



# **York and North Yorkshire Combined Authority**

## **Brownfield Housing Fund - Subsidy Scheme**

This Subsidy Scheme has been made by York and North Yorkshire Combined Authority under the Subsidy Control Act 2022. It may be used to award subsidies, at the sole discretion of YNYCA, provided the relevant terms and conditions are met.

# York and North Yorkshire Combined Authority

## Brownfield Housing Fund - Subsidy Scheme

### Part A: Common Provisions

1. York and North Yorkshire Combined Authority ("YNYCA") makes the following subsidy scheme (the "Scheme") in compliance with the [Subsidy Control Act 2022](#) (the "Act") having due regard to, inter alia, Section 10(1) of the Act and the Subsidy Control Principles set out at Schedule I of the Act and relevant [Statutory Guidance](#) ("SG").
2. The Scheme is made by Rachel Antonelli, Head of Legal and Interim Deputy Monitoring Officer on behalf of York and North Yorkshire Combined Authority on 29 July 2024.
3. The purpose of the scheme is to allow the YNYCA to award subsidies (using its own funds and funds from other public authorities) towards the capital costs incurred in developing brownfield sites<sup>1</sup>, including (but not limited to) costs relating to site remediation, clearance, property acquisition, installing utilities, installing substations and other energy infrastructure in order to create:
  - i new housing units; and
  - ii additional social / affordable housing unitswithin York and North Yorkshire.
4. The Scheme is effective from 28 February 2024 until 1 July 2025 and shall apply to subsidies which are legally committed on or between these dates (the "Term") in line with the relevant terms and conditions.
5. A subsidy shall only be regarded as having been made under the Scheme where it can be demonstrated that the award:
  - a is conferred by YNYCA, either using its funds or the funds of another public authority ("Relevant Funds");
  - b fulfils each of the terms set out in the Common Provisions; and

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<sup>1</sup>The fund will contribute towards "addressing the market's failure to build housing and mixed-use developments on challenging brownfield sites that demonstrate existing negative externalities, difficult land assembly, imperfect information and other market barriers which prevent the private sector taking them on alone. The funding supports the Government's ambition to prioritise development on brownfield land, particularly for the regeneration of our cities and towns, alongside increasing housing supply and wider growth as part of the Levelling Up agenda and to help create a more sustainable and affordable housing market."

c fulfils all of the terms of one or more of the Specific Provisions.

6. The Scheme may be used to make awards of subsidy to:

- a any public body including any subsidiary company or division thereof; and
- b any developer or other organisation

which is engaged in or plans to engage in the development of a brownfield site in York and North Yorkshire. A list of the projects which are expected to be funded under this scheme can be found on the [YNYCA website](#).

7. Subsidies may be awarded in the form of grants or any other in-kind support (such as training or consultancy support) which YNYCA regards to be appropriate. Where in-kind support is provided, the value of the subsidy shall be determined, in advance, in line with the [Subsidy Control \(Gross Cash Amount and Gross Cash Equivalent\) Regulations 2022](#).

8. The budget of the Scheme shall be £12.5m over the Term. No individual subsidy made under the scheme shall exceed £8m to any eligible recipient during the term.

9. The legal basis for awards made by YNYCA under this Scheme shall be Section 1 of the Localism Act 2011 and the York and North Yorkshire Combined Authority Order 2023. YNYCA reserves the right to make awards under any other legal power available to it.

10. The Scheme shall not be used to award a subsidy which:

- a is subject to EU State aid law, either because it falls within [Article 10 of the Northern Ireland Protocol](#) (as amended by the Windsor Framework) or [Article 138 of the Withdrawal Agreement 2019](#);
- b would relieve the beneficiary from any liabilities arising from its responsibilities as a polluter under the law of England and Wales, Scotland or Northern Ireland; or
- c would, but for Section 30(1) of the Act, be subject to any of the prohibitions or any other requirement contained in Sections 15 to 29 of the Act.

11. YNYCA shall be responsible for ensuring that all transparency obligations are fulfilled with respect to each subsidy awarded under the Scheme. This shall include, where relevant, posting the required information on to the [Subsidy Database](#) in line with Chapter 3 of Part 2 of the Act within not more than 3 months of awarding the subsidy.

12. YNYCA shall have the right to take all reasonable steps to monitor and check the compliance of any award made under this Scheme, including to ascertain that the subsidy is being used

for the purpose it was given and reserves the right to recover the subsidy in the event of misuse<sup>2</sup>.

13. Any third party receiving subsidy under the Scheme is responsible for making its own independent assessment of compliance with the requirements of the conditions of the Scheme and the Act. YNYCA shall not be liable if a measure does not meet the terms of the Scheme.
14. The Scheme does not give cover to a subsidy which would be classed as a "Subsidy of Particular Interest" under the Subsidy Control (Subsidies and Schemes of Interest or Particular Interest) Regulations 2022.

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<sup>2</sup> Section 77 of the Act

## Part B: Specific Provisions

### Specific Provision 1: Delivering residential development on brownfield sites

1. A subsidy may only be given under this Specific Provision where YNYCA has sufficient grounds to determine that the subsidy:
  - a. will be spent upon eligible defrayed costs which contribute to the development of one or more brownfield site(s) in York or North Yorkshire during the Term;
  - b. which contributes to new residential units;
  - c. will directly contribute to achieving the public policy objectives; and
  - d. is in line with the purpose of the scheme;
2. The value of the subsidy shall be limited to a viability gap calculated in advance of the award being paid. Any sum outside such a viability gap shall be awarded as a loan.
3. Where goods, works or services are obtained from third parties to deliver the works, appropriate steps shall be taken to demonstrate the remuneration is at or below market rate, including, where appropriate, undertaking an open and transparent procurement process.
4. Any grant which has not been spent by the end of the Term shall be repayable to YNYCA to the extent it has not been fully spent as at that date.

## Specific Provision 2: Delivering affordable / social housing on brownfield sites

1. A subsidy may only be given under this Specific Provision where YNYCA has sufficient grounds to determine that the subsidy:
  - a. will be spent upon eligible defrayed costs which contribute to development of one or more brownfield site(s) in York or North Yorkshire during the Term;
  - b. which contributes to new affordable / social housing units;
  - c. will directly contribute to achieving the public policy objectives; and
  - d. is in line with the purpose of the scheme;
2. A subsidy awarded shall only be made under this scheme where the beneficiary has submitted, prior to the award being made, all relevant information in respect of other services of public economic interest funding to the same project.
3. A subsidy awarded under this scheme shall be defined in writing in relation to all of the information referred to in Article 29(5) of the Act.
4. The value of the subsidy under this scheme shall be limited to what is considered necessary to deliver the relevant services of public economic interest having regard to the costs of delivering those services plus a reasonable profit.
5. A subsidy awarded under this scheme shall include monitoring provisions which include the ability for the awarding authority to recover subsidy shown to have been given in excess of what was needed to deliver the services of general economic interest plus a reasonable profit. The relevant monitoring mechanism will include a duty to carry out such an assessment at least once every three years of operation of the services of public economic interest and at the end of the delivery period for those services.
6. Where goods, works or services are obtained from third parties to deliver the works, appropriate steps shall be taken to demonstrate the remuneration is at or below market rate, including, where appropriate, undertaking an open and transparent procurement process.
7. Any grant which has not been spent by the end of the Term shall be repayable to YNYCA to the extent it has not been fully spent as at that date.