</u></a>
18	<a href="#"><u>Exclusion of Public</u></a>
19	<a href="#"><u>Members' Conduct</u></a>
20	<a href="#"><u>Disturbance by Public</u></a>
21	<a href="#"><u>Amendment of Council Procedure Rules</u></a>
22	<a href="#"><u>Application to Committees and Sub-Committees</u></a>

*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 his/her 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) So 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 his/her 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 he/she would prefer to serve.
  - (ii) convene a meeting, under the Chairmanship of the Chairman or Vice-Chairman 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 County 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**

Meetings of the Council shall be held in every year on the third Wednesday in February, the penultimate Wednesday in July, the second Wednesday in October and the third Wednesday in December or on such other dates as the Council shall determine. The fourth Wednesday in February shall be reserved in the diary, each year, for a further meeting, if necessary, to deal with business left outstanding from the meeting held the previous week.

### **2.2 Notice of Meetings**

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

### **2.3 Order of Business**

- (a) The order of business at County Council meetings shall be:
  - (i) if both the Chairman and the Vice-Chairman 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 Chairman.
  - (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.

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



- (vii) any questions or statements from members of the public who are residents of North Yorkshire relating to County 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) 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.
- (ix) any business remaining from the previous meeting;
- (x) any matter referred to the Council for decision by:
  - (a) the Executive
  - (b) the Standards 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 Looked After Children Members' Group.
- (xi) Any statement by an Executive portfolio holder, each of which may be followed by any questions or statements from Members to that portfolio holder. 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:
  - Budget and external organisations
  - Schools, 16-19 year old education, early years provision and youth services
  - Highways and planning services
  - Corporate services, finance and Performance management procurement
  - Adult and Library Services
  - Lead Executive Member for (Children's Act 2004), children's services, special education needs and youth justice
  - Rural services, waste disposal, public passenger transport, trading standards and economic development.

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 Chairman of the Scrutiny Board or of an Overview and Scrutiny Committee are limited to speaking for a maximum of two minutes.

- (xii) Any matter referred to the Council by the following Committees:
    - (a) Care and Independence Overview and Scrutiny
    - (b) Corporate and Partnerships Overview and Scrutiny Committee
    - (c) Scrutiny of Health Committee
    - (d) Transport, Economy and Environment Overview and Scrutiny Committee
    - (e) Young People's Overview and Scrutiny Committee
  - (xiii) Council Procedure Rule 10 questions;
  - (xiv) Notices of motion in the order in which they have been received, unless the Chairman directs that, for the efficient conduct of business, they should be considered earlier on the agenda. At each meeting of the Council, the Chairman may, at his 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. The Chairman should seek to bring such a debate to an end by 1.00 pm or as soon as convenient thereafter.
  - (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 Chairman 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 he/she holds a portfolio) or Chairman 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. Members of the Council may, without notice, ask the Member who made the statement questions arising from matters raised in that statement or may ask any questions on matters in that portfolio not mentioned in the statement, but unless notice has been given by 10 am the previous day the person to whom the question has been put may respond in writing, with a copy being placed in Members' Group Rooms. The provisions of Council Procedure Rule 10 (b), (c), (d) and (e) shall apply to questions under this Council Procedure Rule.
- (c) No Member shall speak more than once or for more than two minutes on any statement made by the Leader or a portfolio holder or Chairman of the Scrutiny Board or of an Overview and Scrutiny Committee, except that one representative of each Group may speak for 5 minutes when responding to the statement made by the Leader. The Leader or portfolio holder or Chairman of the Scrutiny Board or of an Overview and Scrutiny Committee making the statement is not limited in the time allowed to make the statement or limited in time or frequency of speaking when responding to questions.

## **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 Chairman 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 Chairman of the Council and he/she has 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**

- (a) The Council, in addition to appointing Members (hereafter called “the normal Members”) to serve on a committee, may also appoint, on the nomination of each of the political groups represented on the Council, County Councillors to act as substitute Members in the circumstances set out below.
- (b) For each committee other than the Appeals Committee, the number of Members who may be nominated as substitute members shall not exceed four for the Conservative Group and Liberal Democrat Group and shall not exceed three for each of the other political groups. For the Appeals Committee, each Group which nominates members shall each be entitled to nominate up to six substitute members. (The number of substitute Members which each group is entitled to nominate shall be reviewed by the Council after the County Council elections and at any other time when, in the opinion of the Council, there has been a significant change in the political balance on the Council).
- (c) In addition to appointing Members as named substitute Members for each committee etc, each political group shall be entitled to nominate a “standing substitute list” comprising all or some of its Members, listed in the order in which they are to be invited to act as substitute for all committees, sub-committees etc on which they are neither a normal Member nor a named substitute.
- (d) A normal member of a committee shall, if he/she wishes a substitute Member to attend the meeting of that committee in his/her place, make the necessary arrangements with the first available Member named in the list of substitute Members of his/her political group and shall either give, or shall arrange for the nominated substitute Member, or any other member of his/her political group, to give The Assistant Chief Executive (Legal and Democratic Services) notice of the substitution before the commencement of the meeting, either in written or in oral form.
- (e) The substitute Member named in the substitution notice shall be the substitute Member whose name appears first in the list of substitute Members of the same political group as that of the normal Member, whose appointment as substitute members of the relevant committee has been approved by the Council. If, however, that substitute Member cannot attend the meeting in question or will be attending in substitution for another Member, then the second named substitute Member for that group may be named in the notice, and if he/she cannot attend or has already arranged to attend in substitution for another Member, the third substitute Member may be named etc. If no named substitute is able to attend the meeting, the members of the standing substitute list for that political group may be approached in the order in which their names appear on that list.

- (f) The effect of a valid substitution notice, whether written or oral, shall be that the normal Member shall cease to be a member of that committee for the duration of that meeting (and for the duration of any adjournment of it) and that the substitute Member shall be a full member of the committee for the same period.
- (g) A valid substitution notice, whether written or oral, once given in respect of a meeting of a committee, may not be revoked in respect of such meeting, or any adjournment of it.
- (h) The Assistant Chief Executive (Legal and Democratic Services) shall give notice of committee meetings in the usual way to all normal members of the committee and to all named substitute Members. On receipt of a valid substitution notice naming a substitute Member, he shall, in writing, inform that substitute Member of the receipt of that notice and confirm that he/she is required to attend the meeting, save that if The Assistant Chief Executive (Legal and Democratic Services) receives a verbal substitution notice, he shall give the substitute Member verbal notice of the substitution and the requirement to attend the meeting. If the substitute Member is not one of the named substitute Members, The Assistant Chief Executive (Legal and Democratic Services) will supply him/her with a copy of the relevant agenda as soon as is practicable.
- (i) These arrangements shall apply in respect of sub-committees, area committees, working parties and panels as they apply to committees, except that the named substitute Members shall be appointed by the committee which appoints the sub-committee, working party or panel. They shall not apply in respect of the Executive.
- (j) A committee of the Council is able to appoint co-opted Members to serve on it. In addition to appointing co-opted Members, committees may also appoint named substitute co-opted Members in the circumstances set out below.
- (k) Named substitute co-opted Members shall be nominated by their representative organisation.
- (l) The number of named substitute co-opted Members nominated shall not exceed two for each co-opted Member on the committee.
- (m) Each named substitute co-opted Member shall, as soon as possible after nomination and in any event not later than the date of the first committee meeting he/she proposes to attend in place of a co-opted Member, agree to comply with all aspects of the County Council's Code of Conduct for Members, including registering their interests in the Register of Members' Interests.
- (n) A co-opted Member of a committee shall, if he/she wishes a substitute co-opted Member to attend a meeting of that committee in his/her place, make the necessary arrangements with one of their named substitute co-opted Members and shall either give, or shall arrange for the nominated substitute co-opted Member or any other Member of his/her representative organisation, to give The Assistant Chief Executive (Legal and Democratic Services) notice of the substitution before the commencement of the meeting, either in written or oral form.

## **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 Chairman or, if the chairmanship be vacant, the Vice-Chairman may direct that a meeting shall be held at such other place, or such hour and on such date as he/she may deem expedient.

### **5.2 Other Meetings**

The 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.

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

The Chairman of a Committee, or the Chairman 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 him or her 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. CHAIRMAN AND VICE-CHAIRMAN**

### **7.1 The Council**

- (a) the Chairman 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-Chairman.
- (c) The Chairman shall, unless he/she resigns or becomes disqualified, continue in office until his successor becomes entitled to act as Chairman and the Vice-Chairman, unless he/she resigns or becomes disqualified, shall continue in office until immediately after the election of Chairman at the next annual meeting of the Council.

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

## **7.2 Committees**

- (a) Every committee shall have a Chairman and may have a Vice-Chairman, provided that the Chairman and the Vice-Chairman, if any, shall be a Member of the County Council and the Chairman and Vice-Chairman of any Overview and Scrutiny Committee shall be appointed by the Council save that, in the absence of the Chairman and also of the Vice-Chairman, if any, at any meeting of a Committee a Chairman 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 Chairman (and may appoint a Vice-Chairman) of every committee and, in the event of either office being vacated at any time, any such committee shall elect a Chairman (and may elect a Vice-Chairman) at its next meeting.
- (c) A Chairman and Vice-Chairman may be appointed or elected either for one year or for such longer period up to the appointment or election of Chairmen following a quadrennial election as the Council or the committee, as appropriate, may determine.
- (d) A person who was Chairman of any committee immediately before annual meeting, in an election year shall continue to be Chairman 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.

## **8. QUORUM**

### **8.1 Council Meetings**

If during any meeting of the Council the Chairman 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 a prejudicial interest, 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 Chairman 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. QUESTIONS AND STATEMENTS BY THE PUBLIC**

### **9.1 General**

Members of the public may ask questions or make statements at ordinary meetings of the Council, and meetings of the Executive and of committees.

### **9.2 Order of Questions/Statements**

Questions will be asked (or statements made) in the order notice of them was received, except that the Chairman may group together similar questions or statements.

### **9.3 Notice of Questions/Statements**

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 and must name the Member of the Council to whom it is to be put. Each statement must give the name of the person by whom it is to be made.

### **9.4 Number of Questions/Statements**

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

### **9.5 Scope of Questions/Statements**

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

- ♦ is not about a matter for which the local authority has a responsibility or which affects the county;
- ♦ is defamatory, frivolous or offensive;
- ♦ is substantially the same as a question which has been put at a meeting of the Council in the past six months; 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 Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.
- (b) The Chairman will invite the person to make their statement. If they are unable to be present they may ask the Chairman to make the statement on their behalf. The Chairman has discretion whether or not to do so.
- (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.

## **9.8 Supplemental Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 9.5 above.

## **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 Chairman 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**

- (a) In addition to his/her right under Council Procedure Rule 2.4 to put questions or statements to the Leader or a portfolio holder or Chairman of an overview and scrutiny committee or in any report, a Member may ask the Chairman of any committee, other than an overview and scrutiny committee, any questions relating to the business of the Council or may ask the Chairman or nominated member of the North Yorkshire Police Authority, the North Yorkshire Fire and Rescue Authority, the North York Moors National Park Authority or the Yorkshire Dales National Park Authority, a question on the discharge of the functions of such Authority.
- (b) Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer.

- (c) With the consent of the Chairman of the Council, the Member who has asked a question may ask a supplementary question arising out of the reply.
- (d) Where the information asked for in a question is contained in any of the Council's publications, it shall be deemed a sufficient reply if the publication containing the information is indicated.
- (e) Where the reply to any question cannot conveniently be given orally, it shall be deemed a sufficient reply if the answer is supplied to the Member asking the question as soon as reasonably possible and copies shall at the same time be placed in the Members' Group Rooms.
- (f) The Chairman shall call on Members to ask questions under this Council Procedure Rule in the order of respondent set out below and, within that order, in the order in which notice of questions was given to The Assistant Chief Executive (Legal and Democratic Services) by noon the previous day. In the absence of prior notice having been given, Members must inform the Chairman of their wish to ask a question and these will be called in the order received, but after questions of which prior notice was given.
- (g) The time limit for questions under this Council Procedure Rule for each respondent will be 5 minutes. Once the time allocated for any respondent has expired at any meeting, the Chairman shall not permit any further questions to be asked of that respondent under this Council Procedure Rule but, if a question or response has been started it may be completed, irrespective of the time limit, as may any response to any question being asked when the time limit is reached.

#### Order of questions

- (i) to the Chairman of the Standards Committee;
- (ii) to the Chairman of an area committee;
- (iii) to the Chairman of any other of the Council's committees;
- (iv) to the Chairman or other representative of:-
  - North Yorkshire Fire and Rescue Authority
  - North Yorkshire Police Authority
  - North York Moors National Park Authority
  - Yorkshire Dales National Park Authority

## **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 Chairman, 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 County 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 his/her 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 he proposes 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 Chairman should allow the motion to be debated by the Council without being referred to the Executive or a relevant committee for prior consideration, he/she shall give or send by post/fax or email to The Assistant Chief Executive (Legal and Democratic Services) a written statement of his/her 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 Chairman 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 Chairman, or as the Council may determine.

- (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 Council upon that motion together with its recommendation. If a motion is referred to more than one committee, the Executive shall report to the Council 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 Council. 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 County Councillor email address in which case signatures are not required), to The Assistant Chief Executive (Legal and Democratic Services) and received by him/her 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 15 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 Chairman 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 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 Chairman. If two or more Members rise, the Chairman 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 five minutes on any motion or amendment, except for the mover and the Executive Member or Chairman of any Committee directly involved, who may speak for not more than 15 minutes.
- (c) Whenever the Chairman 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 Chairman on points of procedure or order and his/her interpretation of Council Procedure Rules shall be conclusive and no debate upon his/her ruling shall be allowed.
- (e) Every motion or amendment shall be moved and seconded and, unless the Chairman agrees otherwise shall be handed in writing to the Chairman, 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 his/her speech until a later period of the debate.
- (g) A Member shall direct his/her 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 him/her 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.

- (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 Chairman shall proceed as follows:-
- (i) “That the Council proceed to the next business”
- Unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she 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 his/her opinion the matter before the meeting has been insufficiently discussed, he/she 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 his/her 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 his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he/she 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 Chairman, 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:-
- (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**

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 10 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.

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 the expression “Aye” or “No”, or, if the Chairman so decides, or not less than 10 Members so require, by show of hands.

If the majority is less than seven, the Chairman, 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”. The Assistant Chief Executive (Legal and Democratic Services) will record and count the votes, and inform the Chairman, 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 his/her wish by raising his/her 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 his/her 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 a 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 he/she votes;
  - (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 Chairman, 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 Chairman 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 Chairman 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**

At every meeting of the Council an attendance book shall be provided for signature by members attending the meeting.

## **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 Chairman informs the Council that, in his opinion, a named Member is persistently disregarding the ruling of the Chairman, or behaving irregularly, improperly, or offensively, or wilfully obstructing the business of the Council, the Chairman 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 Chairman shall direct the Member accordingly. If, having been directed by the Chairman to leave the meeting, the Member does not leave forthwith, or having left returns to the meeting, the Chairman may give directions for his/her 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 Chairman, makes the proper despatch of business impossible, the Chairman may adjourn or suspend the sitting of the Council for whatever period he/she considers expedient.
- (c) Members must at all times observe the Members' Code of Conduct set out at Part 5 of this Constitution. 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 Chairman shall warn him/her. If he/she continues the interruption the Chairman may order his/her removal from the Council Chamber. In case of general disturbance in any part of the Chamber open to the public the Chairman 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, 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.

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# Access to Information Procedure Rules

## CONTENTS

1. [Scope](#)
2. [Rights to Information](#)
3. [Rights to Attend Meetings](#)
4. [Notices of Meetings](#)
5. [Access to Agenda and Reports before the Meeting](#)
6. [Supply of Copies](#)
7. [Access to Minutes etc after the Meeting](#)
8. [Background Papers](#)
9. [Summary of Public's Rights](#)
10. [Exclusion of access by the public to meetings](#)
11. [Exclusion of access by the public to reports](#)
12. [Application of rules to the Executive](#)
13. [Procedure before taking key decisions](#)
14. [The Forward Plan](#)
15. [General Exception](#)
16. [Special Urgency](#)
17. [Report to Council](#)
18. [Record of Decisions](#)
19. [Decisions by individual members of the Executive](#)
- 19A. [Implementation of Executive Decisions.](#)
20. [Overview and scrutiny committees access to documents](#)
21. [Additional rights of access for Members to documents](#)
22. [Rights of Members not serving on a Body to attend and speak](#)

# **Access to Information Procedure Rules**

*North Yorkshire County 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 County Council has adopted a presumption of openness that information will be available unless there is a substantial lawful reason why not.*

## **1. SCOPE**

- 1.1** 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). These rules do not apply to the Assessment and Review Sub-Committees of the Standards Committee.
- 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**

Members of the public may attend all meetings subject only to the exceptions in these rules.

## **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall and at the venue for the meeting (if different) and/or on the Council's website. "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).

## **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 Councillors) 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**

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 Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available 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.

## **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 his/her 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, 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**

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 confidential or exempt information (see 10.4 and 10.5) would be disclosed. The public may also be excluded from a meeting where an executive decision is being taken, where it is likely in view of the nature of the item, that the advice of a political adviser or assistant would be disclosed.

### **10.3 Information marked “not for publication”**

No Councillor 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.

### **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):

**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
  - (c) 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.

Where a meeting of a **standards committee**, or **sub-committee of a standards committee**, is convened to consider a matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008 or referred under section 58(1)(c) of the Local Government Act 2000, the provisions of paragraphs 1 to 7 above shall apply as if, after paragraph 7, the following descriptions of exempt information were inserted:-

- 7A. Information which is subject to any obligation of confidentiality.
- 7B. Information which relates in any way to matters concerning national security.
- 7C. Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

## **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 Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993;
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission 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, he/she may exclude access by the public to reports which in his or her 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 and any Committees it may establish.
- 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 or the relevant Corporate Director to the Chairman and Vice-Chairman of the relevant Overview and Scrutiny Committee(s).

### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision (as defined in Article 13) may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least five clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Executive or its committees or by an Area 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) Forward plans will be prepared by The Assistant Chief Executive (Legal and Democratic Services) on behalf of the Leader and published by the middle of each month. Each Plan will cover a period of 12 months, beginning with the first day of the following month. The Forward Plan must be published at least 14 days before the start of the period covered. The Plan will be updated on a rolling basis.
- (b) On the day of publication of the Plan, The Assistant Chief Executive (Legal and Democratic Services) will send the Plan to all Members by e-mail.
- (c) A form to be used for notifying the Legal and Democratic Services Unit of new items for the Forward Plan can be found on the Council's Intranet. The Forward Plan itself is included on the Intranet and Internet websites.

#### **14.2 Contents of forward plan**

- (a) The forward plan will be in the format contained in the Appendix to these Rules and will contain matters which the Leader has reason to believe 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 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) the date on which, or the period within which, the decision will be taken;
  - (ii) where the decision taker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;
  - (iii) the matter in respect of which a decision is to be made;

- (iv) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (v) the means by which any such consultation is proposed to be undertaken;
- (vi) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (vii) a list of the documents submitted to the decision taker for consideration in relation to the matter.

Exempt information need not be included in the forward plan and confidential information cannot be included.

**14.3** The Assistant Chief Executive (Legal and Democratic Services) will publish once a year (at the end of December) a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the 12 month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Assistant Chief Executive (Legal and Democratic Services) has informed the Chairman of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) 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
- (d) at least five clear days have elapsed since the Assistant Chief Executive (Legal and Democratic Services) complied with (a) and (b).

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**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the written agreement of the Chairman of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant overview and scrutiny committee, or if the Chairman of each relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When an overview and scrutiny committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken by a decision making body or individual which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee Chairman, or the Chairman/Vice-Chairman of the Council under Rule 16;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies.

## **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. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## **17.3 Quarterly reports on special urgency decisions**

In any event 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 will include particulars of the decision, the reasons for it and the reasons for use of the special urgency procedure.

## **18. RECORD OF DECISIONS**

### **18.1 Executive Decisions Made Collectively at Meetings**

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 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 and any dispensations granted by the Standards Committee in respect of such conflict.

### **18.2** Copies of those Minutes/Decision Records will then be circulated, by e-mail, to:

- the Assistant Chief Executive (Legal and Democratic Services)
- the Staff Officer to the Chief Executive
- all Members of the Council
- the Monitoring Officer
- the Chief Finance Officer
- the Head of Scrutiny and Corporate Performance

## **19. 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 or Officer (either alone or in consultation with an Executive Member) receives a report which he/she intends to take into account in making any key decision, then (subject to Rule 16) he/she will not make the decision until at least five clear days after receipt of that report.



## **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 Chairman 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 a key decision has been taken by an Officer, (either alone or in consultation with an Executive Member) he/she will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected in the format contained in the Appendix to these Rules.
- (b) Copies of the decision record will be sent electronically, as soon as possible, to:
  - all Members of the Council
  - All Group Research and Communications Officers
  - Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer
  - Principal Officer Democracy and Governance
  - Corporate Director Finance and Central Services
  - Head of Scrutiny and Corporate Performance
  - Staff Officer to the Chief Executive Officer
  - Scrutiny and Corporate Performance Officers
  - Scrutiny Support Officers
- (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 decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information.

## **19A IMPLEMENTATION OF EXECUTIVE DECISIONS**

After a decision record has been produced and published (whether in the form of Minutes of a meeting or in the decision record format contained in the Appendix to these Rules), there will be a period of 5 clear days before the decision will take effect if not called in within that time, in accordance with Overview and Scrutiny Procedure Rule 16.

## **20. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **20.1 Rights to copies**

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
- (b) any decision taken by an individual member of the Executive; or
- (c) any key decision taken by an Officer.

### **20.2 Limit on Rights**

An overview and scrutiny committee will not be entitled to:

- (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 they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

## **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 he or she has a prejudicial interest 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 have access to any document under the control of the Executive which is relevant:

- (1) to business to be transacted at a public meeting; or
- (2) to business to be transacted at a private meeting; or
- (3) to any decision to be made by an individual Executive Member; or
- (4) to any key decision made by an Officer;

and in the case of (2), (3) and (4), such document shall be available for inspection by any Member when the meeting concludes or the decision has been taken by the individual Member or Officer as the case may be, unless the document contains certain categories of exempt information or discloses 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 him/her 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 a prejudicial interest 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 excluding the Assessment and Review Sub-Committees of the Standards Committee, on any matter on the agenda for that meeting, subject to having no prejudicial interest in the matter to be discussed, and may be invited to speak again, or for a longer period, at the discretion of the Chairman 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**

<i>Decision type</i>		<i>Taken by</i>	<i>Forward Plan?</i>	<i>5 clear days notice and report? <sup>3</sup></i>	<i>Decision record?</i>	<i>Subject to call-in?</i>
<i>Executive decisions</i>	<i>Key decisions</i>	<i>Member body <sup>1</sup></i>	YES	YES	YES <sup>5</sup>	YES
		<i>Executive Member</i>	YES	YES	YES	YES
		<i>Officer</i>	YES	YES	YES	YES
	<i>Other Executive decisions</i>	<i>Member body <sup>1</sup></i>	NO	YES	YES <sup>6</sup>	YES
		<i>Executive member</i>	NO	YES	YES	YES
		<i>Officer</i>	NO	NO	NO	NO
<i>Non-Executive decisions</i>	<i>Major decisions</i>	<i>Member body <sup>2</sup></i>	YES <sup>4</sup>	YES	YES <sup>6</sup>	NO
		<i>Officer</i>	YES <sup>4</sup>	NO	NO	NO
	<i>Other non-Executive decisions</i>	<i>Member body <sup>2</sup></i>	NO	YES	YES <sup>6</sup>	NO
		<i>Officer</i>	NO	NO	NO	NO

**Notes:**

1. *Either the Executive, Committee of the Executive or an Area Committee.*
2. *The Planning and Regulatory Functions Committee, Area Committees, Standards Committee, Audit Committee, Appeals Committee, Chief Officers Appointments and Disciplinary Committee, Pension Fund Committee and the County 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 Chairman and Vice-Chairman and be available for public inspection. The same will apply to key decisions to be taken by officers. 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) meeting or by decision record for Area Committees.*
6. *By way of minutes of meetings.*

Reference Number:

**NORTH YORKSHIRE COUNTY COUNCIL**

**DECISION RECORD**

**Re: *[insert title of record]***

This record is produced in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

**This form should be used to record:**

- **EXECUTIVE decisions (key or otherwise) taken by an individual Executive MEMBER; and**
- **KEY decisions taken by an OFFICER (either alone or in consultation with an Executive Member)**

**(One form per decision)**

*The following executive decision has been taken: -*

*By whom:*

.....

*(insert name of Meeting, Member or Officer)*

**On:**

.....

*(insert date decision taken)*

*Reasons for decision: -*

*Details of any alternative options considered and rejected: -*



## **Conflicts of Interest**

Please record below details of any conflict of interest declared by a Member or Officer regarding the decision and any dispensation granted by the Standards Committee in respect of that conflict.

Conflict	Dispensation?

Signed .....

(Name) .....

Directorate .....

..... Publication Date: ***[to be inserted by Jackie Dawson/Alison Jones]***

***Note: This decision will come into force, and may then be implemented, on the expiry of 5 clear working days after publication, unless any 6 members of the Council object to it and call it in by notice in writing (including e-mail) to The Assistant Chief Executive (Legal and Democratic Services).***

**Contact for further information: ...(insert email address if possible)**

**Contact for copy of report considered ...(insert email address if possible)**

To: The Business Support Officer, Legal and Democratic Services - for onward circulation to:

- All Members of the Council
- All Group Research and Communications Officers
- Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer
- Principal Officer Democracy and Governance
- Corporate Director – Finance and Central Services
- Head of Scrutiny and Corporate Performance
- Staff Officer to the Chief Executive Officer
- Scrutiny and Corporate Performance Officers
- Scrutiny Support Officers

# NORTH YORKSHIRE COUNTY COUNCIL

## FORWARD PLAN

*[Prepared in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000]*

The key decisions likely to be taken by North Yorkshire County Council in the following 12 months are set out below:

Publication Date: 14<sup>th</sup> .....

Plan Effective From: 1<sup>st</sup> .....

Period covered by the Plan: up to: .....

FUTURE KEY DECISIONS							
Likely Date of Decision	Decision Taker (a full list of the membership of the Council and all its Committees is set out in Part 3 of the Constitution)	Description of Matter	Decision Required	Consultees (ie the identity of the principal groups whom the decision-taker proposes to consult)	Consultation Process (ie the means by which any such consultation is to be undertaken)	How representations may be made and details of Contact Person (Tel: 0845 0349494 unless specified otherwise)	Relevant documents already submitted to Decision Taker
THE COUNTY COUNCIL							

## FUTURE KEY DECISIONS

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## THE EXECUTIVE

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INDIVIDUAL EXECUTIVE MEMBERS							

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Likely Date of Decision	Decision Taker (a full list of the membership of the Council and all its Committees is set out in Part 3 of the Constitution)	Description of Matter	Decision Required	Consultees (ie the identity of the principal groups whom the decision-taker proposes to consult)	Consultation Process (i.e. the means by which any such consultation is to be undertaken)	How representations may be made and details of Contact Person (Tel: 0845 0349494 unless specified otherwise)	Relevant documents already submitted to Decision Taker
OFFICERS (DECISIONS TAKEN EITHER ALONE OR IN CONSULTATION WITH EXECUTIVE MEMBERS)							

FUTURE KEY DECISIONS							
Likely Date of Decision	Decision Taker (a full list of the membership of the Council and all its Committees is set out in Part 3 of the Constitution)	Description of Matter	Decision Required	Consultees (ie the identity of the principal groups whom the decision-taker proposes to consult)	Consultation Process (ie the means by which any such consultation is to be undertaken)	How representation s may be made and details of Contact Person (Tel: 0845 0349494 unless specified otherwise)	Relevant documents already submitted to Decision Taker
AREA COMMITTEES							

# Budget and Policy Framework Procedure Rules

## CONTENTS

1. [The framework for executive decisions](#)
2. [Process for developing the framework](#)
3. [Determining the budget and policy framework.](#)
4. [Decisions outside the budget or policy framework](#)
5. [Urgent decisions outside the budget or policy framework](#)
6. [Virement](#)
7. [In-year changes to policy framework](#)
8. [Review of decisions outside the budget or policy framework](#)

# 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 chairmen 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 his 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 him 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 his 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 him 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 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 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 Chairman 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 Chairman 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 Chairman of a relevant overview and scrutiny committee the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman, 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 Financial Procedure Rule 6.3.
- (b) Steps taken by the Executive, a committee of the Executive, an individual member of the Executive or Officers, area 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 6.18 to 6.24.

## **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 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 (or in his absence the Corporate Director – Finance and Central Services) 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.

*Note: Depending on the terms of Regulations yet to be made by DETR, the procedure at (b) and (c) above may also be appropriately applied to other reports by the Monitoring Officer/Chief Finance Officer.*

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# Executive Procedure Rules

## CONTENTS

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;
- (b) a committee of the Executive;
- (c) an individual member of the Executive;
- (d) an Officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) 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 him/her 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, addresses 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 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 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, he/she 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 he/she has served it on its Chairman.

## **1.5 Conflicts of Interest**

- (a) Where the Leader or any other member of the Executive has a personal interest 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 at least half of the members of the Executive have a prejudicial interest as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution, the Standards Committee may give a dispensation to allow those Members to participate in consideration and determination of the business.
- (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 a prejudicial interest 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, or the advice of a Group Research & Communications Officer 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, he/she 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 a prejudicial interest 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 Chairman 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) 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);
- (c) any questions or statements by members of the public of which proper notice has been given (see Council Procedure Rule 9);
- (d) issues arising from area committees (see Article 10.02(e));
- (e) issues arising from overview and scrutiny (see Overview and Scrutiny Procedure Rule 12(a));

- (f) 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;
- (g) matters included in the agenda under Rule 2.5 below.
- (h) 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 he/she receives 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

## CONTENTS

1. [What will be the number and arrangements for Overview and Scrutiny Committees?](#)
2. [Who may sit on Overview and Scrutiny Committees?](#)
3. [Co-optees.](#)
4. [Education representatives.](#)
5. [Meetings of Overview and Scrutiny Committees](#)
6. [Quorum.](#)
7. [Who chairs Overview and Scrutiny Committee Meetings?](#)
8. [Work programme.](#)
9. [Agenda items.](#)
10. [Policy review and development.](#)
11. [Reports from Overview and Scrutiny Committee.](#)
12. [Making sure that Overview and Scrutiny reports are considered by the Executive.](#)
13. [Rights of Overview and Scrutiny Committee Members to documents.](#)
14. [Members and officers giving account.](#)
15. [Attendance by others.](#)
16. [Call-in.](#)
17. [Key Decisions.](#)
18. [The Party Whip.](#)
19. [Procedure at Overview and Scrutiny Committee Meetings.](#)
20. [Matters within the remit of more than one Overview and Scrutiny Committee.](#)
21. [Scrutiny of Crime and Disorder Matters.](#)
22. [Overview and scrutiny of Local Area Agreements \(LAAs\)](#)

# 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.
- Chairmen and Vice-Chairmen 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 he/she has 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 he/she is also a member and at which s/he was present when the decision in question was taken, that member must regard him/herself as having a prejudicial interest in the matter, must disclose that interest, and (subject to any dispensation granted by the Standards Committee 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 Young People 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 Young People 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 Chairman of the relevant overview and scrutiny committee, by any three members of the committee or by the Proper Officer if he/she considers 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?**

Chairmen 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. Chairmen and Vice-Chairmen 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 Scrutiny and Corporate Performance that he/she wishes 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 Scrutiny and Corporate Performance 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 s/he is 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 under section 21(2) (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 committee 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 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 he/she must refer the matter to the next available meeting of the Executive for debate before exercising his/her 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 his/her written response to it shall be sent to The Assistant Chief Executive (Legal and Democratic Services) and he/she 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 performanceand 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 Chairman 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 he/she is required to attend. The notice will state the nature of the item on which he/she is 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 Chairman of that Committee.
- (e) The power of the Standards Committee to consider allegations that Members have not performed their duties under the Constitution shall apply in any case where a member of the Executive refuses to attend an overview and scrutiny committee meeting after having been properly required to do so.

## **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 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. Chairmen and Vice-Chairmen 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 Scrutiny and Corporate Performance 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 he/she may determine, where possible after consultation with the Chairman 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 County 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 Chairman 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 Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her 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 decision

that 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 Chairmen of the committees concerned. In the absence of such agreement, the matter shall be determined by the Chairman of the Council. The committee Chairman may agree, or the Chairman of the Council may recommend, that the overview and scrutiny committee which is to consider the matter should invite the Chairman 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 Scrutiny and Corporate Performance that s/he wishes an item which s/he considers 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 Scrutiny and Corporate Performance 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 Chairman 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:
  - (j) 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.

## **22. Overview and scrutiny of Local Area Agreements (LAAs)**

- (a) Under the Local Government and Public Involvement in Health Act 2007, North Yorkshire County Council has a statutory duty to prepare a Local Area Agreement ("LAA"), in consultation with specified partner authorities (which includes the district/borough councils) and such others as the Council may choose. County Council Overview and Scrutiny Committees may, by written notice, require relevant LAA partners (excluding health service bodies, the Police Authority and the Chief Officer of Police) to have regard to their reports and recommendations in exercising their functions.
- (b) The overview and scrutiny committees of district/borough councils in North Yorkshire may make reports and recommendations to the County Council, or its Executive, which relate to any local improvement target which:
  - relates to a relevant partner authority, and
  - is specified in the County Council's Local Area Agreement.

(c) Where the report or any recommendation relates to a local improvement target that relates to the district/borough council by which the overview and scrutiny committee is established, the overview and scrutiny committee must, by notice in writing, require the County Council or the Executive:

- to consider the report or recommendation;
- to respond to the overview and scrutiny committee indicating what (if any) action the County Council proposes, or the Executive proposes, to take; and
- if the overview and scrutiny committee has published the report or recommendations, to publish the response;

and to do so within a period of two months beginning with the date on which the County Council or the Executive receives the report or recommendations or (if later) the notice.

(d) It is the duty of the County Council or the Executive, to comply with the requirements specified in the notice.

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# Financial Procedure Rules

## CONTENTS

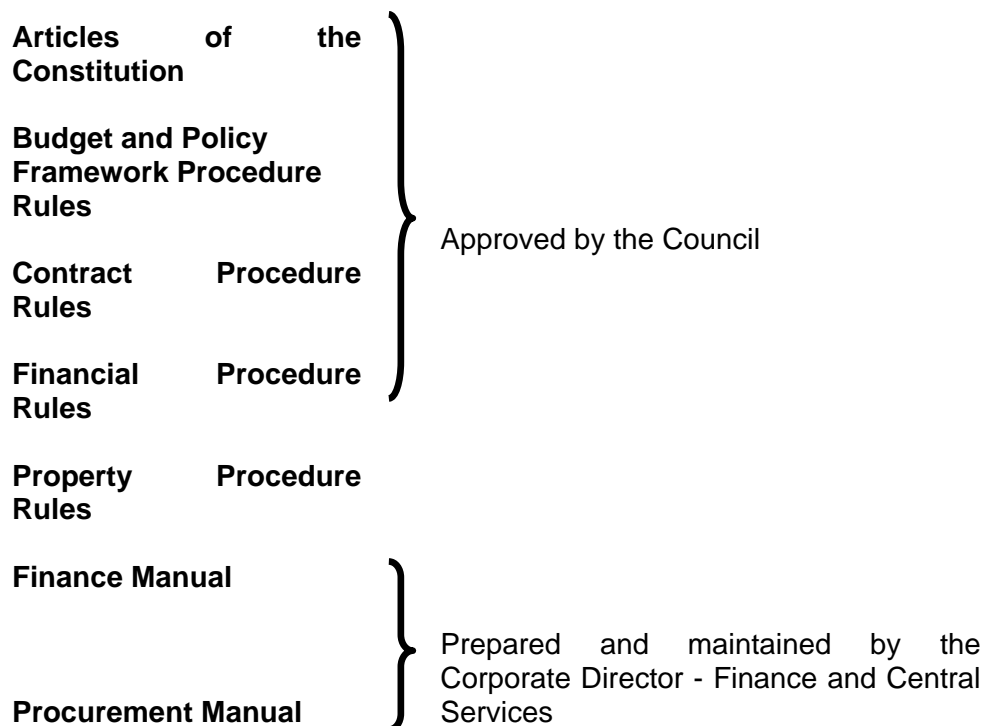
1. **Introduction**
2. **Definitions**
3. **Powers and Duties of the County Council**
4. **Responsibilities**
5. **Medium/ Term Financial Strategy**
6. **Revenue Budget**
  - Budgetary control principles
  - Structure of the Revenue Budget
  - Setting a Budget/Precept
  - Incurring expenditure/collecting income
  - Monitoring of the Revenue Budget
  - Virement
  - Grant Applications and Claims
  - Outturn
7. **Capital Plan**
  - Budgetary control principles
  - Approving a Capital Plan
  - Incurring expenditure against the Capital Plan
  - Monitoring of the Capital Plan
  - Grant Applications and Claims
  - Outturn
8. **Grants**
9. **Services and Assets**
  - Responsibilities of a Director
  - Payment of Accounts
  - Assets - Leasing Agreements
  - Assets – Disposal
10. **Inventories and Stores**
11. **Miscellaneous matters**
  - Payroll, Pensions and other Emoluments
  - Travelling and Subsistence Allowances
12. **Income**
  - Fees and charges
  - Debt Write Off
13. **Petty Cash**

14. **Banking**
15. **Treasury Management**
16. **Voluntary Funds**
17. **Insurance**
18. **Risk Management**
19. **Internal Audit**
  - Rules and responsibilities
  - Counter Fraud Strategy
  - Money Laundering
20. **Revision of Financial Procedure Rules**
21. **Partnership Agreements**
22. **Accountable Body Status**

## 1.0 INTRODUCTION

**1.1** These **Financial Procedure Rules** form part of the overall control framework within which North Yorkshire County Council operates. They aim to facilitate service delivery by setting out best practice for the administration of all financial matters throughout the Council, ensuring a high quality of financial information and enabling better 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.

**1.2** The financial control framework can be seen as a hierarchy established as follows:-



**1.3** The Constitution defines the rules governing the procedures of the Council including Responsibility for functions, Contract Procedure Rules, the Property Procedure Rules and these Financial Procedure Rules.

**1.4** The Constitution defines the framework within which the powers to make decisions, take action etc are delegated to the appropriate level in the organisation. In particular the Constitution: -

- ♦ requires all Directors to act within the terms of these Rules in the exercise of their delegated powers
- ♦ empowers the Corporate Director Finance and Central Services to act as the Proper Officer under Section 114 of the Local Government Finance Act 1988.
- ♦ empowers the Corporate Director Finance and Central Services to exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.



- 1.5 The Contract Procedure Rules define the correct procedures to be followed when the Council enters into any contractual arrangement and should be read in conjunction with these Rules; the Property Procedure Rules define the correct procedures for the acquisition, disposal and redeployment of land and buildings.
- 1.6 The Finance Manual is a comprehensive document detailing all aspects of financial systems and procedures and is designed for use on a day to day basis by staff involved in any aspect of financial administration. Any new or revised instructions on financial matters issued by the Corporate Director Finance and Central Services will be incorporated into the Finance Manual.
- 1.7 Although all Finance and Central Services staff report to the Corporate Director Finance and Central Services they provide day to day support to all Directorates and Business Units. They are ready and willing to provide assistance to any Member or Officer regarding financial management, administration or budgetary control issues. In particular, their advice should be sought by anyone intending to create a new, or amend an existing, financial procedure.
- 1.8 The statutory responsibility for the creation and maintenance of the financial control framework throughout the Council rests solely with the Corporate Director Finance and Central Services. With the assistance of the Internal Audit Service the Corporate Director Finance and Central Services will monitor adherence to these Rules.
- 1.9 The application and content of these Financial Procedure Rules is constantly under review. The Corporate Director Finance and Central Services therefore welcomes feedback on the operation of these Rules, or any aspect of the Finance Manual, to ensure that they both remain effective and relevant to the day to day operational activities of the Council.

## 2.0 DEFINITIONS

- 2.1 In these Rules, unless the context otherwise requires:-

**Asset** is any asset including material and intellectual property, but excluding any estate or interest in land and buildings, (i.e. 'Property' as defined by these Rules)

**Budget Holder** is an officer nominated by a Director and/or Business Unit Head as being responsible for managing a defined sum of money (i.e. 'budget')

**Business Unit Head** is an Officer responsible for a defined function or activity within a Directorate and who reports directly to the relevant Director

**Corporate Director - Finance And Central Services** means the Corporate Director Finance and Central Services, the officer appointed by the Council to exercise the powers defined in Section 151 of the Local Government Act 1972

**Council** means the North Yorkshire County Council

**CPR** means the Contract Procedure Rules

**Credit Control Manager** means the employee of the Council nominated to this post within the Finance and Central Services Directorate by the Corporate Director – Finance and Central Services

**Director** shall apply to any, or all, of the following Officers:-

Chief Executive Officer  
Corporate Director Business and Environmental Services  
Corporate Director Children and Young People's Service  
Corporate Director Adult and Community Services  
Corporate Director Finance and Central Services

**Executive** means the body described in Article 7 of the Constitution.

**Leasing Agreement** is a contract for the provision of finance to enable goods or services (but not Property) to be obtained and where ownership in any goods does not necessarily pass to the Council at the end of the contract period

**Officer** means any employee of the Council or other authorised agent

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

**Portfolio Holder** is the Councillor who, as a member of the Executive, has primary responsibility for a defined area of service(s)

**Property** refers to any estate or interest in land or buildings

**PPR** means the Property Procedure Rules

**Rules** means these Rules

**Services** means the provision by a contractor of any services or similar facilities or works for the Council

**2.2** Reference in these Rules to a Director or the Corporate Director – Finance and Central Services shall be taken to include such Officers as are designated by those Directors to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-

- (i) Director - **Rules 6.10, 6.11, 6.16, 7.9, 7.13 and 19.6**
- (ii) Corporate Director – Finance and Central Services  
- **Rules 4.3, 4.4, 4.5, 4.6, 4.7, 4.16, 5.1, 6.16, 15.5, 15.6, 19.6 and 20.1**

where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained, as appropriate, by each Director and the Corporate Director – Finance and Central Services.

**2.3** The Property Procedure Rules apply to the acquisition and disposal of Property.

**2.4** References in these Rules to

- (i) any legislation includes a reference to any amended or re-enactment of such legislation;
- (ii) the singular includes the plural and vice versa;
- (iii) the masculine includes the feminine and vice versa.

### **3.0 POWERS AND DUTIES OF THE COUNTY COUNCIL**

- 3.1** Any power or duty of the Council in relation to these Rules may be exercised by a person or body which, under the Constitution, has delegated powers in that regard.
- 3.2** For the purposes of **Rules 6 and 7** of these Rules 'policy' means any Council or Service commitment as expressed in financial terms and therefore implicit within any Revenue Budget and/or Capital Plan approved by the Executive and/or the Council.

### **4.0 RESPONSIBILITIES**

#### *Preamble*

*These Financial Procedure Rules have been approved with the intention of enabling the delegation of financial responsibility to the lowest appropriate level of management within the Council. They also set out the working arrangements by which the Council gives effect to its statutory financial responsibilities. In particular they define the role and responsibilities of any officer designated as a 'Budget Holder'.*

#### **Rules**

- 4.1** These Rules are made by the Council and are subject to the relevant provisions of the Local Government Act 1972, the Local Government Finance Act 1988, the Local Government and Housing Act 1989 and Part 2 of the Local Government Act 2003. They set out the working arrangements by which the Council gives effect to its statutory financial responsibilities.
- 4.2** These Rules apply to all activities of the Council although the Corporate Director – Finance and Central Services may approve variations from the Rules to reflect specific circumstances. At present the only approved variations relate to primary/secondary/special schools operating under the approved LMS Contract Procedure Rules and LMS Financial Procedure Rules. No other variations from the Rules have currently been approved.
- 4.3** The Corporate Director – Finance and Central Services will, for the purposes of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988, be responsible for the proper administration of the Council's financial affairs and the submission of reports to the Council (or any of its constituent parts) on the discharge of that responsibility.
- 4.4** The Corporate Director – Finance and Central Services has a statutory responsibility to ensure that adequate systems and procedures exist to account for all income due, and expenditure payments made on behalf of the Council and that controls operate to protect the assets of the Council from loss, waste, fraud or other impropriety. In addition to these Rules the Corporate Director – Finance and Central Services may discharge that responsibility in part by the issue and maintenance of financial instructions with which any Officer, together with any person employed by an organisation contracted to the Council, shall comply.
- 4.5** As 'Section 151' Officer of the Council the Corporate Director – Finance and Central Services shall be responsible for the production and certification of the Statement of Final Accounts in accordance with the Accounts and Audit Regulations 1996. The Corporate Director – Finance and Central Services shall also be responsible for all arrangements relating to the external audit of the Statement of Final Accounts in accordance with those Regulations. This responsibility also extends to financial information contained within any Statutory Plan published by the Council.

**4.6** The Corporate Director – Finance and Central Services shall, in compliance with Section 114 of the Local Government Finance Act 1988 report to the Council if the Council, its Executive, a committee of the Council, an Officer of the Council or a joint committee on which the Council is represented:-

- (i) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful;
- (ii) has taken or is about to take a 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 Council; or
- (iii) is about to enter an item of account (in the ledger), the entry of which is unlawful.

The Corporate Director – Finance and Central Services shall also make a report if it appears that the expenditure proposed by the Council in a financial year is likely to exceed the resources available to it to meet the expenditure.

**4.7** The Corporate Director – Finance and Central Services shall, in compliance with Sections 25 – 28 of Part 2 of the Local Government Act 2003

- (i) submit a formal report to the County Council when the Council Tax precept is being made regarding the robustness of the estimates included in the annual Budget and the adequacy of the reserves for which the Budget provides (Section 25)
- (ii) submit a report about the inadequacy of the reserves in accordance with the Section 27 requirements if the Secretary of State has set a minimum level of reserves for the Council under his Section 26 powers
- (iii) ensure that the County Council has adequate budget monitoring arrangements in place throughout the year that includes a regular review of the planned level of reserves incorporated in the annual Budget / Precept setting calculations (Section 28)

**4.8** Every Director, Business Unit Head and Budget Holder shall be responsible for the observance of these Rules within their service area and for the training of staff under their supervision to enable them to comply with these Rules. This principle also applies to any instructions or guidance published in the Finance Manual, issued under the authority of these Rules.

**4.9** If any Director, Business Unit Head or Budget Holder employs a consultant, agency staff or an external contractor to undertake any duties which would normally be undertaken by an Officer of the Council they must ensure that every such person acts in accordance with these Rules. It is the responsibility of the Director, Business Unit Head, or Budget Holder (as appropriate) to ensure such persons are aware of this responsibility and are given training if appropriate to enable them to carry out these duties. Every agreement for such work should include adequate remedies to enable the Council to secure reimbursement if there is a failure to comply with these Rules which leads to a financial loss for the Council.

- 4.10** The nature and format of all accountancy systems and related financial procedures and records must be in a form agreed with the Corporate Director – Finance and Central Services who shall have regard to the provision of Section 151 of the Local Government Act 1972, the Accounts and Audit Regulations 1996, and such other statutory provisions which, from time to time, shall affect the financial administration of the Council or its constituent services. The financial ledger maintained by the Corporate Director – Finance and Central Services will be regarded as the primary financial record of the Council, both for actual expenditure/income transactions as well as budget allocations and subsequent virements. The Corporate Director – Finance and Central Services shall be consulted at an early stage regarding proposed changes to any financial systems, procedures or records and his approval obtained before such changes are implemented.
- 4.11** The principles referred to in **Rule 4.10** shall also be applied to any partnership or joint working arrangement with a third party whereby the Council agrees to allocate to, or receive (and then administer) funds from, a third party under the terms of the partnership or joint working arrangement. No funds should be allocated to, or received from, a third party on this basis without the agreement of the Corporate Director – Finance and Central Services as to the financial systems and procedures that will be adopted either by the Council or the third party. This Rule shall be deemed to apply to any proposal for the Council to act as the 'Accountable Body' for the purposes of administering any external funding for which the Council and its partners for that purpose have applied.
- 4.12** Where appropriate, reports to the County Council, the Executive or any committees or sub-committees, must contain a financial statement or appraisal setting out the full financial implications arising from any proposals contained within the report. The financial statement or appraisal must be agreed with the Corporate Director – Finance and Central Services in advance of the report being distributed to Members.

Such reports may cover:-

- (i) a new policy
- (ii) a variation of existing policy, or
- (iii) a variation in the means or timescale for implementing an existing policy

which may increase (or decrease) net expenditure in the current or subsequent years.

- 4.13** Each Director, Business Unit Head and Budget Holder is responsible for the proper financial management of all resources allocated to them within their operational areas. They shall devise and implement such controls and procedures, in consultation with the Corporate Director – Finance and Central Services, as are necessary to carry out their duties and prevent loss, waste, fraud and other impropriety in relation to the assets or integrity of the Council.
- 4.14** Each Director and/or Business Unit Head shall define budgetary control policy for the resources (revenue or capital) allocated to their operational area and ensure it is enforced. This includes identifying Budget Holders for every revenue budget head, or capital scheme, and their limits of authority (see **Rules 6.11 and 7.9**). The same principle shall apply to any funds allocated to, or received from, a third party under a partnership or joint working arrangement (see **Rule 4.11**).

- 4.15** Failure to comply with these Rules, and any related instructions or guidance contained in the Finance Manual may lead to disciplinary action being taken against individual Officers.
- 4.16** The Corporate Director – Finance and Central Services shall be responsible for monitoring adherence to these Rules.

## **5.0 MEDIUM TERM FINANCIAL STRATEGY**

### *Preamble*

*In order for the Council to be able to plan the development of its services and 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 for incorporation in the Council Plan.*

### **Rules**

- 5.1** The Corporate Director – Finance and Central Services shall, in consultation with the Chief Executive Officer and other Directors, prepare a Medium Term Financial Strategy ('**the MTFS**') for consideration by the Council.
- 5.2** The Corporate Director – Finance and Central Services shall determine the format of the MTFS and the timing of reports relating thereto, subject to any overriding requirements of the Council.
- 5.3** The MTFS shall include the financial effects of all known commitments in the multi year period, together with any proposals for significant changes to the level of existing services, or for developing new services.
- 5.4** The MTFS shall include the respective impacts of both revenue and capital expenditure, for that period on the level of Precept (and its Council Tax equivalent), any provisions or self-fund insurance arrangements, cash flow, working balances and treasury management policy.
- 5.5** For the purposes of this Rule the duration of the 'multi-year' period shall be determined from time to time by the Council based upon advice provided by the Corporate Director – Finance and Central Services in consultation with the Chief Executive Officer and other Directors.

## **6.0 REVENUE BUDGET**

### *Preamble*

*The Revenue Budget is an estimate of the annual income and expenditure requirements of the Council and thereby sets out the financial implications of its approved policies. Once approved by the Council it gives each Director the power to incur expenditure, and collect income, and also provides the basis on which the financial performance of the Council, and each Directorate, will be monitored. These Rules provide a comprehensive framework for the preparation, monitoring and reporting of the Revenue Budget against these criteria.*

## **Rules**

### **Budgetary Control Principles**

- 6.1** The Rules in this Section are based on the following budgetary control principles established by the Council:-
- (i) At Directorate and/or Business Unit level any under or overspending of Revenue Budget at the financial year end may be carried forward (subject to (iii))
  - (ii) mechanisms shall be defined by the Corporate Director – Finance and Central Services to ensure budgetary monitoring and control is carried out throughout the Council on a regular basis (see **Rule 6.16**)
  - (iii) that within these principles any designated Business Unit may be subject to any specific Regulations relating to their year end surpluses/deficits as shall be approved from time to time by the Council.
- 6.2** During the financial year the Executive has overall responsibility for all aspects of the Revenue Budget of the Council. To the extent therefore that any financial matter arising during a given financial year cannot be resolved at Directorate level, using the powers/responsibilities defined in this Rule, such matter shall be brought to the attention of the Executive at the earliest opportunity (see **Rules 6.16/6.17** below). If and when such matter is reported to the Executive it will be the responsibility of the Corporate Director – Finance and Central Services to provide specific advice to the Executive regarding how the financial implications of the matter might be addressed and/or resolved.

### **Structure of the Revenue Budget**

- 6.3** The Council will, when formally setting its annual Precept (see **Rule 6.4 - 6.7**), also approve an annual Budget for each Directorate. This 'Directorate' Budget will comprise a single sum (i.e. expenditure less related income) which typically will also be allocated across a range of functions and/or activities within each Directorate; the functions and/or activities identified will normally reflect the service areas, Business Units or other organisational arrangements adopted within the Directorate. These Budgets will be formally published, before the start of each financial year, in the approved Revenue Estimates Booklet of the Council and will represent the base line to which, in any given financial year, the Rules that follow in this Section shall apply.

### **Setting a Budget/Precept**

- 6.4** The Corporate Director – Finance and Central Services shall specify the format of the annual Revenue Budget and the timing of reports relating thereto, subject to any overriding requirements of the Council. In practice the overall Revenue Budget will comprise a number of budgets (usually based on defined Directorates) identified as appropriate to the financial management arrangements of the Council (see **Rule 6.3**).
- 6.5** The Corporate Director – Finance and Central Services shall be responsible for submitting any reports regarding the overall Revenue Budget of the Council that will enable it to comply with its statutory responsibility to determine an annual Precept. Once the Precept has been determined by the Council it shall be the responsibility of the Corporate Director – Finance and Central Services to notify the collecting authorities.

- 6.6** As part of the process of approving the overall Revenue Budget of the Council the Executive shall define the arrangements whereby each Directorate prepares its own budget for consideration by the Executive; these arrangements will be so defined as to enable the Revenue Estimates Booklet of the Council to fulfil the function referred to in **Rule 6.3**.
- 6.7** If required, under the terms of **Rule 6.6**, each Director shall prepare a draft Revenue Budget relating to their Directorate for the next financial year, in consultation with the Corporate Director – Finance and Central Services, for submission to the Executive. Any such draft Revenue Budget shall be accompanied by a joint report from the appropriate Director and the Corporate Director - Finance and Central Services, which shall specify any variations relative to existing budgets and policies together with any implications for future financial years.

### **Incurring expenditure/collecting income**

- 6.8** From the start of each financial year:-
- (i) expenditure may be incurred within the overall Revenue Budget approved by the Council. Given the terms of **Rule 6.3**, this authority to spend is effectively applied at Directorate level.
  - (ii) similarly, the responsibility for making appropriate arrangements to collect any income reflected in approved Budgets shall be exercised at Directorate level.
- 6.9** 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 commitment to continuing liabilities (including establishment changes - see **Rule 6.10**) 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 (see **Rule 5.3**) shall be the subject of a report to the Executive prepared by the Director setting out clearly the full financial implications. Such proposals may relate to expenditure/income or both and this should be made explicit in any statement of financial implications (see **Rule 6.2**)
- 6.10** Any changes to the existing staffing arrangements either in terms of the number of posts and/or their grade shall be approved by the Director in consultation with the Portfolio Holder if they generate additional full year costs in excess of £250,000. Where staffing changes involve a package of changes, or cover more than one Business Unit or other service area within a Directorate a single approval should be sought before any commitments are made. The limit, for the purposes of this Rule, shall be determined by reference to the total value of the proposal including on-costs.

### **Monitoring of the Revenue Budget**

- 6.11** Once the overall Revenue Budget of the Council for a given financial year has been approved by the Council, each Director shall define budgetary control policy within their own Directorate and ensure it is enforced including identifying responsible Budget Holders and the limits of their budgetary authority (see **Rule 4.14**).
- 6.12** A Budget Holder may only authorise expenditure from budgets under their direct control (see **Rule 6.11**). If he plans to order items to be charged against the budget of another Budget Holder, he is required to obtain the approval of the other Budget Holder before committing expenditure against that budget.



- 6.13** Throughout the financial year each designated Budget Holder shall monitor income (including any grants) and expenditure against those specific budgets for which they are responsible.
- 6.14** The Corporate Director – Finance and Central Services shall provide financial advice to assist Budget Holders to fulfil their responsibilities, consulting their Director in circumstances where it appears that variations to the approved budget will occur.
- 6.15** Budget Holders shall supply the Corporate Director – Finance and Central Services with sufficient information, as and when required, to enable accurate budget profiling and/or financial projections to be undertaken.
- 6.16** In accordance with **Rule 6.1(i)**, budgetary control during a financial year shall be undertaken by a Director as follows:-
- (i) a Director shall maintain an ongoing review of all aspects of the budget (including income - see **Rules 13.1/13.2**) under his control; this review to be undertaken in conjunction with Business Unit Heads and/or Budget Holders and the Corporate Director – Finance and Central Services
  - (ii) the results of (i) to be reported at least monthly to the Portfolio Holder for that Directorate
  - (iii) that arising from (ii) the Director will be required to bring to the early attention of the Executive any significant matters which if left unresolved may lead to a budget overspending in the current or future years, together with proposals to address that potential situation
  - (iv) the Corporate Director – Finance and Central Services shall report to the Executive at no less than quarterly intervals throughout the financial year on matters arising from (i) - (iii) above, in particular relating to
    - virements requiring approval (see **Rules 6.18 to 6.24**)
    - service under or overspends which may have implications for the planned outturn for the current (and future) financial year(s)
    - status of the contingency fund, cash flow and working balances
- 6.17** If expenditure in excess of the approved net budget of a Directorate is incurred due to an emergency, this expenditure must be reported to the Corporate Director – Finance and Central Services as soon as practicable and to the Executive as soon as possible thereafter (see also **Rule 6.2**).

## Virement

### Preamble

*Virement is the transfer of budget provision between individually defined budget headings. It is a necessary facility to assist the effective day to day management of budgets. When the Council sets its overall Revenue Budget for a given financial year it will effectively approve a series of specific functional net budgets within each Directorate (see **Rule 6.3**)*

*For the purpose of defining the authorisation required for virement to take place within the approved Budget for each Directorate, reference will be made to a '**Division of Service**'. Once these Divisions of Service have been defined they will be used to analyse the Budget for a Directorate in the Revenue Estimates Booklet and thereafter constitute the base line from which any virements are recorded. Within a Division of Service, it is anticipated that more detailed budget headings (e.g. employees, premises) will be adopted for day to day budgetary control purposes.*

### Rules

**6.18** Each Director shall ensure that virement is undertaken as necessary to maintain the accuracy and efficacy of the regular budget monitoring process within his Directorate and inform the Corporate Director – Finance and Central Services as soon as practicable that such virements have taken place. Thereafter:-

- (i) the Corporate Director – Finance and Central Services will be responsible for ensuring that notified virements are reflected in the financial ledger of the Council at the earliest opportunity (see **Rule 4.10**)
- (ii) once such virements have been reflected in the financial ledger by the Corporate Director – Finance and Central Services they will be regarded as the base line (see **Rule 6.3** and **Preamble** above) from which any subsequent virements in that financial year are referenced.

**6.19** Notwithstanding **Rules 6.20 to 6.24**, the approval of the Executive shall be required if any proposed virement involves one or more of the following:-

- (i) a change to current policy (see **Rule 6.9**)
- (ii) a significant addition to recurring commitments in future financial years (see **Rule 6.9**)
- (iii) any transfer of resources between the Revenue Budget and the Capital Plan (see **Rule 7.8(d)**)

**6.20** Notwithstanding **Rules 6.21 to 6.24** below, the Corporate Director – Finance and Central Services has the right to refer any proposed virement to the Executive

**6.21** Within a Division of Service, a Director may transfer any sums between defined budget headings (see **Preamble** to this Section) subject only to consultation with the Portfolio Holder and the Corporate Director – Finance and Central Services (see also **Rule 6.10** in relation to employee costs).

**6.22** For transfers between Divisions of Service, if the sum involved is:-

- (i) less than £100,000 or 5% of the gross expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement may be actioned by a Director following consultation with the Portfolio Holder and the Corporate Director – Finance and Central Services.
- (ii) equal to or greater than £100,000 or 5% of the gross expenditure of the Division of Service from which the transfer is being made, whichever is the lesser amount, the virement shall be subject to approval by the Executive.

**6.23** Any virement where a change in the previously approved level of net expenditure for a Division of Service is directly related to, and fully offset by, a change in fees, income or other contributions from another authority, organisation or person may be actioned by a Director in consultation with the Portfolio Holder and the Corporate Director – Finance and Central Services.

**6.24** Income received in excess of the budgeted amount for a Division of Service may be spent either within that Division of Service or its equivalent value transferred to another Division of Service; this can be achieved by virement in accordance with the arrangements specified in **Rules 6.21 or 6.22** respectively.

#### **Outturn**

**6.25** With the assistance of all Directors, the Corporate Director – Finance and Central Services shall report to the Executive on the outturn of income and expenditure, as soon as practicable after the end of the financial year.

### **7.0 CAPITAL PLAN**

#### **Preamble**

*Capital expenditure is a necessary element in the development of the Council's services since it generates investment in new and improved assets. In conjunction with the **CORPORATE CAPITAL STRATEGY AND THE ASSET MANAGEMENT PLANNING FRAMEWORK**, these Rules provide a framework for the preparation and appraisal of schemes proposed for inclusion in the Capital Plan, appropriate authorisations for individual schemes to proceed and facilitate the overall management of the Capital Plan within defined resource parameters.*

#### **Rules**

##### **Budgetary Control Principles**

**7.1** The Council has defined a 'formulaic' model for the allocation of capital resources as between Directorates. Within the framework laid down by this approach, the Rules in this Section 7 are based on the following principles established by the Council:-

- (i) individual schemes shall be part of an approved Capital Plan before they proceed, that Plan reconciled, at both Directorate and Corporate level, to the resources defined under the formulaic model
- (ii) a scheme is defined as either
  - (a) a specific project whose cost, size, configuration, or policy significance requires it to be individually listed in the Capital Plan or

- (b) an annual programme of planned expenditure for a consistent and designated purpose
- (iii) mechanisms shall be defined by the Corporate Director – Finance and Central Services to ensure that expenditure, and if appropriate, grant and other income is monitored and controlled at individual scheme as well as Directorate level
- (iv) any under or overspending of the approved Capital Plan at Directorate level at the financial year end may be carried forward
- (v) any scheme specific funding proposed by a Director must be compatible with the Treasury Management Policy Statement of the Council (see **Rules 15.3 and 15.5**)

**7.2** During the financial year the Executive has overall responsibility for all aspects of the Capital Plan of the Council. To the extent therefore that any financial matter arising during a given financial year cannot be resolved at Directorate level, using the powers/responsibilities defined in this Section of the Rules, such matter shall be brought to the attention of the Executive at the earliest opportunity (see **Rules 7.13/7.14**). If and when such matter is reported to the Executive it will be the responsibility of the Corporate Director – Finance and Central Services to provide specific advice to the Executive regarding how the financial implications of the matter might be addressed and/or resolved.

### **Approving a Capital Plan**

**7.3** The Corporate Director – Finance and Central Services shall determine the format of the Capital Plan and the timing of reports relating thereto, subject to any overriding requirements of the Council. In practice the approved Capital Plan will comprise a number of individual schemes each of which will be quantified in overall project terms or on an annualised basis, as appropriate.

**7.4** Each Director shall prepare a draft Capital Plan for their service, in consultation with the Corporate Director – Finance and Central Service, for submission to the Executive. This Plan should: -

- (i) reflect a level of expenditure (i.e. the expenditure limit) commensurate with the funding attributable to that Directorate under the Council's 'formulaic' approach together with other resources available to the Directorate
- (ii) identify planned expenditure, and funding, at proposed individual scheme level

**7.5** The Corporate Director – Finance and Central Services shall be responsible for preparing an overall Capital Plan (i.e. an aggregate of the individual Directorate Capital Plans) for consideration by the Executive, and approval by the Council, the funding of which shall be compatible at all times with the Treasury Management Policy Statement of the Council.

**7.6** Individual schemes shall only be included in a Directorate Capital Plan following a project appraisal process undertaken in accordance with the guidelines defined in the **Asset Management Planning Framework** and in accordance with the Property Procedure Rules.

## **Incurring expenditure against the Capital Plan**

**7.7** Approval of the Capital Plan by the Council shall provide the following authorisations to Directors: -

(i) Current Year

- (a) to continue to incur expenditure on each scheme in progress at the start of the financial year, and/or to begin to incur expenditure on any approved new scheme starting in that year, providing that total expenditure on either type of individual scheme does not exceed the sum contained in the approved Plan for that scheme by more than 5% or £10,000 (whichever is the greater) and all necessary approvals have been received, where appropriate, from Government Departments and/or any external funding agencies (see **Rule 8.0**).
- (b) the approval in (a) is subject to any additional expenditure on an individual scheme being met from within the sum total of a Directorate's Capital Plan expenditure limit for that year (as originally approved, or subsequently amended by the Executive) as derived from the process defined in **Rule 7.5**.
- (c) to collect all grant and other income related to expenditure incurred on schemes in that year.

(ii) Subsequent Years

- (a) to make any arrangements necessary for site purchase (but subject to the Property Procedure Rules), to seek planning permissions, to incur professional fees and preliminary expenses as appropriate and to seek any necessary approvals from Government Departments and/or external funding agencies. This approval is subject to any expenditure being met from within the Directorates' Capital Plan expenditure limit for the year in which it is incurred.

**7.8** Subject to a report by the appropriate Director, the approval of the Executive will be required if:-

- (i) any increase/decrease in the Directorate's previously approved Capital Plan expenditure limit for that year is necessary as a result of:-
  - (a) the cost variation on an individual scheme exceeding the parameters defined in **Rule 7.7**
  - (b) the inclusion of a new scheme
  - (c) the deletion or material modification of an existing approved scheme
  - (d) the loss or revision of any funding which materially affects the ability of a Directorate to undertake its approved Capital Plan
- (ii) the committed expenditure in later years of the Directorate's Capital Plan is increased for any of the reasons listed under (i) of this Rule

- (iii) an individual scheme requires expenditure in addition to any arising from the provisions in **Rule 7.7(ii)** to be committed more than one financial year in advance of the financial year in which the actual costs will be incurred.
- (iv) in accordance with **Rule 6.19(iii)** there is a proposed transfer of resources between the Revenue Budget and the Capital Plan.

### **Monitoring of the Capital Plan**

- 7.9** Once an overall Capital Plan has been approved by the Council each Director shall define a budgetary control policy and ensure it is enforced including identifying responsible Budget Holders for each scheme in the Directorate Capital Plan and the limits of their budgetary authority (see **Rule 4.14**).
- 7.10** Throughout the year each designated Budget Holder shall monitor expenditure and, if appropriate, grant and other income, on a scheme by scheme basis against the approved Directorate Capital Plan.
- 7.11** The Corporate Director – Finance and Central Services shall provide financial advice to assist Budget Holders to fulfil their responsibilities, consulting their Director in circumstances where it appears that variations to the approved budget for a scheme will occur.
- 7.12** Budget Holders shall supply the Corporate Director – Finance and Central Services with sufficient information, as and when required, to enable accurate cost/income profiling and/or financial projections of scheme costs/income to be undertaken.
- 7.13** Budgetary control during a financial year shall be undertaken by a Director as follows:
- (i) a Director shall maintain an ongoing review of all aspects of the Capital Plan for their Directorate; this review to be undertaken in conjunction with Business Unit Heads and/or Budget Holders, the (if appropriate) and the Corporate Director – Finance and Central Services
  - (ii) the results of (i) to be reported at least monthly to the Portfolio Holder for that Directorate
  - (iii) that arising from (ii) a Director will be required to bring to the early attention of the Executive any significant matters which if left unresolved may lead to a scheme budget overspending together with proposals to address that potential situation (see **Rules 7.7/7.8**)
  - (iv) notwithstanding the aggregate effect of variations in absolute cost, or cash flow, arising from individual schemes in a Directorate's Capital Plan, a Directorate shall not exceed the approved expenditure limit attributable to that Directorate under the formulaic approach in a given financial year. If it appears that this limit will be breached, the Director will be expected to make compensatory adjustments to the Directorate Capital Plan within that financial year or seek the approval of the Executive to manage the variance between successive financial years (see **Rule 7.8**)
  - (v) the Corporate Director – Finance and Central Services shall report to the Executive at no less than quarterly intervals throughout the financial year on matters arising from (i) to (iv) above, in particular relating to scheme variations requiring approval (see **Rule 7.7/7.8**)

- 7.14** Where an underspend relative to the Directorate's approved expenditure limit for the current financial year will result in a significant overspend in future financial years, the Director shall report the matter to the Executive at the earliest opportunity, together with proposals to address the situation.
- 7.15** If expenditure in excess of the approved Directorate Capital Plan expenditure limit for that year is incurred due to an emergency, this expenditure must be reported to the Corporate Director – Finance and Central Services as soon as practicable and to the Executive as soon as possible thereafter (see also **Rule 7.2**).

## **Outturn**

- 7.16** With the assistance of all Directors, the Corporate Director – Finance and Central Services shall report to the Executive on the outturn of expenditure (and funding if appropriate) of each scheme, as soon as practicable after the end of the financial year.

## **8.0 GRANTS AND EXTERNAL FUNDING**

- 8.1** Authorisation to submit a bid for grant or other external funding, or accept an offer of such funding, must be obtained in advance of bid documents or acceptance documents being signed. This includes a situation where the County Council intends to act as Accountable Body in respect of partnership funding, in which case authorisation to accept this Accountable Body status must also be obtained (See Rule 8.5 and Rule 22).
- 8.2** The Executive Members' Delegation Scheme at Item 6 must be considered. In particular, this sets a financial limit of £100,000. Above this level, appropriate Member authorisation must always be obtained before documents are signed.
- 8.3** The Corporate Director – Finance and Central Services shall be consulted on, and certify if necessary, any application for grant or external funding.
- 8.4** The Corporate Director – Finance and Central Services to:
- i) agree the terms and conditions of all grant offers made to the County Council, and
  - ii) accept such grant offers and sign appropriate documentation on behalf of the County Council,

PROVIDED that in cases of grant offers that exceed the sum of £50,000 the agreement and acceptance shall be subject to consultation with the Director to whose service the grant is relevant and the Assistant Chief Executive (Legal and Democratic Services).

- 8.5** Where the application for grant, or other external funding, is being made on behalf of a partnership, for which the County Council will take on the Accountable Body role, the Director to whom the Accountable Body role is relevant, in consultation with the Corporate Director – Finance and Central Services and the Assistant Chief Executive (Legal and Democratic Services), will agree the terms and conditions of that Accountable Body role, and sign associated documentation on behalf of the County Council.
- 8.6** The Corporate Director – Finance and Central Services shall be responsible for the completion, authorisation and submission of any grant or external funding claim forms to the relevant organisation(s) and, if necessary, the External Auditor, in accordance with any guidelines applicable to the claim(s) in question.
- 8.7** Certain grant claims are required to be audited, and an opinion provided on the accuracy of the expenditure being claimed, by the Chief Internal Auditor. Each Director shall ensure that records are retained to enable the Chief Internal Auditor to complete this work and be provided with explanations, as necessary, for any matters raised.

## **9.0 SERVICES AND ASSETS**

### **Preamble**

*This Rule refers to the arrangements under which Budget Holders shall undertake the procurement of the services and assets they require and, where relevant, the disposal of surplus assets. **They do not apply to Property (ie land and buildings).** Property transactions are regulated by the **PROPERTY PROCEDURE RULES**. These Rules should be read in conjunction with the **CONTRACT PROCEDURE RULES** which describe in detail the procedures Officers must follow when procuring services, assets and property.*

### **Rules**

#### **Responsibilities of a Director**

**9.1** A Director shall be responsible for:

- the procurement of all services and assets (but **not** property) relating to the provision of services by his Directorate
- ensuring that services and assets ordered are received and are of the correct quality
- ensuring that services and assets are only procured by Budget Holders if there is approved budgetary provision to cover the associated costs (see **Rules 6.11 and 7.9**)
- ensuring adherence to the approved Procurement Strategy of the Council
- the certification of invoices in accordance with arrangements approved by the Corporate Director – Finance and Central Services



## **Payment of Accounts**

- 9.2** The Corporate Director – Finance and Central Services shall arrange the payment of all invoices which are certified duly payable.

## **Assets - Leasing Agreements (see also Contract Procedure Rule 2.6)**

- 9.3** The Corporate Director – Finance and Central Services shall undertake the negotiation of terms for, and authorise the leasing of, any assets which the Council, or a Director within the context of his budgetary responsibility, has decided to acquire where the main purpose of the leasing agreement is to finance the transaction.
- 9.4** A Director for whose service any assets have been acquired under a leasing agreement shall adhere to the terms and conditions of the relevant leasing agreement particularly as this relates to wear and tear, or residual condition of the asset at the end of the leasing period. A full inventory of all leased assets worth more than £250 must also be maintained by the Director (see **Rule 10.1**)
- 9.5** Any assets subject to a leasing agreement must not be disposed of without the prior consent of the Corporate Director – Finance and Central Services who shall be responsible for notifying the lease company and obtaining their consent to disposal.

## **Disposal of Assets**

- 9.6** Prior to the disposal of any asset, a Director must:-
- (i) ensure that the asset is of no use to any other Directorate ;
  - (ii) for assets subject to a leasing agreement consult the Corporate Director – Finance and Central Services (see **Rule 9.5**);
- 9.7** The procedures defined in the **Contract Procedure Rules** apply to the disposal of any assets of the Council. In particular no quotations or tenders for other than the highest price shall be accepted without reference to **Contract Procedure Rules 7.7** and **7.9** and/or **10.2** and **10.4** as appropriate. The provisions of **Contract Procedure Rule 11** shall also apply to any post tender negotiation or clarification.
- 9.8** A Director may dispose of any asset if its estimated disposal value is £10,000 or less (see **Rule 9.9** and **10.3**). If the estimated disposal value:-
- (i) is greater than £10,000 but less than £100,000 then a Portfolio Holder may authorise the disposal following consultation with the Director and with the approval of the Corporate Director – Finance and Central Services.
  - (ii) is £100,000 or greater then the approval of the Executive is required.
- 9.9** A Director may dispose of a number of assets simultaneously if their aggregate estimated disposal value is £10,000 or less. If the estimated aggregate disposal value exceeds £10,000 then the provisions of **Rule 9.8** shall apply as appropriate.

## **10.0 INVENTORIES AND STORES**

- 10.1** A Director shall maintain a written inventory (in a form approved by the Corporate Director – Finance and Central Services) of all assets used in his Directorate which belong to the Council whose individual cost or value exceeds £250. This Rule also applies to any asset acquired under a leasing agreement (see **Rule 9.4**).
- 10.2** The Director shall be responsible for the custody of all stores, cash and financial documents used in his Directorate. Cash held on any Council premises should not exceed any sums for which the Council is insured.
- 10.3** A Director may arrange for the disposal of unrequired stock or inventory items, up to a limit of estimated value of £10,000 in any period of three consecutive calendar months. Above that figure, **Rules 9.8** and **9.9** shall apply.
- 10.4** A Director and the Corporate Director – Finance and Central Services shall be authorised jointly to write off stock and inventory deficiencies up to a limit of £10,000 in any period of three consecutive calendar months. The approval of the Portfolio Holder is required where the value is greater than £10,000 and the approval of the Executive is required where the value is £100,000 or greater.

## **MISCELLANEOUS MATTERS**

### ***Preamble***

*In addition to arrangements for the key aspects of financial administration (i.e. Revenue Budget, Capital Plan and Procurement) there are a range of other financial matters that require specific Financial Procedure Rules. These are covered in the remaining sections of this document.*

### **Rules**

## **11.0 PAYROLL, PENSIONS AND OTHER EMOLUMENTS**

- 11.1** The calculation and payment of all salaries, wages, pensions, gratuities, compensation and other emoluments payable by the Council to its current and former employees shall be performed in accordance with arrangements approved by the Corporate Director – Finance and Central Services.
- 11.2** Each Director shall be responsible for the certification of all amounts properly payable for pay and pensions in accordance with the arrangements approved by the Corporate Director – Finance and Central Services.
- 11.3** The Corporate Director – Finance and Central Services shall be authorised to implement national and provincial pay awards with effect from their implementation dates.

## **Travelling and Subsistence Allowances**

- 11.4** The calculation and payment of all Travelling and Subsistence Allowances payable by the Council to its Members and employees shall be performed in accordance with arrangements approved by the Corporate Director – Finance and Central Services.
- 11.5** Each Director shall maintain a record of Officers authorised to certify claims on his behalf. Certification of a claim shall signify that the Director is satisfied that the allowance or expenses are properly payable by the Council in respect of duties performed by the claimant.

## **12.0 INCOME**

### **Fees and Charges**

- 12.1** Each Director shall be responsible for the establishment of fees and charges payable to the Council in respect of activities carried out by the Directorate. For practical purposes this responsibility should be linked to the budget management arrangements established in accordance with **Rules 4.12/4.13**.
- 12.2** Except where they arise from existing contracts which regulate the matter, fees and charges within the control of the Council shall be subject to review at least annually (or as otherwise agreed by the Corporate Director – Finance and Central Services) by a Director and the Corporate Director – Finance and Central Services except as provided in any specific agreements between the Council and relevant third parties. If a review results in a proposal to change the policy under which a fee or charge is determined the review shall be reported to the Executive before it is implemented.
- 12.3** A Director shall agree with the Corporate Director – Finance and Central Services the administrative arrangements for the collection of any money due to the Council. The collection of debts will be the responsibility of the Corporate Director – Finance and Central Services and shall be administered via the corporate debtor system linked to the financial ledger - any alternative arrangement requires the prior written approval of the Corporate Director – Finance and Central Services.
- 12.4** Income may NOT be used to directly offset payments due. All money received on behalf of the Council shall, as soon as practicable, be either banked for the credit of the Council's account or deposited with the Corporate Director – Finance and Central Services. The only exception to this arrangement is for LMS Schools as defined in **Rule 14.3**.

## **Debt Write-Off**

- 12.5** Approval to write off an individual debtor amount may be given by the Corporate Director – Finance and Central Services subject to the following limits:-
- (i) For a value up to and including £100, on the recommendation of the Credit Control Manager
  - (ii) For a value over £100 but less than £5,000 on the recommendation of a Director
  - (iii) For a value of £5,000 or more but less than £25,000 on the recommendation of a Director, after consultation with the relevant Portfolio Holder.
- 12.6** Write offs for an individual debtor worth £25,000 or more will require the approval of the Executive.
- 12.7** Approval to write off a number of debts simultaneously may be agreed as set out in **Rules 12.5 and 12.6** above, using the aggregate value of the amounts to determine the relevant threshold value.
- 12.8** Where an invoice has been raised in respect of a debt and it subsequently becomes apparent that the debt was not legally due to the Council (on the grounds that, for example, it was mistakenly believed that the Council had a valid legal claim against the debtor) then the invoice may be cancelled by the Corporate Director – Finance and Central Services in consultation with the ACE(LDS).
- 12.9** If an overpayment has been made by the Council to a third party (including, but not limited to, employees and suppliers) then all necessary steps shall be taken to recover the amount of the overpayment. If it is considered inappropriate, however, to recover the overpayment (on grounds including, but not limited to, cost effectiveness or compassionate reasons) then approval not to pursue the overpayment must be obtained from:
- (a) the nominated Accountant (by the Corporate Director – Finance and Central Services) in the relevant Directorate in respect of debts up to £500
  - (b) the Corporate Director – Finance and Central Services in respect of debts above £500 and below £5,000
  - (c) The relevant Portfolio Holder in respect of amounts of £5,000 and above

## 13.0 PETTY CASH

### **Preamble**

*To assist designated officers to purchase minor items the Corporate Director – Finance and Central Services may grant petty cash advances. Before seeking such an advance a Budget Holder should consider using a Purchasing Card (see **Contract Procedure Rule 13**).*

### **Rules**

- 13.1** The Corporate Director – Finance and Central Services may make cash advances to Budget Holders to allow them to meet minor expenses, subject to such conditions as are deemed necessary.
- 13.2** Any cash shall be kept in a safe place at all times (see also **Rule 10.2**).
- 13.3** All petty cash advances in excess of £100 shall have an Imprest Bank Account unless the Corporate Director – Finance and Central Services has given specific written approval to alternative arrangements. An Imprest Bank Account set up under these circumstances is subject to **Rule 14.1**.
- 13.4** Individual petty cash purchases must not exceed £100 per item and must be supported where possible by authenticated receipts.
- 13.5** Payments from petty cash can only be made in respect of reasonable expenditure of a minor nature which is incurred for the benefit of the Council. The specific purposes for which petty cash expenditure can be incurred shall be defined by the Corporate Director – Finance and Central Services. Petty cash can be used either to reimburse expenditure previously incurred or to provide an advance to pay for known future expenditure.
- 13.6** No income received, other than reimbursement of approved petty cash expenditure, may be paid into a petty cash Imprest Account.

## 14.0 BANKING

- 14.1** All arrangements for the operation and supervision of the Council's bank account(s) shall be made by the Corporate Director – Finance and Central Services. No alternative bank account(s) may be opened without the prior written approval of the Corporate Director – Finance and Central Services. The purpose of any new bank account and the identity of the bank and details of the account shall be recorded in writing and retained on an appropriate file by the Corporate Director – Finance and Central Services. This Rule also applies to Imprest Bank Accounts (see **Rule 13.3**).
- 14.2** When the need for a bank account ceases then the Corporate Director – Finance and Central Services shall be notified immediately and the account closed in accordance with procedures agreed with the Corporate Director – Finance and Central Services.
- 14.3** Any bank accounts operated under the terms of the 'Bank Accounts for Schools' (BAFS) arrangements, established under the approved LMS scheme, are a permitted exception to **Rule 14.1**.

## **15.0 TREASURY MANAGEMENT**

- 15.1** The Council adopts CIPFA's "Treasury Management in the Public Services Code of Practice 2009" (as amended) as described in Section 5 of the Code, and will have regard to the associated guidance notes.
- 15.2.** the County Council will create and maintain as the cornerstone for effective Treasury Management
- (i) a strategic Treasury Management Policy Statement (TMPS) stating the County Council's policies, objectives and approach to risk management of its treasury management activities
  - (ii) a framework of suitable Treasury Management Practices (TMPs) setting out the manner in which the County Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities. The Code recommends 12 TMPs
- 15.3** The full Council and/or Executive will receive reports on its Treasury Management policies, practices and activities including, as a minimum an Annual Treasury Management and Investment Strategy and associated report on Prudential Indicators in advance of the financial year, a mid year review of Treasury Management activities and an Annual Treasury Management and Investment outturn report after its close, in a form prescribed in the TMPs.
- 15.4** The County Council delegates responsibility for the implementation and regular monitoring of its Treasury Management policies and practices to the Executive, and for the execution and administration of Treasury Management decisions to the Corporate Director – Finance and Central Services, who will act in accordance with the Council's TMPs, as well as CIPFA's Standard of Professional Practice on Treasury Management
- 15.5** the Audit Committee shall be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies.
- 15.6** the Corporate Director – Finance and Central Services shall periodically review the Treasury Management Policy Statement and associated documentation and report to the Executive on any necessary changes, and the Executive shall make recommendations accordingly to the County Council
- 15.7** all money in the possession of the Council shall be under the control of the officer designated for the purposes of Section 151 of the Local Government Act 1972 (ie the Corporate Director of Finance and Central Services).

## **16.0 VOLUNTARY FUNDS**

### ***Preamble***

*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. Such funds may be administered solely, or in part, by an officer by reason of his or her employment with the Council.*

### **Rules**

- 16.1** The Corporate Director – Finance and Central Services shall be informed of the purpose and nature of all voluntary funds maintained or managed by any Officer in the course of their duties with the Council.
- 16.2** Voluntary funds registered with the Charity Commissioners shall have formal accounts prepared, be audited annually by a competent independent person and shall be submitted with an audit report to the appropriate body within 6 months of the accounting year end. A copy of the accounts and audit report shall be supplied to the Corporate Director – Finance and Central Services immediately after the meeting of the body. The Corporate Director – Finance and Central Services shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he/she considers appropriate.
- 16.3** Voluntary funds not registered with the Charity Commissioners shall have formal accounts prepared and be examined annually by a competent officer independent of the fund. A copy of the accounts and Independent Examiner's Statement shall be supplied to the Corporate Director – Finance and Central Services immediately after the examination. The Corporate Director – Finance and Central Services shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he/she considers appropriate.
- 16.4** Voluntary Funds, and any related bank accounts, shall be operated in accordance with procedures set out in the Finance Manual.
- 16.5** Any funds administered under the terms of the Council's approved 'Disaster Appeal' arrangements will be governed by the terms of the 'Appeal' agreed at the time.

## **17.0 INSURANCE**

**17.1** The Corporate Director – Finance and Central Services shall effect all insurance cover on behalf of the Council.

**17.2** A Director shall promptly notify the Corporate Director – Finance and Central Services of:

- (i) any event which may result in a claim against the Council and/or its insurers
- (ii) any new risks which might require to be insured, together with changed circumstances affecting existing risks
- (iii) any action(s) taken under the terms of the Council's approved Risk Management Strategy which might affect the Council's current, and future, insurance arrangements (see **Rule 18**).

## **18.0 RISK MANAGEMENT**

**18.1** Each Director shall take the actions necessary to comply with the terms of the Council's approved Corporate Risk Management Policy and Strategy and the Directorate based derivatives thereof.

**18.2** These actions may relate to one or more of the following:-

- (i) using the Risk Prioritisation System (RPS) to identify and record risks in the Risk Register(s)
- (ii) reviewing current, and identifying new, risks and the potential impact thereof on the ongoing capacity of the Council to maintain its services
- (iii) determining, and effecting, an appropriate management response to those risks
- (iv) maintaining records of incidents and making such records available to the Corporate Director – Finance and Central Services in his capacity as the Council's Risk Management co-ordinator, as necessary (see also **Rule 17.2**).



## **19.0 INTERNAL AUDIT**

### **Preamble**

*The Accounts and Audit Regulations 2006, issued under the provisions of the Local Government Finance Act 1982, apply to the Council. This Act requires the Council to maintain continuous, adequate and effective internal audit of its accounts. The following Rules provide the framework for this statutory duty to be discharged.*

### **Rules**

#### **Roles and Responsibilities**

- 19.1** Every Director, Business Unit Head and Budget Holder is responsible for the implementation and maintenance of all internal control procedures relating to financial systems and for achieving the economic, effective and efficient use of resources within their Directorate.
- 19.2** The Council has determined that the Corporate Director – Finance and Central Services shall be responsible for maintaining an adequate and effective internal audit of the activities of the Authority. Each Director shall therefore make arrangements for the Corporate Director – Finance and Central Services or his authorised internal audit representative to:-
- (i) enter at all reasonable times on any premises or land used by the Council;
  - (ii) have access to all correspondence, documents, books or other records relating to any financial or other transactions of their establishment or operational area;
  - (iii) require and receive such explanation(s) as he/she considers necessary to establish the correctness of any matter under examination;
  - (iv) require any officer of the Council to produce cash, stores, or other Council property under his/her control for inspection.
- 19.3** The Corporate Director – Finance and Central Services shall have regard to any relevant professional guidelines, International Auditing Standards and any audit standards issued by the Code of Practice for Internal Audit for local authorities in the United Kingdom.
- 19.4** The Corporate Director- Finance and Central Services shall be notified immediately by a Director, Business Unit Head **or** Budget Holder of any financial irregularity or suspected irregularity, or any circumstances which may suggest the possibility of irregularity in the exercise of any of the Council's functions. Such communications may be oral initially but must be confirmed promptly in writing.
- 19.5** The Corporate Director – Finance and Central Services shall determine the scope of any internal enquiries or investigations, subject to consultation with the appropriate Director.
- 19.6** The Corporate Director – Finance and Central Services, in consultation with the appropriate Director shall decide whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.

- 19.7** If a suspected irregularity occurs involving staff who are the responsibility of the Corporate Director – Finance and Central Services, the Corporate Director – Finance and Central Services shall keep the Chief Executive Officer informed.
- 19.8** The Corporate Director – Finance and Central Services or his representative, shall at all times preserve and respect the confidentiality of information received in discharging tasks under this Section of the Financial Procedure Rules with regard to any Business Unit. Internal Audit staff shall have particular regard to the relationship of the Business Unit with any other Business Units within the Council.
- 19.9** The Chief Internal Auditor shall have the right to communicate directly with the Leader of the Council or the Chairman of the Audit Committee on any matter that he/she deems appropriate.

### **Counter Fraud Strategy**

- 19.10** The Chief Internal Auditor will lead on the Counter Fraud Strategy within the Council and will undertake a review of the Strategy on, as a minimum, an annual basis.

### **Money Laundering**

#### ***Preamble***

*Significant changes in the legislation concerning money laundering have broadened the range of activities caught by the statutory framework and, as a result, the obligations now impact on local authorities. Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it. The Council has therefore established an internal Anti-Money Laundering Policy and supporting Guidance Note designed to prevent the risk of the Council being involved in money laundering and to enable staff to report suspicions of money laundering activity to the Chief Internal Auditor (as the Council's nominated Money Laundering Reporting Officer).*

- 19.11** All staff should have regard to the Council's Anti-Money Laundering Policy and supporting Guidance. A member of staff should consider, in line with the Policy and Guidance, reporting any transaction which involves the receipt of £10,000 or more of cash to the Council's Money Laundering Reporting Officer; notwithstanding such financial limit, any member of staff who has reasonable grounds to believe that money laundering is taking place (or is being attempted) in respect of a smaller amount of cash should report the matter to the Council's Money Laundering Reporting Officer.

## **20.0 REVISION OF FINANCIAL PROCEDURE RULES**

- 20.1** The Corporate Director – Finance and Central Services (in consultation with The Assistant Chief Executive (Legal and Democratic Services)) shall review the application and the effect of these Rules and make an annual report to the Audit Committee recommending such amendments to the Rules as are considered appropriate.

## **21.0 PARTNERSHIP ARRANGEMENTS**

- 21.1 Where it is intended that the County Council should enter into a partnership arrangement to further the delivery of County Council policy and/or services, governance arrangements must be agreed in principle before any commitment is made to enter in to the partnership. No partnership should be considered unless it can be demonstrated that the County Council can gain some clear benefit to the delivery of Council Plan objectives.
- 21.2 The County Council's Partnership Governance risk assessment must be carried out, and for any proposed partnership that is ranked High or Medium risk under that assessment, or in all cases where the County Council's financial contribution to the partnership exceeds £50k per annum, including any grant or external funding for which the County Council would act as Accountable Body, a full assessment must be carried out using the approved Partnership Governance guidance and toolkit.
- 21.3 In such cases, the Director to whom the Partnership role is relevant, in consultation with the Corporate Director – Finance and Central Services and the Assistant Chief Executive (Legal and Democratic Services), will agree the terms and conditions and governance documentation for the Partnership on behalf of the County Council. This framework must be agreed by all partners.
- 21.4 In all cases where the risk assessment is ranked high, or where the financial contribution exceeds £100k, the approval of the Executive is required before any partnership is entered into. This £100k should relate to the annual financial contribution to the partnership and/or, the total value of the grants or other external funding for which the County Council intends to apply and act as Accountable Body.
- 21.5 For low risk/low financial value partnerships, not covered by paragraph 21.2, less formal arrangements will apply, as such partnerships are likely to be co-ordinating forums rather than delivery partnerships. In all cases, however, the relevant Director must ensure governance arrangements are in place and documented as necessary to meet the effective management requirements of the partnership.
- 21.6 Unless there is explicit agreement to the contrary, which must be documented fully in the governance documents, the partnership rules will be expected to follow the Financial, Contract and Property Procedure Rules agreed by the County Council.
- 21.7 In all cases, where the partnership funding includes funding through grants or other external funding, the provisions of Rule 8 of these Financial Procedure Rules will apply.

## **22.0 ACCOUNTABLE BODY STATUS**

- 22.1 Where it is intended that the County Council should act as Accountable Body for a partnership and related funding, authorisation must be obtained before entering into such an arrangement.
- 22.2 The Director to whom the Accountable Body role is relevant, in consultation with the Corporate Director – Finance and Central Services and the Assistant Chief Executive (Legal and Democratic Services), will agree the terms and conditions of that Accountable Body role, and sign associated documentation on behalf of the County Council.
- 22.3 Unless there is explicit agreement to the contrary, which must be documented fully in the Accountable Body agreement, the governance rules of the partnership will be expected to follow the Financial, Contract and Property Procedure Rules agreed by the County Council.
- 22.4 In all cases, where the partnership funding includes grants or other external funding, then the provisions of Rule 8 of these Financial Procedure Rules will apply, including the need to seek Member approval where required.

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# Contract Procedure Rules

## CONTENTS

1. [Introduction](#)
2. [General](#)
3. [Compliance with Legislation and Standards](#)
4. [Signature/Sealing of Contracts](#)
5. [Form of Contract](#)
6. [Bonds and Liquidated Damages](#)
7. [Quotations](#)
8. [Tenders](#)
9. [General Tender Requirements](#)
10. [Tender Evaluation and Acceptance](#)
11. [Alterations to Tenders/Quotations and Post Tender Negotiations](#)
12. [Electronic Commerce](#)
13. [Purchasing Cards](#)
14. [Certification of Contracts](#)
15. [Exceptions to Contract Procedure Rules](#)
16. [Compliance, Contract Register and Annual Procurement Plan](#)
17. [Contract Monitoring](#)
18. [Notification of Section 151 Officer and Monitoring Officer](#)
19. [Declaration of Interests](#)

*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 property contracts), including those made in the course of the discharge of functions which are the responsibility of the Executive.*

## **1.0 INTRODUCTION**

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

<b>ACE(LDS)</b>	Assistant Chief Executive (Legal and Democratic Services)
<b>Constitution</b>	The Council's Constitution of which these Rules form part.
<b>Contract</b>	Any agreement (other than Property Contracts and contracts of employment) 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
<b>Contractor</b>	A person with whom the Council has a contract
<b>Council</b>	North Yorkshire County Council
<b>Director</b>	Chief Executive Officer Corporate Director Business and Environmental Services Corporate Director Adult and Community Services Corporate Director Children and Young People's Service Corporate Director Finance and Central Services
<b>CDFCS</b>	Corporate Director Finance and Central Services
<b>Consultancy Contract</b>	A contract with a consultant architect, engineer, surveyor or other professional consultant (excluding Counsel)
<b>EU</b>	European Union
<b>E-tendering system</b>	The Council's Chosen e-tendering system (currently SCMS)
<b>Leasing Agreement</b>	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>MEA</b>	Most Economically Advantageous
<b>Member</b>	A member of the Council or co-opted member on a Council committee
<b>Officer</b>	A Council employee or other authorised agent
<b>OJEU</b>	The Official Journal of the European Union
<b>Person</b>	Any individual, partnership, company, trust, other local authority, Government department or agency
<b>Procurement Strategy</b>	The Council's Procurement Strategy as agreed from time to time.

<b>Property Contract</b>	A contract which creates an estate or interest in land or buildings
<b>Responsible Officer</b>	The Officer who is responsible for the procurement and/or management of a Contract
<b>Rules</b>	These Rules
<b>Tenderer</b>	A person who has expressed an interest in tendering for a Contract or who has tendered for a Contract
<b>Veritau</b>	The Council's appointed internal audit contractor
<b>YPO</b>	The Yorkshire Purchasing Organisation



## 1.2 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, EU Directive) include a reference to any amendment or re-enactment of such legislation;
- (b) the value of any contract are to the total estimated aggregate gross value payable over the full period of the contract including any options or extensions to the contract without any deduction for income due to the Contractor or the Council;
- (c) the singular include the plural and vice versa;
- (d) the masculine include the feminine and vice versa;
- (e) Directors, the CDFCS and the ACE(LDS) 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 3.3**
  - (ii) CDFCS - **Rules 2.1, 2.4, and 2.5**
  - (iii) ACE(LDS) - **Rules 2.1, 2.4 and 2.5**

where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CDFCS and the ACE(LDS)

## 2.0 GENERAL

**2.1** These Rules are made by the Council on the advice of the CDFCS (in consultation with the ACE(LDS)) under Article 14.02 of the Constitution.

**2.2** These Rules apply to all contracts **except:-**

- (a) contracts of employment and
- (b) property contracts.

**2.3** The Council has made Financial Procedure Rules under Article 14.01 of the Constitution which shall be applied in conjunction with these Rules.

**2.4** The CDFCS (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report to the Audit Committee recommending such amendments to the Rules as are considered appropriate.

**2.5** The CDFCS and the ACE(LDS) have produced a *Procurement Manual* which provides detailed guidance on procurement techniques and the effect of the Rules. The Manual also sets out important issues to be considered in the procurement context including, but not limited to, the following:

- TUPE
- Sustainability
- Equalities

- 2.5.1** The CDFCS 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 CDFCS shall undertake the negotiation of terms and authorise the arrangement in accordance with Rule 8.3 of the Financial Procedure Rules.
- 2.7** Directors shall ensure that all documentation relating to contracts 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 he were an Officer of the Council.
- 2.9** Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to invitations to tender or to submit quotations. The standard pre qualification questionnaire must be used for all procurements. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CDFCS as appropriate.

### **3.0 COMPLIANCE WITH LEGISLATION AND STANDARDS**

- 3.1** Every contract shall comply with all relevant applicable legislation and government guidance including:-
- (a) EU Law
  - (b) Acts of Parliament
  - (c) Statutory Instruments including, but without limitation, the Public Contracts Regulations 2006.
- 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. Such standards are, in order of priority:-
- (a) EU Standards
  - (b) British Standards implementing international standards
  - (c) British Standards
- 3.3** Directors shall ensure that the Council has the legal power to enter into any contract and that the Council does not purport to enter into any contract which is ultra vires.

## **4.0 SIGNATURE/SEALING OF CONTRACTS**

- 4.1** Every written contract must be either signed or sealed in accordance with this Rule and where contracts have a value exceeding £50,000 they must be either sealed, or signed by two Officers as described below.
- 4.2** The ACE(LDS) and such of her staff as she may designate are authorised to sign any such contract.
- 4.2.1** The ACE(LDS) also authorises such contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including the financial limits in **Rule 4.3** 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 ACE(LDS), or
    - (iii) is otherwise in a form approved by the ACE(LDS)and
  - (c) any variations to approved forms of contract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the contract itself or by correspondence
- 4.3** The financial limits relating to **Rule 4.2** are:
- (a) Adult and Community Services Directorate, Business and Environmental Services Directorate and Finance and Central Services Directorate  
£500,000
  - (b) Children and Young People's Service Directorate  
£200,000
  - (c) Chief Executive Officer's Unit  
£50,000
- 4.4** Contracts that exceed the financial limits specified in **Rule 4.3** shall be signed by:
- (a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by her); and
  - (b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services' Officer authorised by the ACE(LDS)).
- 4.5** Only the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by the ACE(LDS)) may seal a contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so.

## **5.0 FORM OF CONTRACT**

- 5.1** Every contract exceeding £100 in value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).
- 5.2** Every contract exceeding £20,000 in value shall be documented by a written form of agreement. Wherever appropriate and possible, such written agreements shall be made on the basis of terms and conditions agreed by the ACE(LDS) (in consultation with the CDFCS). 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 ACE(LDS) as to their effect has been sought and considered.
- 5.3** The written form of agreement for all contracts exceeding £20,000 in value must clearly specify the obligations of the Council and the Contractor and shall include:-
- (a) the work to be done or the goods or services to be supplied
  - (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
- 5.4** Where considered appropriate by the CDFCS, term contracts, standing offers and framework contracts may include a financial limit above which value, work to be done or goods or services to be supplied shall be subject to a separate procurement exercise in accordance with these Rules.
- 5.5** The written form of agreement for all contracts exceeding £20,000 in value must include the following or equivalent wording:-
- (a) "If the Contractor:-
    - (i) Has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Council, or
    - (ii) Has committed any offence under the Prevention of Corruption Acts 1889 to 1916, or
    - (iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972.

The Council may terminate the Contract immediately and will be entitled to recover all losses resulting from such termination".
  - (b) "If the Contractor is in persistent and/or material breach of contract the Council may terminate the Contract and purchase the materials (or goods or services as the case may be) from a third party and the Council may recover the cost of doing so from the Contractor"
- 5.5.1** Other standard clauses are contained in the Procurement Manual relating to, for example, freedom of information, data protection, equalities, sustainability and best value; these are not mandatory for each such written agreement referred to in Rule 5.5 above, but should be included where appropriate.

## **6.0 BONDS AND LIQUIDATED DAMAGES**

- 6.1** Directors (in consultation with the CDFCS) shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of contract in all contracts which exceed £20,000 in value.
- 6.2** Where considered appropriate by a Director (in consultation with the CDFCS), the Contractor will be required to provide a 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 CDFCS considers appropriate.
- 6.3** 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 Corporate Director Business and Environmental Services 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 Corporate Director Business and Environmental Services (in consultation with the CDFCS) agrees that it is inappropriate for a bond to be required.

## **7.0 QUOTATIONS**

- 7.1** Where the estimated value of a contract is £5,000 or less the invitation of quotations is not mandatory, but written quotations should be invited where appropriate and best value should always be sought.
- 7.2.1** If the estimated value of a contract exceeds £5,000 but is less than £10,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the contract shall be recorded in writing prior to quotations being sought.
- 7.2.2** If the estimated value of a contract exceeds £10,000, but is less than £50,000 at least three written quotations must be invited from suitable potential contractors. The Estimated value of the contract shall be recorded in writing prior to quotations being sought and quotations must be invited using the e-tendering system.
- 7.3** All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been selected to submit quotations under **Rule 7.2** to also submit variant quotations (ie quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.
- 7.4** A written quotation may only be considered if:-
- (a) it has been received electronically through the e-tendering system, or
  - (b) it has been received in a sealed envelope marked "Quotation" and indicating the subject matter of the quotation and
  - (c) It has been opened after the expiry of the deadline for submissions and at the same time as other quotations for same subject matter in the presence of at least two Officers authorised to open quotations.

- 7.5** Each Director shall maintain electronic or written records of all quotations received in accordance with the Document Retention Policy.
- 7.6** Before quotations are requested it must be recorded in writing whether the lowest price or the MEA quotation should be accepted. Where both price and quality are to be factors (ie where MEA applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers. Advice should be sought from the CDFCS on the design and operation of any evaluation model to be used as part of the selection process.
- 7.7** Price/quality quotation evaluation models must be lodged with Veritau before any quotations are opened.
- 7.8** If:-
- (a) a quotation other than the lowest or the MEA quotation (as the case may be) is to be accepted, or
  - (b) less than three quotations have been received,
- the written approval of the Director (in consultation with the Corporate Director – Finance and Central Services or if the relevant Director is the Corporate Director – Finance and Central Services, in consultation with the Chief Executive Officer) shall be sought and obtained before the quotation is accepted.
- 7.9** A quotation for a price in excess of £50,000 may be accepted if (and only if):-
- (a) the original documented estimated price was less than £50,000 **and**
  - (b) the price quoted does not exceed that original documented estimated price by more than 10% **and**
  - (c) the written approval of the Director (in consultation with the Corporate Director – Finance and Central Services) has been obtained.
- If the conditions at (a), (b) and (c) are not met, Directors must seek tenders in accordance with **Rule 8**.
- 7.10** Where a quotation involves payment to the Council, the provisions of **Rules 7.6 and 7.8** shall apply except that the word “lowest” shall be replaced by the word “highest” in these paragraphs.

### **Risk Assessment**

- 7.11** Before a Contract is awarded after a quotation exercise such steps shall be taken, in conjunction with the CDFCS, 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.

## **8.0 TENDERS**

- 8.1** If the estimated value is £50,000 or more electronic tenders must be invited using the e-tendering system in accordance with the following provisions of this Rule.
- 8.2** Before Directors invite tenders it must be recorded in writing whether the lowest price or the MEA tender is to be accepted. Where both price and quality are to be factors (i.e. where MEA applies) the quality criteria must be identified and the weighting between price and quality established and recorded before tenders are invited. The criteria, sub-criteria and weighting should be stated in the invitation to tender sent to tenderers. Advice should be sought from the CDFCS on the design and operation of any evaluation model to be used as part of the selection process.
- 8.3** All potential Contractors invited to submit tenders shall be provided in all instances with identical information and instructions. Where considered appropriate, a Director may, (in consultation with the CDFCS) permit potential Contractors who have been selected to submit tenders under **Rule 8.1** to also submit variant tenders (ie tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders must be given to all potential Contractors.
- 8.4** Questionnaire and tender evaluation models must be lodged with Veritau before any documents are opened.
- 8.5** Directors must seek tenders on the basis of one of the following procedures:-

### **8.5.1 Restricted Tenders**

- (a) A notice inviting expressions of interest must be given on the e-tendering system and, in appropriate, in a newspaper (which may be local, regional, or national but must be appropriate for the subject matter of the contract) and/or in a suitable trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which form of advertising to use. Where required an OJEU Contract Notice must also be placed. The notice must specify brief details of the subject matter of the contract and invite potential contractors to apply to the Council to be considered for invitation to tender by the Council. Details must be included in the notice specifying how such expressions of interest are to be submitted and the closing date for their receipt by the Council.
- (b) The deadline date must be at least 28 days after the first advertisement for the contract is published and, where relevant, at least 14 days after the last advertisement is published. Where an OJEU Notice is required, the deadline date must be in accordance with the timescales set out in the Public Contracts Regulations 2006.
- (c) The selection criteria which are to be applied in evaluating expressions of interest must be recorded in writing before the expressions of interest are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before expressions of interest are opened.
- (d) After expressions of interest have been received the Director (in consultation with the CDFCS and such other Officers as are appropriate having regard to the subject matter and likely value of the contract) shall evaluate the expressions of interest received.
- (e) After evaluation, invitations to tender shall be sent to at least five tenderers selected by the Director in consultation with the CDFCS or, if less than five

tenderers applied or are considered suitable, such tenderers as have been selected by the Director (in consultation with the CDFCS).

- (f) The award criteria which are to be applied in evaluating tenders must be recorded in writing before the tenders are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before tenders are opened.

### **8.5.2 Open Tenders**

If a Director (in consultation with the CDFCS) considers it appropriate that any invitation to tender shall be made to all potential contractors, the following procedures shall apply:-

- (i) An invitation to tender notice must be given on the e-tendering system and, if appropriate, in a newspaper (which may be local, regional or national but must be appropriate for the subject matter of the tender) and/or in a suitable trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which form of advertising to use. Where required, an OJEU Contract Notice must also be placed. The notice must specify brief details of the subject matter of the contract, how documents may be obtained and the tender closing date.
- (ii) The deadline date must be at least 28 days after the publication of the first advertisement for the initiation to tender notice and, where relevant, at least 14 days after the last invitation to tender notice is published. Where an OJEU Notice is required, the deadline date must be in accordance with the timescales set out in the Public Contracts Regulations 2006.
- (iii) The selection and award criteria which are to be applied in evaluation tenders must be recorded in writing before the tenders are invited and must be stated in the document sent to suppliers. Evaluation models must be lodged with Veritau before tenders are opened.

### **8.5.3 Approved Lists**

If a Director (in consultation with the CDFCS) considers it appropriate to maintain an approved list of suitable contractors for particular types and/or values of work and the estimated value of the work is below the Public Contracts regulations 2006 threshold the following procedures shall apply:-

- (i) A notice must be given on the e-tendering system and if appropriate in a newspaper (which may be local, regional or national but must be appropriate for the subject matter of the contract) and or in a suitable trade journal where appropriate. The notice must specify brief details of the subject matter of the approved list and invite potential contractors to apply to the Council to be considered for inclusion on the approved list. Details must be included on the notice how such expressions of interest are to be submitted and the closing date for their receipt by the Council
- (ii) This deadline date must be at least 28 days after the first advertisement for the approved list is published and, where relevant, at least 14 days after the last advertisement is published.

Such notices must be repeated at intervals of no more than five years.



- (iii) The selection criteria which are to be applied in evaluating expressions of interest must be recorded in writing and stated in documents sent to tenderers before the expressions of interest are invited.
- (iv) After expressions of interest have been received the Director (in consultation with the CDFCS and such other officers as are appropriate having regard to the subject matter and likely value of such type of contract(s)) shall evaluate the expressions of interest received. The Director shall then maintain a list of such approved contractors categories by value and/or type of contract.
- (v) The Director may remove contractors from an existing approved list where the Director and CDFCS and the ACE(LDS) agree that such removal is appropriate, having regard to the conduct and/or status of the contractor and all other relevant factors.
- (vi) The Director (in consultation with the CDFCS) may approve an application from a potential contractor to be added to an existing approved list.
- (vii) The inclusion of each contractor on such lists shall be reviewed once in every five years from the date of inclusion.
- (viii) Invitations to tender shall be sent via the e-tendering system to at least five contractors on the approved list or to all contractors on the approved list if it includes less than five contractors.
- (ix) Each Director shall maintain arrangements so as to provide the CDFCS, on request, with a report of tenders invited from approved lists which will include the names of persons invited to tender and the reasons for selection.

#### **8.5.4 Framework Agreements**

If a Director (in consultation with the CDFCS) considers it appropriate to establish a framework agreement then the framework will be established using the procedures set out in either Rule 8.5.1 or 8.5.2. The procedure prescribed by the Public Contracts Regulations 2006 shall apply to all aspects of the procurement and operation of the framework agreement including (but without limitation):-

- (i) The procurement methodology.
- (ii) Any orders placed under the framework agreement.
- (iii) The re-opening of competition between contractors who have been awarded framework agreement (ie further competitions) and
- (iv) The duration of a framework agreement (which shall not exceed four years).

## **9.0 GENERAL TENDER REQUIREMENTS**

### **9.1** A written tender may only be considered if:-

- (a) it has been received electronically through the e-tendering system, or
- (b) it has been received in hard copy in a sealed envelope marked "Tender" and indicating the subject matter of the tender, and the identity of the tenderer cannot be ascertained from the tender envelope, and
- (c) subject to 9.4, the tender has been returned electronically through the e-tendering system or to the ACE(LDS) (or a person designated by her) before the tender closing date.

### **9.2** The ACE(LDS) (or a person designated by her) shall be responsible for the reception and safe custody of tenders until they are opened.

### **9.3** Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the ACE(LDS) (or a person designated by her) or, where Legal and Democratic Services is undertaking the procurement, the CDFCS (or an Officer designated by him). Whoever opens the Tenders 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(s) present, the identities of tenderers and the tendered sums (where readily ascertainable). A copy of such a record shall be provided as soon as practicable to Veritau.

### **9.4** If a Tender is received after the specified tender closing date it may not be considered unless the ACE(LDS) is satisfied that the 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 tenderer and that other Tenders have not been opened.

## **Risk Assessment**

### **9.5** Before a Contract is awarded after a tender exercise such steps shall be taken, in conjunction with the CDFCS, 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.

## **10.0 TENDER EVALUATION AND ACCEPTANCE**

- 10.1** Where tenders are to be evaluated on the basis of MEA or price only the Director shall record the evaluation model to be used to score the selection and award criteria referred to in **Rule 8.2** prior to the tenders being opened. The evaluation model should not be communicated to tenderers without the approval of the CDFCS (in consultation with the ACE(LDS). A copy of the evaluation model should be sent to Internal Audit.
- 10.2** A summary of the selection and award criteria and sub criteria with their weighting should be communicated to tenderers. A copy of all evaluation models must be sent to Veritau before any documents are opened.
- 10.3** Full evaluation models, marking guidance or model answers must not be communicated to tenderers.
- 10.4** If:-
- (a) a tender other than the lowest or the MEA (as the case may be) is to be accepted, or
  - (b) less than three tenders have been received
- the written approval of the Director (in consultation with the CDFCS or, if the relevant Director is the CDFCS, in consultation with the Chief Executive Officer) must be obtained before a tender is accepted and a signed and dated record kept of the reasons for the action taken; however, no such approval can be given in respect of (a) above where that contract is subject to the Public Contracts Regulations 2006 other than in exceptional circumstances agreed by the ACE(LDS).
- 10.5** Each Director shall maintain an electronic or written record of all successful tenderers in a form approved by the CDFCS in accordance with the Document Retention Policy.
- 10.6** Where a tender involves payment to the Council, **Rules 8.2 and 10.4** shall apply except that the word “highest” shall be substituted for “lowest” in those Rules.

## **11.0 ALTERATIONS TO TENDERS/QUOTATIONS AND POST TENDER NEGOTIATIONS**

**11.1** Tenders may not be altered by Tenderers after the tender closing date except:-

- (a) where the Director is satisfied that arithmetical errors having been inadvertently made by the Tenderer, such errors can be corrected; or
- (b) where post tender negotiation is undertaken in accordance with **Rule 11.2**; or
- (c) where post tender clarification is undertaken in accordance with **Rule 11.4**.

**11.2** Post tender negotiations may not be undertaken where the value of the contract exceeds the threshold under the Public Contracts Regulations 2006 (where an OJEU Notice is required). Where post tender negotiations are permitted, post tender negotiations with selected tenderers must be in accordance with the following conditions:-

- (a) that the Director (in consultation with the CDFCS) considers that added value may be obtained
- (b) that post tender negotiations are permitted by law
- (c) that post tender negotiations are conducted by a team of suitably experienced officers approved by the Director and trained in post tender negotiations
- (d) that a record of the negotiations is kept by the Council
- (e) that a clear record of the added value obtained by the post tender negotiations is incorporated into the Contract with the successful tenderer

**11.3** **Rules 11.1 and 11.2** shall also apply to alterations to quotations.

**11.4** **Rules 11.1, 11.2 and 11.3** shall not operate to prevent clarification of any tender or quotation to the extent permitted by law and where such clarifications are sought the provisions of **Rules 11.2 (c) and (d)** shall apply except the word 'clarification' shall be substituted for the word "negotiation" in these Rules.

## **12.0 PURCHASING CARDS**

**12.1** Where purchasing cards are issued by the Council the following provisions shall apply:-

- (a) their use shall be subject to the procedures laid down by the CDFCS
- (b) cards shall only be issued to, and used by, Officers nominated by a Director (in consultation with the CDFCS)
- (c) for the purpose of **Rule 5.1** the payment invoice will constitute evidence in writing of the contract.

### **13.0 CERTIFICATION OF CONTRACTS**

- 13.1** The Local Government (Contracts) Act 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: the Corporate Director Children and Young People's Service, the Corporate Director Business and Environmental Services, the Corporate Director Adult and Community Services and the Corporate Director Finance and Central Services.

### **14.0 EXCEPTIONS TO CONTRACT PROCEDURE RULES**

- 14.1** A Director does not need to invite quotations or tenders in the following circumstances:-
- (a) purchases through the agency of YPO or other consortium or similar body, eg Buying Solutions, in accordance with the approved purchasing methods of such a consortium or body, or
  - (b) purchases at public auctions, or
  - (c) the purchase of supplies, works or services which are of such a specialised nature as to be obtainable from one contractor only, except where the value of the contract exceeds the relevant threshold of the Public Contracts Regulations 2006; or
  - (d) the instruction of Counsel by the ACE(LDS), or
  - (e) repairs to or the supply of parts for existing proprietary machinery or plant except where the value of the contract exceeds the relevant threshold of the Public Contracts Regulations 2006, or
  - (f) social care contracts where:-
    - (i) the service is currently supplied by a contractor to the satisfaction of the Corporate Director Adult and Community Services or the Corporate Director Children and Young People's Service and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, 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 Corporate Director Adult and Community Services and the Corporate Director Children and Young People's Service considers it inappropriate for quotations or tenders to be invited, or
    - (iii) where the Corporate Director Adult and Community Services and the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders
  - (g) contracts where the ACE(LDS) and the CDFCS agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining quotations or tenders cannot be met. A written record shall be signed and dated by the Director, whenever this rule applies.

**14.2** Specific exceptions to Contract Procedure Rules are permitted:-

- (a) where the ACE(LDS) and the CDFCS agree that it is appropriate that the EU Negotiated Procedure or the EU Competitive Dialogue Procedure may be employed on a procurement exercise, or
- (b) in such other circumstances as the CDFCS and the ACE(LDS) may agree; their agreement shall be recorded in writing and retained by both officers

**15.0 COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS**

**15.1** Every officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.

**15.2** Each Director 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.

**15.3** The CDFCS shall be responsible for monitoring adherence to these Rules.

**15.4** Each Director shall nominate a representative to act as a key contact point in relation to procurement matters for the Directorate; such representatives shall be termed "**Procurement Champions**" in this Rule.

**15.5** Procurement Champions are responsible for the production of a Forward Procurement Plan ('FPP') which will be completed in such format as the CDFCS shall require and which will include the following details:

- (a) contracts for supplies and services which the Directorate intends to award in the next financial year
- (b) in respect of each contract to be awarded:
  - (i) the Service Unit and Responsible Officer
  - (ii) the subject matter of the contract
  - (iii) the date the procurement process is expected to start
  - (iv) the date the contract is expected to start
  - (v) the duration of the contract
  - (vi) the contract's annual value
  - (vii) the procurement methodology to be adopted

**15.6** The Procurement Champions shall present their Directorate FPP to the Corporate Procurement Members' Working Group annually at such time as the CDFCS shall require (which will normally be at the commencement of the new financial year). The updated FPP shall be presented to Directorate management Teams quarterly for approval throughout the remainder of the year.

**15.7** The Council has established, as part of its Corporate Procurement Strategy, a Contract Register which forms part of the e-tendering system ('**the Register**') the purpose of which is to:

- (a) record key details of all contracts with an aggregate value of £20,000 or more
- (b) identify a contract reference number.

**15.7.1** Procurement Champions shall ensure that:-

- (a) all relevant contracts are entered onto the Register and the appropriate contract number recorded
- (b) the 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.

**15.8** Following the award of a contract, the Procurement Champions shall ensure the completed contracts e-form is completed and submitted on-line.

**16.0 REVIEW OF PROCUREMENT PROJECTS AND CONTRACT MONITORING**

**16.1** If the estimated value of a procurement is £50,000 or more, a formal risk analysis must be undertaken. At key stages of progress, procurements assessed as 'Medium' or 'High' risk must be reviewed by the relevant Directorate Management Team and signed off by the Director.

**16.2** The Responsible Officer shall take all such steps as are necessary 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 records and details shall be made available to Internal Audit whenever required.

**17.0 TRAINING FOR PROCUREMENT**

**17.1** Any officer involved in procurement activities should have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

**18.0 NOTIFICATION TO STATUTORY OFFICERS**

**18.1** When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 18.2** then the Responsible Officer leading the procurement shall notify by email the Council's S151 Officer (ie the CDFCS) and its Monitoring Officer (ie ACE(LDS)) before proceeding with the procurement. Such notifications shall include the estimated "whole life" financial value of the contract, the procurement methodology and any other relevant factors including, but without limitations, any TUPE implications and if applicable a copy of the proposed advertisement (except in circumstances where it is proposed to procure from an existing framework agreement).

**18.2** The whole contract financial value thresholds for the purposes of Rule 18.1 are:

- (a) works contracts - £1m
- (b) services contracts (except in respect of social care and the appointment of Counsel) - £150,000

- (c) social care contracts - £500,000
- (d) supply contracts (except in respect of equipment and other assets including vehicles and hardware) - £1m
- (e) equipment and other assets including vehicles and hardware - £100,000

**18.3** No advertisement or order placed under existing framework arrangements, or any other action leading towards procurement shall be published or undertaken for the procurement until confirmation of the process has been given following notification given under Rule 18.1.

## **19.0 DECLARATION OF INTERESTS**

**19.1** If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract in which he has 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, he shall immediately give written notice to the ACE(LDS).



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# Staff Employment Procedure Rules

## CONTENTS

1. [Recruitment and Appointment: general](#)
2. [Appointment of Head of Paid Service](#)
3. [Appointment of Chief Officers](#)
4. [Other Appointments](#)
5. [Right of the Leader to object to proposed senior appointments](#)
- 5A. [Appraisal of the Chief Executive Officer](#)
6. [Disciplinary Action and Dismissal](#)
7. [Interests of Officers in Contracts](#)
8. [Equalities Policy](#)
9. [Interpretation of Rules 5 and 6](#)

## **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 Director/Head of Unit concerned whether to his knowledge he is 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 PO3 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 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 he 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 him/herself a candidate: Corporate Director - Business and Environmental Services, Corporate Director - Finance and Central Services, Assistant Chief Executive (Human Resources and Organisational Development);
- 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 he thinks 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.

#### 4. Other appointments

- (a) **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 his/her nominee, and may not be made by Councillors.
- (b) **Assistants to Political Groups.** No appointment to a post of assistant to a political group on the Council may be made until such posts have been allocated to each group which qualifies, as set out below; no more than three such posts shall be created; no group shall be allocated more than one such post and no such post shall be allocated to a group which does not qualify for one.

A group qualifies for a Group Research & Communications Officer post if:-

- the membership of that group comprises at least one tenth of the membership of the Council; and
  - no more than two other groups on the Council are larger; or
  - if more than two other groups are larger or the same size as the group, the Council has decided that a post should be allocated to the group.
- (c) Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- (d) A Group Research & Communications Officer may not have delegated to them any of the powers of the Council or of the Executive.

## **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;
  - the Staff Officer to the Chief Executive Officer;
  - all staff (other than those undertaking purely clerical secretarial and support services) who report directly to the Corporate Directors, the Assistant Chief Executives and Staff Officer to the Chief Executive Officer.
- (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 (Human Resources and Organisational Development) 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 (Human Resources and Organisational Development) 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 (Human Resources and Organisational Development); 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 (Human Resources and Organisational Development); 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 he nor any other member of the Executive has any objection to the making of the offer;
    - (ii) the Assistant Chief Executive (Human Resources and Organisational Development) has notified the appointor that no objection was received by him 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 his/her 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) No disciplinary action (other than suspension on full pay for not more than two months pending an investigation into alleged misconduct) in respect of the Head of Paid Service, Monitoring Officer or Chief Finance Officer may be taken by or on behalf of the Council other than in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.
- (b) 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 him; 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 a right of appeal to members in respect of disciplinary action.
- (c) Where a Committee, Sub-Committee or officer is discharging, on behalf of the Council, the function of dismissing the Head of Paid Service, the Council must approve that dismissal before notice of dismissal is given.
- (d) 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.

- (e) Notice of the dismissal of an officer to whom Rule 5(a) applies must not be give until:
- (1) the person or body wishing to give the notice ("the dismisser") has notified the Assistant Chief Executive (Human Resources and Organisational Development) of the name of the person who the dismisser wishes to dismiss and any other particulars which the dismisser considers are relevant to the dismissal;
  - (2) the Assistant Chief Executive (Human Resources and Organisational Development) has notified every member of the Executive of the authority of -
    - (i) the name of the person who the dismisser wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismisser has notified to the Assistant Chief Executive (Human Resources and Organisational Development); 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 (Human Resources and Organisational Development); and
  - (3) either:-
    - (i) the Executive Leader has within the period specified in the notice under sub-paragraph (b)(iii), notified the dismisser that neither he nor any other Member of the Executive has any objection to the dismissal;
    - (ii) the Assistant Chief Executive (Human Resources and Organisational Development) has notified the dismisser that no objection was received by him within that period from the Executive Leader; or
    - (iii) the dismisser is satisfied that any objection received from the Executive Leader within that period is not material or is not well founded.
- (f) 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.

## **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 (Human Resources and Organisational Development), or it is proposed to dismiss the Assistant Chief Executive (Human Resources and Organisational Development), the functions specified in Rules 5 and 6 as functions of the Assistant Chief Executive (Human Resources and Organisational Development) shall be undertaken instead by The Assistant Chief Executive (Legal and Democratic Services).

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# Property Procedure Rules

## CONTENTS

1. [Interpretation](#)
2. [General](#)
3. [Compliance with Legislation](#)
4. [Signature/Sealing of Property Contracts](#)
5. [Role of Surveyor](#)
6. [Acquisitions](#)
7. [Redeployment of Property](#)
8. [Disposals](#)
9. [Mortgages](#)
10. [Compulsory Purchase and Compensation](#)
11. [Exceptions to Property Procedure Rules](#)

*These Rules constitute the Council's Standing Orders in relation to property contracts and the redeployment of property.*

## **1.0 INTERPRETATION**

**1.1** These terms will have the following meanings in the Property Procedure Rules:-

<b>ACE(LDS)</b>	The Assistant Chief Executive (Legal and Democratic Services)
<b>Acquisition</b>	<p>The acquisition of Property by the Council by whatever means, including:</p> <ul style="list-style-type: none"><li>• an option for a purchase or a lease</li><li>• a new lease for a Property previously leased in (a lease renewal), including an option to renew contained in an existing lease</li><li>• a Co-habitation Arrangement with another organisation in a non-Council Property</li><li>• the surrender or assignment of a lease to the Council, including the operation of a break clause</li></ul> <p>but excluding:</p> <ul style="list-style-type: none"><li>• a mortgage of Property owned by a third party in favour of the Council</li><li>• a licence with a term of no more than one year and at a fee of no more than £10,000</li></ul>
<b>Co-habitation Arrangement</b>	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.
<b>Council</b>	North Yorkshire County Council
<b>CDFCS</b>	The Corporate Director- Finance and Central Services
<b>Director</b>	A Corporate Director of the Council including the Chief Executive Officer for the purposes of his group
<b>Disposal</b>	<p>The disposal of Property by the Council by whatever means, including</p> <ul style="list-style-type: none"><li>• the surrender or assignment of a lease by the Council including the operation of a break clause</li></ul>

- a Co-habitation Arrangement with another organisation in a Council Property
- the grant of a licence of all or part of a Property to a third party

but excluding

- the granting of a mortgage in respect of Property owned by the Council
- a licence with a term of no more than one year and at a fee of no more than £10,000

**Licence  
from a third party**

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.

**Licence  
to a third party**

An agreement for use of Council owned property by a third party. This is usually limited by hours of operation or by sharing occupation.

**Officer**

A Council employee or other authorised agent

**Property**

Any estate or interest in land and/or buildings

**Property Contract**

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)<sup>1</sup> 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.

**Redeployment**

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.

**Surveyor**

A professionally qualified surveyor or valuer employed or otherwise retained by the Council to provide expert advice on Property Contracts

**Tenderer**

A person who has expressed an interest in tendering for a Property Contract or who has tendered for a Property Contract

<sup>1</sup> As approved by Audit Committee December 2009.  
REVIEWED: MAY/JUNE 2010  
Issue 1 – October 2010

## **1.2** References in these Rules to:-

- (a) any legislation (e.g. Act of Parliament, Statutory Instrument, EU Directive) 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) Directors, the CDFCS and the ACE(LDS) shall be taken to include such Officers as are designated by them to undertake the duties and responsibilities set out in these Rules.

## **1.3** References in **Rules 6.1, 7.2 and 8.1** to values for the purpose of the approvals which are necessary for Acquisitions, Disposals and Redeployments of Property are to the values estimated at the time the approval is given; any such approval is not invalidated by the fact that the actual Acquisition or Disposal figure differs from the estimated figure. The value of any transaction shall be taken to be the Surveyor's opinion as to the open market value as between willing parties.

## **1.4** Where these Rules refer to approvals being sought or given for the Acquisition, Disposal or Redeployment of Property, such approval may relate to one particular Property or to a particular description or class of Property; but where it relates to more than one Property, the value shall be calculated as the aggregate value of all of the Property of that description or class.

## **1.5** **Key Principles of Property Procedure Rules**

1.5.1 Subject only to the exception in **1.5.4** responsibility for all transactions relating to Council Property vests in the Corporate Asset Management Section ('**CAM**') in the Corporate Directorate of Finance and Central Services.

1.5.2 In nearly all respects, therefore, individual Officers outside CAM have no authority to enter into any commitment relating to Property, or to conduct any negotiations in connection with Property even on an informal basis. Officers must therefore inform CAM about any impending Property matter at the earliest stage practicable and, wherever possible, before any contact is made with the owner of a Property or with a person who wishes to use the Council Property.

1.5.3 The CDFCS is responsible for either granting or obtaining all approvals for property transactions.

1.5.4 The only exceptions to the key principle are set out in **Rule 4.4**.

## **2.0** **GENERAL**

**2.1** These Rules are made by the Council on the advice of the CDFCS, in consultation with the ACE(LDS).

**2.2** These Rules apply to all Property Contracts.

**2.3** These Rules shall be applied in conjunction with the following documents:

- a) Asset Management Planning Framework: Acquisition Process
- b) Asset Management Planning Framework: Redeployment Process
- c) Asset Management Planning Framework: Disposals
- d) Asset Management Planning Framework: Rent and Rent Reviews

- 2.4** The Council has made Financial Procedure Rules ('**FPR**') which apply to budgetary and other issues relating to property; the FPR shall be applied in conjunction with these Rules. The Council has also made Contract Procedure Rules, but they do not apply to Property Contracts.
- 2.5** The CDFCS (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report to the Audit Committee recommending such amendments to the Rules as are considered appropriate.
- 2.6** Property Contracts and documentation and correspondence relating to them shall be retained for the periods prescribed by the Council's Records Retention and Destruction Schedule.
- 2.7** Every Officer shall comply with these Rules unless a waiver is granted under **Rule 11.1**. Failure to comply may lead to disciplinary action.
- 2.8** Each Director shall ensure that Officers within their Directorate, and contractors working for the Council, are aware of and comply with these Rules and the documents referred to in **Rule 2.3**.
- 2.9** The CDFCS shall be responsible for monitoring adherence to these Rules.

### **3.0 COMPLIANCE WITH LEGISLATION**

- 3.1** Every Property Contract shall comply with all relevant applicable legislation and government guidance including:-
- (a) EU Law
  - (b) Acts of Parliament
  - (c) Statutory Instruments
- 3.2** The ACE(LDS) shall ensure that the Council has the legal power to enter into any Property Contract and that the Council does not purport to enter into any such contract which is ultra vires.

### **4.0 SIGNATURE/SEALING OF PROPERTY CONTRACTS**

- 4.1** No Property Contract shall be completed unless proper approval has been given in accordance with these Rules.
- 4.2** Subject to **Rules 4.3 and 4.4**, every Property Contract must be: -
- (a) executed as a Deed by the ACE(LDS); or
  - (b) signed by the ACE(LDS) (if the value is less than £50,000); or
  - (c) signed by the ACE(LDS) and another officer authorised by ACE(LDS) (if the value is £50,000 or more).
- 4.3** The CDFCS 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 ACE(LDS); and
  - (b) two signatories are required if the value is £50,000 or more.
- 4.4** 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 one year; and
- (b) the Licence is for a fee not exceeding £10,000.

## **5.0 ROLE OF SURVEYOR**

- 5.1** The CDFCS shall instruct the Surveyor to act on behalf of the Council in connection with Property Contracts in accordance with these Rules.

## **6.0 ACQUISITIONS**

### **6.1 Approval for Acquisitions**

- 6.1.1** Subject to **Rule 6.1.4(a)** and **Rule 10** whenever it is proposed that Property should be acquired by the Council, the CDFCS is responsible for seeking the approval which is necessary in accordance with this **Rule 6.1**.

- 6.1.2** No approval shall be sought or given for the Acquisition of any Property unless there is adequate budgetary provision for the Acquisition and any expenditure consequent upon the Acquisition.

- 6.1.3** 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 CDFCS may approve any Acquisition up to £250,000 in value;
- (b) the Executive Member for Corporate Affairs may approve any Acquisition up to £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.

- 6.1.4.1** Subject to **Rule 6.1.4.2** 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 CDFCS may approve any Acquisition where the annual rent or fee or other annual payment is £25,000 or less;
- (b) the Executive Member for Corporate Affairs may approve any Acquisition where the annual rent or fee or other payment is £100,000 or less;
- (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 £100,000.

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).

- 6.1.4.2** 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 6.1.3**.



**6.1.5** In respect of the Acquisition of Property by option:

- (a) the Corporate Director for the service acquiring the option 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) the CDFCS may approve the exercise of any option within the limits set for leases in **Rule 6.1.4.1(a)** or limits set for other Property Contracts set in **Rule 6.1.3(a)**
- (d) the Executive Member for Corporate Affairs may approve the exercise of any option within the limits set for leases in **Rule 6.1.4.1(b)** or the limits set for other Property Contracts set in **Rule 6.1.3(b)**
- (e) the Executive may approve the exercise of an option and must approve any triggering of an option within the limits set for leases within **Rule 6.1.4.1(c)** or the limits set for other Property Contracts set in **Rule 6.1.3(c)**

For the purpose of this Rule, the relevant value for securing options is the cost of securing the option (as opposed to the value of any resulting transaction) and the relevant value for triggering options is the value of the transaction to be entered into (as opposed to the cost of securing the option).

**Approval for Rent Reviews**

- 6.1.6** The CDFCS may approve the completion of a rent review memorandum provided that the original lease included provisions for the rent review; in all other cases **Rule 6.1.4** shall apply.

**Variation of Lease Terms**

- 6.1.7** The CDFCS may approve any variation to the terms of an existing lease or licence (including the grant of a licence to assign or sublet), except that, if the variation would result in an increase to the rent or licence fee, **Rule 6.1.4** shall apply.

**6.2 Terms of Acquisition**

- 6.2.1** The Surveyor is responsible for negotiating the terms for the Acquisition of Property and for any subsequent rent reviews, if relevant.
- 6.2.2** The CDFCS is responsible for approving the terms for the Acquisition of Property, and shall report such terms to the ACE(LDS).
- 6.2.3** The ACE(LDS) is responsible for preparing and completing the documentation for the Acquisition of Property in accordance with the terms referred to in **Rule 6.2.1**, subject to any variations agreed with the CDFCS and subject also to such further terms as the ACE(LDS) considers appropriate in the best interests of the Council.

## **7.0 REDEPLOYMENT OF PROPERTY – OTHER THAN FOR DISPOSAL**

**7.1** As soon as a Director identifies the fact that a Property used by his/her Directorate is no longer required for its current use, the Director shall inform the CDFCS. The CDFCS shall then enquire whether the Property is of use to any other Director in connection with the service(s) for which they are responsible and subject to the response received shall apply the redeployment process in **Rule 7 or 8** as appropriate.

### **7.2 Approval for Redeployment – other than for disposal**

**7.2.1** Whenever it is proposed that Property should be redeployed other than for disposal by the Council, the CDFCS is responsible for seeking the approval which is necessary in accordance with this **Rule 7.2**.

**7.2.2** In the case of any Redeployment of Property other than for disposal which is **not** held by the Council on a lease or licence:

- (a) the CDFCS may approve any Redeployment of Property up to £500,000 in value;
- (b) the Executive Member for Corporate Affairs may approve any Redeployment of Property up to £1,000,000 in value;
- (c) the Executive may approve any Redeployment, and must approve any Redeployment of Property over £1,000,000 in value.

**7.2.3.1** Subject to **Rule 7.2.3.2** in the case of any Redeployment of Property other than for disposal which is held by the Council on a lease or licence:

- (a) the CDFCS may approve any Redeployment where the annual rent or fee is £25,000 or less;
- (b) the Executive Member for Corporate Affairs may approve any Redeployment where the annual rent or fee is £100,000 or less;
- (c) the Executive may approve any Redeployment and must approve any Redeployment where the annual rent or fee is more than £100,000.

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 Redeployment (but ignoring any discount or rent-free period).

**7.2.3.2** 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 7.2.3.1.

### **7.3 Terms of Redeployment – other than for disposal**

**7.3.1** Once approval for Redeployment has been given, the CDFCS is responsible for arranging the Redeployment in accordance with the Redeployment Process Guidance which forms part of the Asset Management Planning Framework referred to in **Rule 2.3(b)**.

## **8.0 REDEPLOYMENT FOR DISPOSAL**

### **8.1 Approval for redeployment for Disposal**

**8.1.1** Whenever it is proposed that Property should be disposed of by the Council, the CDFCS is responsible for seeking the approval which is necessary in accordance with this **Rule 8.1**.

**8.1.2** Subject to **Rule 8.1.4**, in respect of the Disposal of Property **other than** by lease or licence or other agreement for a rent or licence fee or other annual payment:

- (a) the CDFCS may approve any Disposal up to £500,000 in value;
- (b) the Executive Member for Corporate Affairs may approve any Disposal up to £1,000,000 in value;
- (c) the Executive may approve any Disposal and must approve any Disposal over £1,000,000 in value.

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.

**8.1.3.1** Subject to **Rule 8.1.3.2** and **Rule 8.1.4**, in respect of the Disposal of Property by lease or licence or other agreement for a rent or licence fee or other annual payment:

- (a) the CDFCS may approve any Disposal where the annual rent or fee or other annual payment is £25,000 or less;
- (b) the Executive Member for Corporate Affairs may approve any Disposal where the annual rent or fee or after annual payment is £75,000 or less;
- (c) the Executive may approve any Disposal and must approve any Disposal where the annual rent or fee or other annual payment is more than £75,000.

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.

**8.1.3.2** 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 8.1.2**.

### **8.1.4 Disposals at an Undervalue**

Where the disposal of any property is being considered which is likely to result in either a sale or long lease (seven years or more) at an undervalue the following provisions shall apply:-

- (a) 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 – Finance and Central Services	£25,000	100%
Corporate Director – Finance and Central Services	£250,000	50%
Executive Member for Corporate Affairs	£250,000	100%
Executive Member for Corporate Affairs	£500,000	50%
Executive	No limit	100% except where the undervalue is £2m or more
Secretary of State	No limit	No limit

- (b) 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 – Finance and Central Services	£5,000	100%
Corporate Director – Finance and Central Services	£25,000	50%
Executive Member for Corporate Affairs	£25,000	100%
Executive Member for Corporate Affairs	£100,000	50%
Executive	No limit	100% except where the undervalue is £2m or more
Secretary of State	No limit	No limit

- (c) 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 paragraph (a) above.

- (d) 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.
- (e) For all disposals of property at undervalue, the purpose for which the property is to be disposed of must be likely to contribute to the promotion or improvement of the economic, social or environmental well being of the whole or any part of the Council's area, or of all or any persons resident or present in its area.

### **Approval for Rent Reviews**

- 8.1.5** The CDFCS may approve the completion of a rent review memorandum provided that the original lease included provisions for the rent review.

### **Variation of lease terms**

- 8.1.6** The CDFCS 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 8.1.3** shall apply.

### **Release or variations of restrictive covenants**

- 8.1.7** In respect of the release or variation of restrictive covenants:

- (a) the CDFCS may approve any release or variation up to £500,000 in value;
- (b) the Executive Member for Corporate Affairs may approve any release or variation up to £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.

### **The Right to Buy**

- 8.1.8** Where right to buy applications are made to the Council under the Housing Act 1985 the ACE(LDS), in consultation with the CDFCS, shall be responsible for the admission or denial of the application of the right to buy and, where the right to buy is admitted, the ACE(LDS) shall dispose of the Property in accordance with the said Act.

### **External Consents to Disposal**

- 8.1.9** The CDFCS is responsible for obtaining such external consents (if any) as are required for a Disposal (except in relation to the disposal of school playing fields, for which the Corporate Director Children and Young People's Service shall be responsible for seeking any necessary approvals).

## **8.2 Terms of Disposal**

- 8.2.1** The Surveyor is responsible for negotiating the terms for the Disposal of Property and for any subsequent rent reviews, if relevant.
- 8.2.2** The CDFCS is responsible for approving the terms for the Disposal of Property and shall report such terms to the ACE(LDS).
- 8.2.3** The ACE(LDS) is responsible for preparing and completing the documentation for the Disposal of Property in accordance with the terms referred to in **Rule 8.2.1** subject to any variations agreed with the CDFCS and subject also to such further terms as the ACE(LDS) considers appropriate in the best interests of the Council.
- 8.2.4** Except where an approval has been obtained in accordance with **Rule 8.1.4**, the CDFCS shall ensure that whenever terms for a Disposal of a Property are being determined, the best consideration for the Disposal shall be obtained by the Council pursuant to Section 123 of the Local Government Act 1972.

## **8.3 Method of Disposal**

- 8.3.1** The CDFCS shall take such professional advice from the Surveyor as is necessary to ensure that the most appropriate disposal process is used.
- 8.3.2** The Surveyor's advice shall take account of all relevant factors relating to a Disposal including the following: -
- (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 and their effect upon the valuation;
  - (d) the costs of the Disposal process (including advertising and other marketing);
  - (e) the time likely to elapse between offering the Property for Disposal and the projected completion date of the Disposal; and
  - (f) all other relevant factors.

## **8.4 Disposals by Tender**

- 8.4.1** This **Rule 8.4** applies to all Disposals of Property by tender whether the tender is subject to contract or is capable of immediate acceptance.
- 8.4.2** 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 8.4.5**, the tender has been returned to the ACE(LDS) before the tender closing date (which shall be a time and date when County Hall is open for business)
- 8.4.3** The ACE(LDS) shall be responsible for the reception and safe custody of tenders until they are opened.
- 8.4.4** Tenders must be opened at the same time and in the presence of the ACE(LDS) 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 CDFCS.

- 8.4.5** If a tender is received after the specified tender closing date it may not be considered unless the ACE(LDS) 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**

- 8.4.6** Tenders shall be evaluated by the CDFCS in consultation with the Surveyor. The CDFCS shall accept the tender which offers the best consideration for the Property in accordance with **Rule 8.2.3** above. The CDFCS 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 CDFCS shall consult the Surveyor in relation to the evaluation of the bids, and a document will be produced by the CDFCS, 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**

- 8.4.7** Tenders may not be altered by Tenderers after the tender closing date except where the CDFCS is satisfied that arithmetical errors having been inadvertently made by the Tenderer, the Tenderer can be invited to correct them.

#### **Post Tender Negotiations**

- 8.4.8** Post tender negotiation may be undertaken in accordance with the following conditions: -
- (a) The CDFCS 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 CDFCS 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 a team comprising the Surveyor and suitably experienced Officers approved by the CDFCS and trained in post tender negotiations;
  - (d) a record of the negotiations and any added value obtained from them is kept by the CDFCS; and
  - (e) any such added value obtained by the post tender negotiations is incorporated into the Property Contract with the successful Tenderer.

## **9.0 MORTGAGES**

- 9.1 The CDFCS may instruct the ACE(LDS) to enter into a mortgage of property owned by a third party where it is considered appropriate for the Council to secure its interests in respect of a grant or loan made to such a third party.
- 9.2 In respect of mortgages of property owned by the Council:-
- (a) only the Executive may approve such a mortgage and
  - (b) the terms of the mortgage shall be determined by the CDFCS in consultation with the ACE(LDS).
- 9.3 The ACE(LDS) shall take such steps as are necessary to discharge a mortgage (whether the Council is mortgagee or mortgagor) upon the instruction of the CDFCS.

## **10.0 COMPULSORY PURCHASE AND COMPENSATION**

- 10.1 If a Director, in consultation with the CDFCS and the ACE(LDS), considers that it is necessary for compulsory powers to be exercised by the Council to acquire property in connection with a Council function then the Director shall seek all such approvals as are necessary (including, but not limited to, from the Secretary of State) to enable compulsory powers to be used but shall only do so after the Executive has approved the proposed exercise of such powers.
- 10.2 An approval given by the Executive to use compulsory powers shall be deemed to include the approvals necessary to acquire the Property the subject of the Compulsory Purchase Order, this shall apply regardless of:-
- (a) the number of sites to be acquired; and
  - (b) the value of such sites subject to the Executive having first given budgetary approval to the proposed expenditure in connection with their acquisition.
- 10.3 **Rule 6.2** shall apply to the approval of terms for the acquisition of interests under Compulsory Purchase Orders.
- 10.4 The CDFCS shall also be responsible for instructing the Surveyor to agree claims for compensation made by third parties as a consequence of the Compulsory Purchase Order; once the terms have been agreed and approved by the CDFCS they shall be reported to the ACE(LDS) who shall be responsible for preparing and completing the documentation.

## **11.0 EXCEPTIONS TO PROPERTY PROCEDURE RULES**

- 11.1 The CDFCS and the ACE(LDS) may agree specific waivers to the Property Procedure Rules, other than **Rules 6.1, 7.2, 8.1 and 9.2**.



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# Part 5

## Codes and Protocols

### CONTENTS

- ◆ Members' Code of Conduct
  - [Part 1](#) – General Provisions
  - [Part 2](#) – Interests
  - [Part 3](#) – Register of Members' Interests
- ◆ [Protocol for Members' Guidance re Members' Code of Conduct](#)
- ◆ [Protocol - The role of the Leader and Chief Executive Officer in the Ethical Framework](#)
- ◆ [Officers' Code of Conduct](#)
- ◆ [Protocol on Member/Officer Relations](#)
- ◆ [Protocol on Official Press Releases](#)
- ◆ [Protocol on working with Group Research & Communications Officers](#)
- ◆ [Guidance Note](#) for Councillors and Officers on Outside Bodies

# NORTH YORKSHIRE COUNTY COUNCIL

## **MEMBERS' CODE OF CONDUCT**

### **PART 1**

#### **GENERAL PROVISIONS**

##### ***Introduction and interpretation***

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (annexed to this Code).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:
  - “meeting” means any meeting of—
    - (a) the authority;
    - (b) the executive of the authority;
    - (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - “member” includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

##### ***Scope***

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority:
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### ***General Obligations***

- 3. (1) You must treat others with respect.
- (2) You must not:
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,
 in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
- 4. You must not:
  - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;

- (iii) the disclosure is made 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
  - (iv) the disclosure is:
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 6. You:
  - (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority—
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
  - (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## PART 2

### INTERESTS

#### *Personal Interests*

8. (1) You have a personal interest in any business of your authority where either:
- (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
    - (ix) any land in your authority's area in which you have a beneficial interest;
    - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
    - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
  - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## ***Disclosure of Personal Interests***

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## ***Prejudicial Interest Generally***

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or



- (c) relates to the functions of your authority in respect of:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### ***Prejudicial interests arising in relation to Overview and Scrutiny Committees***

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### ***Effect of prejudicial interests on participation***

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
- unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **PART 3**

### **REGISTRATION OF MEMBERS' INTERESTS**

#### ***Registration of Members' Interests***

13. (1) Subject to paragraph 14, you must, within 28 days of:

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### ***Sensitive Information***

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **THE GENERAL PRINCIPLES**

### ***Selflessness***

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### ***Honesty and Integrity***

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### ***Objectivity***

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### ***Accountability***

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### ***Openness***

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### ***Personal Judgment***

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### ***Respect for Others***

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### ***Duty to Uphold the Law***

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### ***Stewardship***

9. Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.

### ***Leadership***

10. Members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

# **NORTH YORKSHIRE COUNTY COUNCIL**

## **MEMBERS' CODE OF CONDUCT**

### **PROTOCOL FOR MEMBERS' GUIDANCE**

*This Protocol has been developed by the Standards Committee and approved by the County Council. It aims to provide guidance to Members in relation to observance of the Members' Code of Conduct. This Protocol will be developed by the Standards Committee as experience is gained with the Code of Conduct.*

#### **Interpretation and Scope**

1. Paragraphs 2(1) and 2(5) of the Code of Conduct may appear ambiguous. Paragraph 2(1)(b) says that Members must observe the County Council's Code of Conduct whenever they act, claim to act or give the impression they are acting as a representative of the County Council. Paragraph 2(5)(a) says that when Members act as a representative of the County Council "on another relevant authority" they must observe the Code of Conduct of the body on which they serve. The County Council takes the view that this means that where Members serve on another authority which has its own Code of Conduct under the Local Government Act 2000 (for example the Fire Authority, the Police Authority and the National Park Authorities) Members should, when transacting the business of that other authority, observe the Code of Conduct of that other authority. The County Council believes that the Member is not, at the same time, bound by the Code of Conduct of North Yorkshire County Council.
2. The Code applies to a "member" of an authority (paragraph 1(1)), which includes "a co-opted member and an appointed member" (paragraph 1(4)). The Standards Board has clarified in correspondence that this means voting co-opted Members, as prescribed by section 49(7) LGA 2000. The inclusion of the expression "appointed member" is not designed to bring non-voting co-optees within the remit of the Code (although authorities may choose to do so, should they so wish), but:

***The reference to "appointed" is .... a clarification in relation to joint committees, joint sub-committees and area committees. In other words, whilst a member may be a member of one authority, it clarifies (or at least it attempts to) that the member is bound, not just in relation to meetings of their authority, but also in relation to joint committees they have been "appointed" to sit on.***

*Although originally anticipated, the position has not been formally clarified in the supporting Guidance from the Standards Board. Unless any further guidance is given, Members should follow the above interpretation.*

3. The Code generally applies to Members when they are acting in their official capacity. Once the Local Government and Public Involvement in Health Bill is in force, however, the Code will also apply to Members' private conduct which relates to intimidation, disrepute or using/attempting to use their position improperly to confer an advantage/disadvantage and which results in a criminal conviction. This includes a criminal offence committed before the Member took office but conviction after that date.

4. Paragraph 1(4) of the Code defines the word “meeting” to mean meetings of the County Council, the Executive, and any Committee or Sub-Committee of the County Council or of the Executive,
5. together with joint Committees and Sub-Committees and also Area Committees. Members should also regard any meetings of any Working Group or Panel on which Members serve as a “meeting”, and should therefore observe the provisions of the Code (for example in relation to the declaration of interests) at Working Group and Panel meetings. Executive Members should remember that they also need to bear in mind the provisions of the Code in relation to personal interests when they are taking decisions as individuals (or being consulted by a Chief Officer about a decision). Note that the decision record form contains a box for information about personal interest declarations to be recorded.

### **General Obligations**

6. Paragraph 3(2)(a) of the Code of Conduct contains an obligation on Members not to do anything to cause the County Council to breach any equality laws. This legislation prohibits discrimination on the grounds of sex, race, disability, religion or belief, sexual orientation and age. Further guidance on specific types of discrimination is found in the Standards Board’s Guidance.
7. Members must not bully any person (paragraph 3(2)(b) of the Code). Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom Members have some actual or perceived influence. Bullying attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health. It is important that Members challenge and raise issues in the correct way and proper forum. However, if criticism is a personal attack or offensive, it is unlikely to be acceptable behaviour.
8. Paragraph 7(1)(a) of the Code provides that a Member must when reaching decisions have regard to any relevant advice provided to him/her by the Chief Finance Officer or the Monitoring Officer where that Officer is acting pursuant to their statutory duties. This should be read as applying both to advice provided to the Executive, as well as to advice provided to the Council or a Committee of the Council.
8. Paragraphs 9(6) and 9(7) of the Code of Conduct use the phrase “executive decision”. This means a decision made or to be made, by a decision maker, in connection with the discharge of a function which is the responsibility of the Executive of the authority. Such functions may be discharged by the Executive itself, by Committees of the Executive, individual Executive Members, Officers and some are delegated to Area Committees. Decisions taken by full Council, by Overview and Scrutiny Committees or by Council Committees (for example the Planning and Regulatory Functions Committee) are not executive decisions.

### **Interests**

9. Paragraph 8(1)(b) of the Code refers to a “relevant person” to a Councillor, which includes a member of their family and any person with whom they have a close association. These terms are not defined in the Code, but clarification is given in the Standards Board’s Guidance:

***A member of your family should be given a very wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.***

***A person with whom you have a close association is someone that you are in either***

***regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.***

*It is ultimately a matter for Members to decide whether a person is “relevant” and, in making that judgment, Members should consider how a reasonable member of the public, knowing the facts, would react to the Member’s participation in the business in question.*

10. *Paragraph 10(2) of the Code states that Members do not have a prejudicial interest in the examples set out in that section. This is now a blanket exemption. If in any doubt as to their position, Members should seek advice from the Monitoring Officer*
11. *Members are required by the Code to specify both the existence and nature of any personal interest they may have. This does not mean merely saying “I have a personal interest”, but, for example, saying “I have a personal interest in this matter as I am a Member of X Authority...”*
12. *It is open to each Committee to decide whether it wishes to add a standing item at the beginning of each agenda reminding Members of the need to declare the existence and nature of any personal and/or prejudicial interest at the commencement of consideration of the relevant item or when the interest becomes apparent (as required by the Code of Conduct). This is subject, of course, to the new provision whereby Members need not disclose their personal interests in other public bodies unless and until they address a meeting on that particular issue.*

### **Registration of Interests**

13. *Members should keep their entry in the Register of Members’ Interests under review and notify the Monitoring Officer of any changes in writing within 28 days.*
14. *Where the information relating to any interest is sensitive, with the Monitoring Officer’s agreement Members need not include that information when registering that interest or a change to it.*
15. *However, if that information no longer remains sensitive, then Members must notify the Monitoring Officer to that effect, requesting that the information be added to the Register, within 28 days of the change in circumstances. Further advice is contained in the Standards Board’s Guidance.*

### **Registration of Gifts and Hospitality**

16. *Members must register, in the Register of Members' Interests, a gift or hospitality received, where the estimated value is at least £25. If in doubt as to the value, Members are advised to register the gift or hospitality in accordance with openness and accountability principles.*
17. *Members are also advised to register sequential gifts which cumulatively reach a threshold of £25 per quarter (but which do not individually reach the threshold value of £25), in accordance with the Standards Board's Guidance.*
18. *There is no need to register gifts and/or hospitality offered but declined under the Code of Conduct. It is good practice to let the Monitoring Officer know about these gifts and hospitality though. The Standards Board has also clarified, in its Guidance, that:*

***You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.***

*The Code of Conduct must be read in conjunction with the statutory General Principles of Conduct and the supporting Guidance issued by the Standards Board.*

*Observance of the Code of Conduct is the responsibility of each individual Member. However, where Members are in doubt as to what action they should take, advice should be sought from the Standards Committee, or from appropriate senior officers of the Council including the Chief Executive Officer, the Monitoring Officer (i.e. The Assistant Chief Executive (Legal and Democratic Services)), or the Deputy Monitoring Officer (i.e. The Assistant Chief Executive (Legal and Democratic Services)).*



**PROTOCOL**  
**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 Authority. They will support and facilitate the work of the Standards 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 Authority and affirming that each fully subscribes to the Authority'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 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 Committee's meetings;
9. attending Standards Committee to discuss relevant issues (at least once per year);
10. promoting the work of the Standards Committee;
11. where appropriate, including the Chair of the Standards Committee in the Authority's wider corporate governance meetings and activities;
12. holding an annual meeting with the Chair of the Standards 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 Committee and Monitoring Officer in furtherance of the Authority's Codes of Conduct, the ethical framework generally and information/guidance provided by the Standards Board for England;
15. ensuring that support for the Authority's ethical agenda is adequately resourced;

**Individually:**

**Chief Executive Officer:**

16. recognising the importance of the ethical and wider corporate governance agenda in the Authority'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

*Under Section 82 of the Local Government Act 2000, the Secretary of State has power to issue a code of conduct for local government employees. That Code will be included here, when it is issued. Meanwhile, officers should observe NYCC's Code of Conduct for Officers.*

# A 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 Council's Constitution and any guidance issued by the Standards 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 subcommittees.
- (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 s/he has 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, s/he 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 s/he should Issue

report the facts to the Director/Chief Officer who heads the department concerned, or if, after doing so, is still dissatisfied, 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 s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her 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 Committee considering the complaint.

### 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 Chief Executive Officer, the Monitoring Officer and the Director of Financial Services - 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, Planning and Regulatory Functions Committee, Standards 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 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 a personal interest.
- (i) It would usually be inappropriate for a Member to have special responsibilities in an area of activity in which someone with whom s/he has 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 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 his/her 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 her or his 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 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 Chairman and Vice-Chairman. 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 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, Social Services Complaints Procedure, the Local Government Ombudsman, complaints to the Standards Board for England 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 now 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, Chairman 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).
- (h) There is a Protocol in relation to Working with Group Research & Communications Officers in Part 5 of the Constitution which supplements this Protocol.

## **7. Use of Council Resources**

- (a) The Code of Conduct states 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 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 County 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 County 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 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:
- (i) where there is a 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;
  - (ii) where the decision is made at a private meeting by an Executive Member or is a Key Decision delegated to an Officer, the document shall be available either after the meeting closes or when the decision is made;
  - (iii) there are exceptions for 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 his/her access to the document is reasonably necessary to enable the Member properly to perform his/her 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 s/he has 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 paragraph 4 of the Code of Conduct:

A Member must not:

- (i) disclose information given to him/her in confidence by anyone or information acquired which him/her believes he/she believes, or ought reasonably to be aware, except where:
  - (i.1.1) s/he has the consent of a person authorised to give it, or
  - (i.1.2) s/he is required by law to disclose it; or
  - (i.1.3) the disclosure is made to a third party for the purpose of obtaining professional advice and the third party agrees not to disclose the information to any other person; or
  - (i.1.4) the disclosure is reasonable and in the public interest and it is made in good faith and in compliance with the reasonable requirements of the Council. In this case, and if in doubt, it is advisable to seek the advice of the Monitoring Officer before making any disclosure to ensure it will fall within the exceptions.
- (ii) prevent another person from gaining access to information to which that person is entitled 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 Chairman 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 s/he thinks 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.

## **11. Involvement of Local County 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 County 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 County 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 she/he has not been treated properly, and in accordance with these Protocols by an Officer she/he 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 she/he fails 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 she/he has not been treated properly, and in accordance with these Protocols, by a Member and she/he feels 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 Chairman of the Standards Committee and the Chief Executive Officer.

# NORTH YORKSHIRE COUNTY 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 County 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 County 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:

- a) *Wherever possible all press releases, with the exception of urgent items, should form part of the Council's media plan and advance notice should be given to the Communications Unit.*
- b) *All County Council press releases, or related publicity material t will be processed (regardless of the subject matter) via the Communications Unit.*
- c) *Where describing the council's policies and aims, the author needs to 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.*
- d) *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*
- e) *A press release can contain a statement from a relevant officer, the Leader of the County Council, the Executive portfolio holder, or Overview and Scrutiny Committee Chairman, Chairmen of the Planning & Regulatory Functions Committee and the Standards Committee, Chairman of a properly constituted working party\*\* or Chairman of an Area 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 County Council, and the local Member should be contacted so see whether they wish their name and telephone number also to be provided and their wishes, once known, should be observed The nominated Corporate Director is responsible for making arrangements for the final approval of the press release.*
- f) *Contact details of Executive Members and their portfolio responsibilities and those relevant Scrutiny members and opposition party spokespersons will be maintained by the Communications Unit from information supplied by The Assistant Chief Executive (Legal and Democratic Services), and will be published on the County Council's website, and circulated to media contacts on a regular basis or on request.*
- g) *A press release quoting the Chairman of a Scrutiny Committee should be agreed by the Chairman and the Scrutiny Support Officer and, provided that it can be achieved without delay that would reduce the effectiveness of the press release, by the Vice-Chairman. The press release should seek to represent the County Council's arrangements for scrutiny in a positive light and as a constructive process of internal debate.*

- h) *The County 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 County 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.*
- i) *Other Members of the County Council cannot be quoted, either within press releases or related publicity material other than in exceptional circumstances and by prior agreement in the case of single electoral division issues or where they represent the County Council or an outside body or partnership. **They have the ability to issue their own materials (either individually or via their Group Research & Communications Officer if they wish).** If a Member wishes to issue a press release on any subject personally or via their own Group Research & Communications Officer, 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 County Councillors, unless there are exceptional circumstances, in any particular instance, why it would be to the benefit of the County Council for that Member to be referred to in any other role they might fulfil.*
- j) *The County **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 Chairman, or Vice-Chairman in his/her absence, who represents the Authority as a whole.*
- k) *It is normal practice to include within any press release a name and contact number so that any subsequent enquiries can be dealt with effectively. In doing so, it is essential that Directorates ensure the named contact will indeed be available on the day of the release being issued*
- 1) *County 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 County Council's website.*
- m) *Where the press release relates to an existing policy of the County Council, that policy should be clearly set out in the "Notes to Editors".*

*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 (HR & OD), 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 County Council services and produced by the County Council.

\*\* means as established in accordance with the Constitution.

# **PROTOCOL IN RELATION TO WORKING WITH GROUP RESEARCH & COMMUNICATIONS OFFICERS**

## **Background**

1. The Group Research & Communications Officers are Local Government Officers employed by the County Council.
2. The posts are politically restricted on the explicit advice of the LGMB.
3. The Group Research & Communications Officers are responsible to the Staff Officer to the Chief Executive for employment matters.
4. All work of the Group Research & Communications Officers comes direct from their political group, specifically the Group Leader who has day to day responsibility for their workload.
5. The Group Research & Communications Officer for the Conservative Group is employed full time. The Group Research & Communications Officer for the opposition are employed on a part-time (0.5 FTE) basis. The Group Research & Communications Officers are employed for different tasks by each of the Group eg administration, briefings, attending meetings etc.
6. The Group Research & Communications Officers are each based in the relevant Group Room. They operate on a stand alone basis ie they do not use administrative or typing pools. Any requests for additional resources should be referred to the Staff Officer to the Chief Executive. All costs associated with their work are coded to the Group Research & Communications Officer's budget which is set up within the members budget.

## **Protocol**

### **1. Access to Accommodation**

A Group Research & Communications Officer must not visit the Group Room of another Political Group except by explicit invitation.

### **2. Access to NYCC Council, Executive Committee, Other Committee and Sub-Committee Meetings and Agendas**

As an Officer of the Council, Group Research & Communications Officers have access to all public parts of the Agenda and all meetings. However discretion needs to be applied in relation to confidential and exempt information (see notes 3 and 4 below). Attendance by Group Research & Communications Officers at a particular meeting will usually have been decided/determined by the relevant Group Leader.

Group Research & Communications Officers will not attend officer briefing meetings for Group Spokespeople or Group Leaders.

## **Access to exempt information and private section of meetings**

### **3. Exempt Staffing Matters**

Group Research & Communications Officer s will not receive material or attend meetings on staffing matters concerning individuals.



4. Non-Staffing (exempt) Matters

Group Leaders have agreed for the purposes of this Protocol that Group Research & Communications Officers may attend meetings for the private section of the Agenda when non-staffing items are being considered.

Legally a Committee is entitled to ask any Council Officer to leave a meeting during the officers working time. However Group Leaders would not expect this to be an issue for Group Research & Communications Officers given the role they perform on their behalf.

If for any reasons Group Research & Communications Officers are likely to be excluded by the Committee it would be helpful if the Chairman could indicate (to the Staff Officer to the Chief Executive) 2 working days in advance of the meeting that this is likely to be the case.

Distribution of material would be on a similar basis.

Group Research & Communications Officers will have access to exempt material as a matter of course because copies of all agendas are placed in Group Rooms. Any request for additional material should be made in the first instance to the Staff Officer to the Chief Executive.

5. Access to Officers

Group Research & Communications Officers will have access to all officers of the County Council, subject to normal working arrangements, specifically pressure on diaries. In the case of Management Board members and Business Unit Heads, it will normally be necessary to make an appointment in advance.

6. Requests for Information

In relation to items 3, 4 and 5 above Group Research & Communications Officers should:-

- (a) Clearly state the reasons for any information requested;
- (b) Strictly observe the distinctions between confidential or exempt and open information.
- (c) Seek clear information from officers as to the status of the information given;
- (d) Specify whether the enquiry is made in confidence.

7. It is important that in operating this Protocol, all Officers operate to the highest professional standard. In this way, positive personal relationships will be built for the greater good of the County Council including its elected members and the electorate.

8. In the event of any tension or dispute, either the Group Research & Communications Officer or the Officer concerned should refer the matter in the first instance to the Staff Officer to the Chief Executive. The matter will initially be investigated by the Staff Officer and thereafter discussion with the relevant Group Leader may take place.

**Other Provisions**

9. In accordance with Rule 10.3 of the Access to Information Procedure Rules set out in the NYCC Constitution there is a requirement on all Officers not to disclose (ie to persons other than members and officers) confidential or exempt information.

10. Group Research & Communications Officers must observe any Code of Conduct for Council Officers that may be in force from time to time.
11. As with all Council Officers the Group Research & Communications Officers should operate in accordance with the North Yorkshire County Council Constitution of which this Protocol forms a part.



**NORTH YORKSHIRE COUNTY COUNCIL**

**GUIDANCE  
NOTE  
FOR COUNCILLORS  
AND OFFICERS  
ON OUTSIDE  
BODIES**



# Contents

## **1. General**

## **2. What sort of roles does this apply to**

Companies  
Charities  
Unincorporated Associations  
Statutory Corporations

## **3. Some other key points to consider at the outset**

## **4. Duties and Responsibilities of Councillors and Officers on Outside Bodies**

## **5. Companies**

Directors' Responsibilities  
Directors Liabilities  
Local Authority Controlled and Influenced Companies

## **6. Charities**

Charitable Trustees Responsibilities  
Charitable Trustees' Liabilities

## **7. Unincorporated Associations**

## **8. Non Council Appointments**

## **9. Indemnities**

## **10. Code of Conduct – Councillors' Interests**

Code of Conduct  
Bias

## **11. Officers - Registration and Disclosure of Outside Interests**

Declaring Officer Interests  
Registration of Interests

## **12. Gifts and Hospitality**

## **Appendix 1**

Matters for you to check – questions to ask

# 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 County 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 County 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 County 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 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 Police Authority, or 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. Additional 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 Police Authorities and Fire Authorities, 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 will have to be included as one of your interests in the Members' Register of Interests. You will have a personal interest in Council business referring to it, and sometimes a prejudicial interest where finances or regulatory matters are concerned. 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 County Council although you may take account of the County 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 he or she has, 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 he or she is 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 his/her 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 CC£ - 'The Essential Trustee- What you Need to Know' is a useful guide. 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 he/she:-

- acts outside the scope of the trust deed
- falls below the required standard of care
- acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
- makes 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 his/her 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 County 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. When Councillors act as representatives of the Council on another *authority*, they must comply with the other authority's Code of Conduct. However, when Councillors act as the Council's representative on any other sort of outside body, they must comply with the County Council's Code of Conduct unless it conflicts with the lawful obligations of the other body.
- 10.2 Councillors have to include their appointment to outside bodies in their register of interests, and advise the Monitoring Officer of any change to those interests within 28 days. Councillors will have a *personal interest* in any business of the Council that relates to or is likely to affect the outside body.
- 10.3 This means that if you are present at a meeting when an item of business arises which relates to or affects an outside body to which you have been appointed, you must declare that you have a personal interest, and the nature of that interest, before the matter is discussed or as soon as it becomes apparent to you.
- 10.4 An exemption applies where your interest arises solely from your membership of, or position of control or management on:
- any other body to which you were appointed or nominated by the authority
  - any other body exercising functions of a public nature (for example another local authority).

In these exceptional cases, provided that you do not have a prejudicial interest, you only need to declare your interest if and when you speak on the matter.

- 10.5 You will also have a *prejudicial interest* in Council business affecting the outside body if:
- the matter being considered affects the financial position of the outside body; or
  - relates to an approval, consent, licence, permission or registration affecting the outside body e.g. an application for planning permission.
- 10.6 If you have a prejudicial interest in a matter under discussion you must declare it. You must then leave the meeting room, unless members of the public are allowed to make representations, answer questions or give evidence about the matter. If that is the case, you can make your representations etc., but must leave the room immediately after doing so. The Code of Conduct supports your role as a community advocate and enables you, even with a prejudicial interest, to represent your community and speak on issues that are important to them and to you.

- 10.7 **Bias:** Where you might be inclined to the view that you have no prejudicial interest, 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.
- 10.8 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 County Council has entered or proposes to enter into any contract in which s/he has a pecuniary interest, whether or not s/he would actually be a party to the contract, s/he must give notice in writing to the County Council. This is interpreted as any circumstance in which s/he or a member of his/her immediate family stand to gain or lose financially as a result of the contract.
- 11.2 **Registration of Interests:** Under the County Council's Code of Conduct for Officers, officers must declare to their Business Unit Head any outside interests which they have, both upon appointment and as those interests change. Officers at Grade Band 12 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 County 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 by the Code of Conduct for Members to include in their register of interests any gift or hospitality received because of their office with a value of £25 or more. Every Business Unit holds a similar register of Gifts and Hospitality for Officers.
- 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 his office or employment, accept any fee or reward whatsoever other than his/her 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 s/he is to be seconded, that the Council agree that his/her proper remuneration shall include any payment to the officer by the body to which s/he is seconded.

## **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?

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# **PART 6**

## **Members' Allowances Scheme**

### **Introduction**

*The County 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 County 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 County 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 County 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 County 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 County Council Members' Allowances Scheme, and shall have effect from **1 April 2010**.

2. In this scheme

“councillor” means an elected member of the North Yorkshire County Council;

“year” means the 12 months ending with 31 March.

## Basic Allowance

3. Subject to paragraph 10, for each year a basic allowance of **£8,994** 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 10, 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 22 or over.  
  
(c) For care for others, the allowance will be the lower of actual expenditure and the charge for home care by NYCC Adult and Community 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

The rate for travel by member's own private vehicle will be:-

for a motor or tri car:-

Up to 8,500 miles per annum	48.5p per mile
Additional miles in excess of 8,500 per annum	25p per mile

If, during the year, the rates payable to officers is reviewed and exceed the rates shown above, then the scheme will be amended to pay the officer rates.

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) 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 for the officers, but with clarification of eligibility based on the time of day the meal is taken, and time away from home, as follows:-

(i)	Breakfast allowance (more than 4 hours away from normal place of residence, before 11 am)	Officer's rate
(ii)	Lunch allowance (more than 4 hours away from normal place of residence, including between 12 noon and 2 pm)	Officer's rate
(iii)	Tea (more than 4 hours away from normal place of residence, ending after 6:30 pm)	Officer's rate
(iiii)	Evening meal allowance (more than 4 hours away from the normal place of residence, ending after 7 pm)	£12.00

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.

- (b) In the case of an absence overnight from the usual place of residence, **£82.00**, this rate to cover a continuous period of absence of 24 hours. For an absence overnight in London or for the purpose of attendance at an annual conference (including or not including an annual meeting) of the Local Government Association or such other association of bodies as the Secretary of State may for the time being approve for the purpose, **£97.00**. 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 County Council Travel Contract will be used to arrange appropriate accommodation at the most cost effective rate.
- (c) 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.

## Meals on Trains

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.

The limitations on reimbursements are:

- (a) for Breakfast, an absence of more than 4 hours before 11 am;
- (b) for Lunch, an absence of more than 4 hours before 12 noon and 2 pm;
- (c) for Tea, an absence of more than 4 hours ending after 6:30 pm;
- (d) for Dinner, an absence of more than 4 hours ending after 7 pm.

### **General Provisions**

All claims shall only be payable if received within three months of the date of the entitlement arising.

## **7. Payments to Co-optees**

A “Co-optee” is defined as a person who is not an elected member of the County Council, but who has been appointed to serve on one or more of the County Council Committees.

### **Co-optees Allowance**

For each year a co-optees allowance will be paid to the Chairman and Independent Members of the Standards Committee in accordance with paragraph 2 of Schedule 1.

### **Travelling Allowance**

All Co-optees are entitled to claim travelling allowance in line with Section 6 in the same way as Members of the Council.

## **8. Pensions**

A councillor, subject to scheme eligibility criteria, may participate in the Local Government Pension Scheme if they wish. The councillor should give notice in writing to the Corporate Director – Finance and Central Services that they wish to participate. Pension contributions would then be payable on basic and special responsibility allowances that the councillor is entitled to and they would receive benefits in line with the regulations of the Local Government Pension Scheme for a councillor member.

## **9. Renunciation**

A councillor may by notice in writing given to the Corporate Director – Finance and Central Services elect to forego any part of his entitlement to an allowance under this scheme.

## **10. 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 – Finance and Central Services 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.

## **11. Withholding of Allowances for Members under Suspension**

- a) The Standards Committee shall have the ability to withhold any part of a Member's basic allowance, special responsibility allowance, co-optees allowance or travel and subsistence allowance payable for any period where, or in respect of duties from which, s/he is suspended or partially suspended under Part III of the Local Government Act 2000;
- b) The Standards Committee shall have the ability to require repayment of any allowance (or part thereof) already paid in respect of any period during which the Member concerned is suspended or partially suspended under Part III, ceases to be a Member of the authority or is in any other way not entitled to receive the allowance in respect of that period; and
- c) That the withholding of the specified allowances or the requirement to repay any allowance in the circumstances set out above should continue during any period of appeal by the Member concerned under Part III of the Local Government Act 2000 and associated legislation. In the event of any appeal being successful in removing the suspension or partial suspension, then any withheld or repaid amount may be reimbursed to the Member where appropriate.

## **12. 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.

## **13. 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 Committee.
- (b) Individual councillors' attendance will be published annually.

## SCHEDULE 1

1. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

Post	<i>Allowance Per annum per Member</i>
	£
Chairman of the County Council	9,264
Vice Chairman of the County Council	3,088
Leader of the County Council	24,704
Deputy Leader of the Council	15,440
Other Executive Members (7):	13,896
Chairman of Health Overview and Scrutiny Committee	9,264
Chairmen of Overview and Scrutiny Committees (8):	4,632
Vice-Chairmen of Overview and Scrutiny Committees (9):	1,544
Chairmen of Area Committees (7):	3,088
Chairman of Planning and Regulatory Functions Committee	3,088
Chairman of the Appeals Committee	3,088
Chairman of the Employment Appeals Committee	1,544
Chairman of Pensions Committee	4,632
Chairman of Scrutiny Board	1,544
Chairman of Audit Committee	3,088
Champions (2)	4,632
Leaders of Political Groups:	
Where group is second party in terms of group membership	4,632
Other parties, where group has over 10% of all Members	2,316
Secretaries of Political Groups	
Where group is first party in terms of group membership	2,316
Where group is second party in terms of group membership	1,544
Other parties, where group has over 10% of all Members	772

**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:

Chairman of the Standards Committee	3,088
Independent Members of the Standards Committee (3)	772

## NOTE

### APPROVED DUTIES - ELIGIBILITY FOR TRAVEL AND SUBSISTENCE ALLOWANCES

*All Members of the County Council are entitled to receive payment of travelling and subsistence allowances in respect of expenditure on travelling and subsistence necessarily incurred by them for the purpose of enabling them to perform an **Approved Duty**.*

*Certain duties, such as attendance at meetings of the County Council or any of its Committees, are specifically approved by Regulations made under the Local Government Act 1972. At its meeting on 19 July 2000 the County Council gave the Chief Executive authority to designate approved duties for these purposes.*

*Attendance at any of the following meetings is now specified as an **Approved Duty** for the purpose of the payment of travelling and subsistence allowances by the County Council:*

- (a) All meetings of the County Council, the Executive, and any Committees of the Council or of the Executive, and any Sub-Committees, Panels or Working Parties they may establish.*
- (b) Visits by Executive Members, Chairmen and Vice-Chairmen of Overview and Scrutiny Committees on County Council business associated with those roles.*
- (c) All meetings of the Scrutiny Review Teams, and of Business Units' Special Interest Groups of Members.*
- (d) Attendance of Members at training courses and seminars approved by the Chief Executive.*
- (e) Any meeting of the LGA and/or CCN where the Member is attending as an authorised representative of NYCC.*
- (f) Attendance as an authorised representative of the County Council at meetings of specified outside bodies listed in Sections 1 and 2 of Schedule 5 of Part 3 to the Constitution.*
- (g) Attendance at Parish Council Meetings in connection with the work of the County Council.*

*The allowances are set by the County Council each year.*

*Payments of travel and subsistence allowances will be made on the last working day of each month. Claims should be submitted as soon as possible after the end of the month and Members should aim to submit their claim by no later than the 10<sup>th</sup> of the month to ensure payment at the end of that month.*

*It should be noted that:*

- (i) Travel/subsistence allowances are not payable to Members of the County Council for the following purposes:*
  - Acting as Governors of primary or secondary schools*
  - Constituency business*
  - Social functions*
- (ii) The Police, Fire and National Park Authorities make their own arrangements in relation to the payment of travel and subsistence allowances. Members appointed to these bodies should therefore make all claims relating to the meetings thereof directly to those bodies.*



# **PROTOCOL**

## **ON**

### **MEMBERS ATTENDANCE AT CONFERENCES**

1. Attendance at certain conferences e.g. the LGA Annual Conference and CCN Annual Conference will be restricted to the representatives appointed at the annual Council meeting. If the appointed representative is unable to attend they may appoint an alternative member to attend in their place.
2. All arrangements for attendance at conferences should be made through the Staff Officer to the Chief Executive Officer.
3. The budget costs for attendance at conferences will from the financial year 2002/03 be met from the members central budget (there will be an associated deduction in Directorate budget) from 2002/03 onwards.
4. Travelling and subsistence allowance will be in accordance with the County Council procedure. Generally the County 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 transport costs associated versus accommodation costs.
5. Attendance at conferences is open to all members of the Council who if they see information on a conference they would wish to attend should contact the Staff Officer to the Chief Executive Officer 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).
6. Attendance at party political and political conferences are specifically excluded from this protocol. All expenses associated with attendance at these events will be met by the relevant group or the individual concerned.
7. The following conferences have been approved by the Executive for the attendance detailed below and further authorisation from the Staff Officer to the Chief Executive Officer is not required although obviously she will need to be informed of arrangements made.
  - North of England Education Conference – Executive Members\* plus Scrutiny Chair and Vice-Chairs.
  - Council of Local Education Authorities – Executive Members plus Scrutiny Chair and Vice-Chairs.

All references to Executive Members in paragraph 7 mean the Executive Member(s) with the relevant portfolio.

- Annual Education Conference of the LGA – Executive Members plus Scrutiny Chairs and Vice-Chairs.
  - Public Libraries Association Conference – Executive Member plus Scrutiny Chair and Vice-Chairs.
  - Social Services Annual Conference – Executive Members plus Scrutiny Chair and Vice-Chairs.
  - RTPI Conference – Executive Member and the Chairman of Planning and Regulatory Functions Committee.
  - Trading Standards Conference – Executive Member plus Scrutiny Chairs and Vice-Chairs.
  - CIPFA Conference – Leader and Deputy Leader.
  - LGA Annual Conference and General Assembly – appointed representatives from annual County Council meeting (or their appointed representatives).
  - Annual CCN Conference – County Council appointed representatives (or their appointed representatives).
  - Areas of Outstanding Natural Beauty Conference – attended by the Executive member.
  - National Transport Conference – Executive Members and Scrutiny Chairs and Vice-Chairs.
8. Attendance by Officers at Conferences will be a matter for the relevant Directorate both in arrangement and funding terms.
9. In the case of conferences associated with training events these will be considered in conjunction with the County Council's programme of training events for Members which is currently (December 2001) being devised.
10. At any time it is open to an individual member to attend a conference on their own initiative provided they meet all travel, subsistence and attendance costs including registration fees themselves and do not look to the County Council for reimbursement when that attendance has not been authorised.

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# PART 7

## Management Structure

The following is the description of the overall structure of the Council referred to in Article 12.01(e).

### 7. Role of Management Board

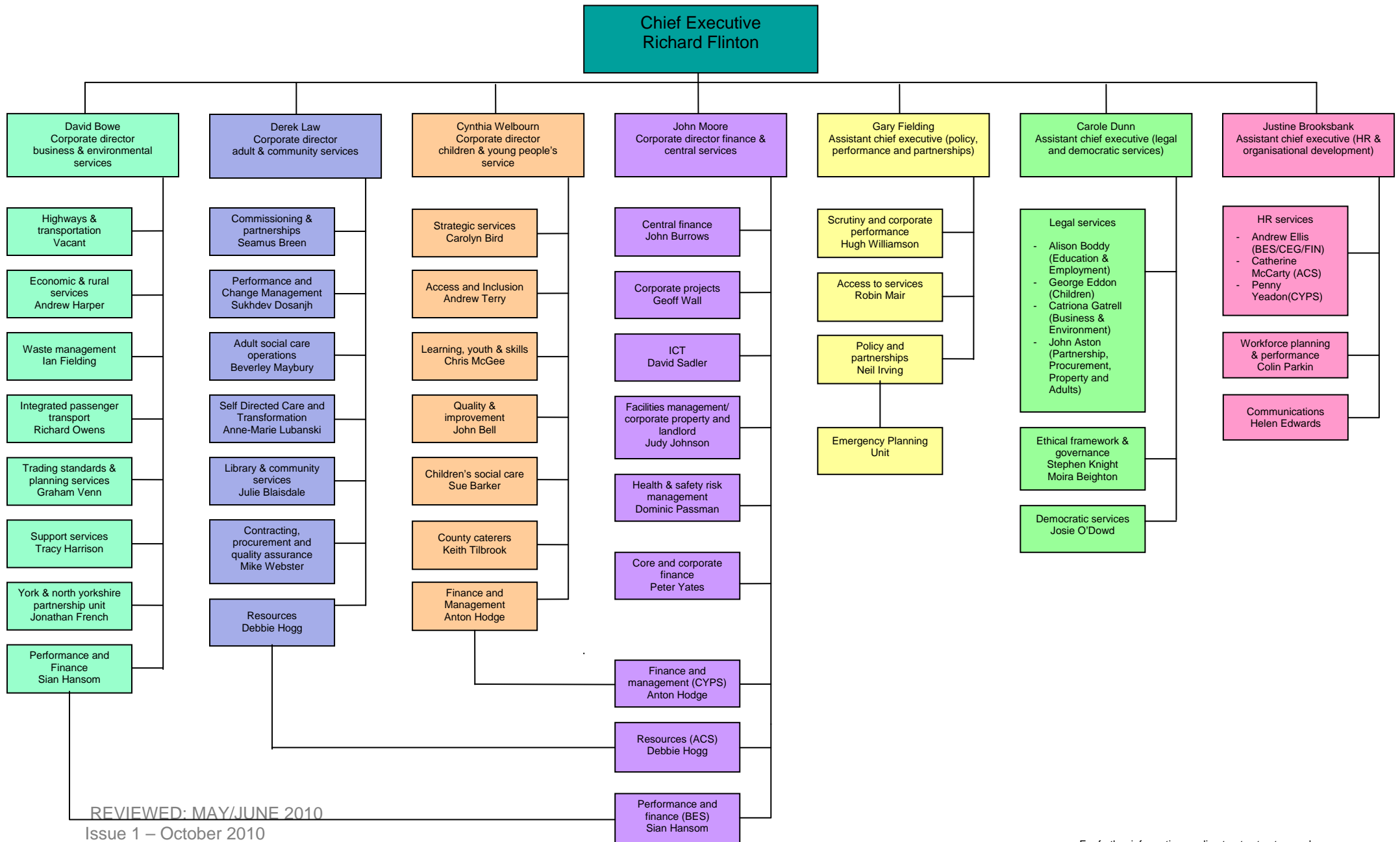
7.1 The Management Board brings together the Corporate Directors of the County Council, under the Chairmanship of the Chief Executive Officer.

- Chief Executive of North Yorkshire County Council
- Assistant Chief Executive      Policy, Performance and Partnerships
- Assistant Chief Executive      Legal and Democratic Services
- Assistant Chief Executive      HR and Organisational Development
- Corporate Director              Business and Environmental Services
- Corporate Director              Adult and Community Services
- Corporate Director              Children and Young People's Services
- Corporate Director              Finance and Central Services

7.2 Its role is to:

- provide leadership for and management of the County Council's paid staff;
- ensure that the policies and Executive decisions of the County Council are implemented;
- make sure that policies and decisions are consistent with each other and with the corporate priorities of the County 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 County Council's budget and policy framework;
- encourage active collaboration between Directorates and resolve disputes between them.

North Yorkshire County Council  
Structure 2010



REVIEWED: MAY/JUNE 2010

Issue 1 – October 2010

