

**FOR INFORMATION IN RELATION TO THE AGENDA OF
THE ANNUAL COUNCIL MEETING**

CBC9A

Contact Officer: Richard Farnhill Tel. 01484 221713

**KIRKLEES METROPOLITAN COUNCIL
COUNCIL BUSINESS COMMITTEE MEETING**

Monday 14 May 2007

Present: Councillor Bryce in the Chair
Councillors Denham, Harkin, Marchington, K Pinnock, Simpson, Sims, C
Smith, K Smith

Observer: Councillor J Calvert

139 Membership of the Committee

Councillor Denham attended in place of Councillor Smithson and C Smith
attended in place of Conservative Group vacancy

140 Minutes of previous meeting

The Minutes of the meeting held on 8 March 2007 were agreed as a
correct record.

141 Interests

No interests were declared at the meeting.

142 Admission of the Public

The Committee considered the question of the admission of the public.

It was noted that there were 2 additional items to be considered at the
meeting relating to the recommendations of the Members Allowances
Independent of the Review Panel and to recommendations of Cabinet
relating to a response to a request for compensation.

It was agreed that all items be considered in public session and the report
regarding response to the request for compensation be taken in private
session.

143 Deputations/Petitions

No deputations or petitions were received at the meeting.

144 Public Question Time

No questions were asked at the meeting.

145 Amendments to the Structure of the Standards Committee - Progress Report

**ITEM
6(a)
REFERS**

The Committee considered a report on the progress on proposed changes approved by the Council Business Committee regarding the Standards Committee and setting out recommendations being made to the Annual Council Meeting relating to the constitution of the Standards Committee in the 2007/2008 Municipal Year.

The report advised that since the meeting of the Committee on 4 January the process of selecting individuals to be recommended to the Council as external Members and Chair of the Standards Committee has been completed. It was noted that the selection process had involved the Panel of Councillors comprising Councillor Molly Walton, the Chair of the Overview Scrutiny Management Committee together with Councillor R Iredale, Palfreeman and Stewart Turner. After interviews and discussions the Panel decided to recommend to the Annual Council meeting that the following appointments be made:-

- * Chair - Mr Philip Marshall of Thongsbridge
- * External Members

Mr Jeff Jacklin of Beaumont Park and Mr Derek Binns, Cleckheaton

The report also sought authority for the Solicitor to Council to consult those 3 individuals indicated above to determine, which appointment should be on the basis of a 4 year initial term or, failing that, a 2 year initial term.

The report also set out recommendations with regard to a payment of an allowance to Co-opted Members serving on the Standards Committee, on which it was noted that this would be picked up during consideration of the recommendations of the Independent Members Allowances Panel to be considered at the Annual Council Meeting.

RESOLVED -

(1) That it be recommended to Annual Council that:-

- (i) Messrs, Marshall, Binns and Jacklin be appointed as external Members of the Standards Committee with Mr Marshall being appointed to the role of Chair.
- (ii) That the Solicitor to the Council be authorised to consult those 3 individuals and determine, in light of that, which appointments should be on the basis of a 4 year initial term, or failing that, a 2 year initial term.
- (iii) That the recommendation of the Members Allowance's Independent Review Panel with regard to the Co-opted Members Allowance for the Chair of the Standards Committee be noted and that the Annual Meeting be recommended to give consideration to this issue as part

of consideration of the overall recommendation of the Members Allowance Independent Review Panel.

146 Review of the Council's Constitution

ITEM The Committee considered a report which set out issues requiring consideration at annual meeting on which amendments would be needed to the Council's Constitution. The paper attached to the considered report
6(b) set out issues which had been highlighted through either practical
REFERS problems, comments by Members or Officers, legislative change since the last Annual Council Meeting or decisions of this Committee at previous meeting. The Committee were asked to decide whether it wished to make recommendations to Annual Council Meeting on the proposed amendments to the relevant part of the Constitution. The report set out recommendations relating to:-

- * Overview and Scrutiny
- * Standards Committee
- * Responsibilities of Individual Officers
- * The position of Monitoring Officer and the Head of Policy and Governance
- * Licensing and Safety Committee Panels
- * The time of start of Council meeting
- * Training for quasi judicial Sub-Committees and Panels
- * Corporate Parenting Panel
- * Delegation to Officers
- * Public speaking at Budget Meetings
- * Membership of Planning Sub-Committees
- * Council Business Committee
- * Scrutiny Panel Progress Reports

RESOLVED - That recommendations contained within the report of the Solicitor of the Council be endorsed and that necessary changes to the constitution be recommended to the Annual Council Meeting subject to the following:-

- * Annual Council be recommended to approve the establishment of an additional Overview and Scrutiny Panel to give consideration to Health related issues.

- * That the arrangements in the 2006/07 Municipal Year be maintained with regard to the establishment of both Licensing Panel and a Regulatory Panel.
- * That recommendations as contained at paragraph 1.8 relating to the need for training for Members of quasi judicial Sub-Committees and Panels be endorsed subject to it being made clear that the requirement for training for such Panels should also extend to the Substitutes Panel.
- * That, in respect of paragraph 2.2 relating to Planning Sub-Committees the Annual Meeting be recommended to constitute Planning Sub-Committees on the basis of 15 Members per Sub-Committee.
- * That it be recommended that the status quo be maintained with regard to public speaking at the Budget Council meeting and that clarification be provided within the constitution on this point.
- * In relation to paragraph 2.3 it be recommended that the Council Business Committee be reconstituted as at present, through that an alternative means of giving prior consideration to Agenda items for Council meetings be trialed in the 2007/08 municipal year.

147 Proposed Revisions to Contract Procedure Rules (CPRs and Financial Procedure Rules (FPRs) 2007/08

**ITEM
6(c)
REFERS**

Council Business Committee considered a report making recommendations on a number of changes to the Council's Contract Procedure Rules to put in place changes to European Procurement Regulations, and to reflect the e-procurement systems implemented during 2006. It was noted that the European Union had determined that in order to increase competition across Europe a greater proportion of public contract should be subject to some form of advertisement. It was considered to be necessary to advertise contracts at a threshold set by the European Community, as described within the considered report. The report indicated that the requirement to advertise contracts could be fulfilled by notification on the Council's Procurement Web Site.

The considered report also set out a number of other minor amendments which were detailed in a schedule attached to the report.

It was noted that there were no proposed changes to the Procedure Rules to be considered at the Annual meeting.

RESOLVED - That the Annual Council be recommended to make changes to Contract Procedure Rules as described in the considered report.

148 Report of the Kirklees Metropolitan Council - Members Allowances Independent Review Panel

ITEM Council Business Committee gave consideration to recommendations contained in a report of the Kirklees Metropolitan Council Members' Allowances Independent Review Panel made at that their meeting on 30
6(d)
REFERS March 2007. The Committee were asked to make recommendations to the annual meeting of the Council with regard to the recommendations contained within the report of the Independent Review Panel.

RESOLVED - That Annual Council be recommended to approve recommendations as contained within the Kirklees Metropolitan Council Members Allowance Independent Review Panel and to approve the new Scheme of Members Allowances resulting from the recommended changes.

149 Exclusion of the Public

RESOLVED - That acting under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act, as specifically stated in each of the undermentioned Minutes.

150 Response to a Request for Compensation

(Exempt information relating to the identity of an individual. The public interest in maintaining the exemption which would protect the rights of an individual under the Data Protection Act 1998, outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making).

Council Business Committee were asked to give consideration to a recommendation of Cabinet with regard to a payment of compensation in the sum of £250.00 to the individual highlighted within the considered report and to the delegation to the Chief Executive, and to any Director or Head of Service to make payment or a provision of an appropriate benefit in such circumstances up to the value in any one case of £250.00.

RESOLVED -

(1) That the decision of the Cabinet relating to the payment of £250.00 to the individual highlighted within the considered report be endorsed.

(2) That the delegation to the Chief Executive, any Director or Head of Service to agree payment or provision of an appropriate benefit in relation to complaints received by the Council up to the value of any one case of £250.00 be approved.

KIRKLEES METROPOLITAN COUNCIL

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| BOARD/FORUM/COMMITTEE: COUNCIL BUSINESS COMMITTEE |
| DATE: 14 MAY 2007 |
| TITLE: AMENDMENTS TO THE STRUCTURE OF THE STANDARDS COMMITTEE – PROGRESS REPORT |
| STATUS OF REPORT: PUBLIC |
| PURPOSE OF REPORT: To inform the Committee of progress on the proposed changes approved by this Committee and to put forward recommendations to be made to the annual council meeting. |
| KEY ISSUES: Since the meeting of this Committee on the 4 th January the process of selection of individuals to be recommended to the Council as external members and Chair of the Committee has been completed. Both the current external members, who have been on the committee for 4 years, indicated that they wished to stand down in May, so three new appointments were required, including the Chair. The roles were widely advertised in the area and eleven applications were received of whom six were interested in chairing the Committee. A panel of four councillors, chaired by Cllr Molly Walton, the Chair of the Overview and Scrutiny Management Committee together with Cllr Robert Iredale, Cllr Andrew Palfreeman and Cllr Julie Stewart-Turner, decided on a shortlist of six. Apart from the statutory criteria such as not being a member of any authority requiring a Standards Committee or an employee of any of the six councils concerned, the panel assessed applications against criteria including:- <ul style="list-style-type: none">• knowledge of the area of Kirklees, preferably gained from living or working within it;• experience or knowledge of local government or other public service;• active in the community or working with voluntary bodies or organisations within Kirklees;• experience of working with ethical standards or codes of conduct or sitting on tribunals or similar formal or informal bodies;• sound judgement, understanding and integrity; and• (specifically for the Chair) skills relating to leadership, chairing, organisation skills, team working and relationship building, communication, and assessing complex and contradictory information and weighing up evidence and making decisions. After interviews and discussions the panel decided to recommend to the annual council meeting the following appointments:- |

Chair – Mr Philip Marshall of Thongsbridge, who is currently the Chair of the Standards Committee of the West Yorkshire Fire and Rescue Authority.

External Members – Mr Jeff Jacklin of Beaumont Park and Mr Derek Binns of Cleckheaton.

Those appointments need to be confirmed by the annual council meeting, but in the meantime arrangements are being made for the three individuals to receive induction and initial information.

There remain two outstanding issues on this element of the new structure. First the proposal agreed by committee was that the normal arrangement would be that external members would be appointed with a view to their being on the committee for three years with the possibility for that being extended for another three years if they wished. However, it was agreed that a system of overlap would be best (as applies with the parish members) to avoid an arrangement whereby there would be a substantial risk that all three external members would retire together.

Since the committee has agreed that three years membership is valuable to ensure that members are able to develop knowledge and experience in the most helpful and constructive way, it is suggested that the arrangement should be that one of the three members should be invited to remain on the committee for four years, with a possible three year extension, but that if this proves to be not possible, the alternative of two years with a possible three year extension be adopted. Either way, subsequent appointments could then all be for three years. Of course, while this is an indication of a commitment and intention by both the council and the individual members, it does not remove the council's ability to reconsider membership of all committees at the annual meetings, nor the ability, of course, for individual members to resign from the committee at any time if they wish to do so.

Secondly, the council's Members' Allowances Independent Review Panel has considered the issue of an allowance for the new external Chair to replace the special responsibility allowance currently paid. The panel's full report will be completed and considered by the council on the 27th June, but, although Mr Marshall has made it clear that the allowance is not a particular issue for him it does seem reasonable for the annual council to consider and make a decision on that particular issue on the day that he is appointed. Set out below is an extract which will be incorporated in the Review Panel's full report.

“The Panel considered several reports considered previously by Standards Committee and Council Business Committee which reviewed the role and structure of the Standards Committee consequent upon a number of factors including forthcoming legislation which would require the appointment of an external chair. Council Business Committee had authorised the Solicitor to the Council to take all necessary steps to facilitate the process leading to implementation of the new proposals by the Annual Council Meeting in May 2007. The Panel were requested to determine a Co-optee's Allowance for the external Chair of the Standards Committee. The Panel considered the relevant section of the Local Authorities (Members Allowances)

(England) Regulations 2003 which made provision for the payment of the Co-optees Allowance together with the relevant role profile for the Chair of Standards Committee.”

“Recommendation:

That the Council approve a Co-optees Allowance of £2,454 for the external Chair of Standards Committee with effect from the date of appointment (the Annual Meeting of the Council scheduled for 23 May 2007).

(The Panel agreed to review this allowance at its next meeting scheduled for September 2007 when more information will be known as to the actual workload rather than anticipated workload)”

With regard to the changes over parish membership (increasing their terms of office from two to three years), confirmation has now been received from Denby Dale, Holme Valley and Meltham councils that they are happy with the proposals. Cllr Nottingham the current representative from Mirfield has agreed that he is happy to stay on the Committee for a further year, bringing his membership up to the three years intended. Cllr Weatherby, of Denby Dale, is not standing for re-election to the parish council this year, so Denby Dale PC will be, at its annual meeting, nominating a new representative to take up the remaining two years of that appointment.

RECOMMENDATION:

It is recommended that:-

- i. The recommendations of the panel of councillors that Messrs Marshall, Binns and Jacklin be appointed as external members of the Standards Committee with Mr Marshall being appointed to the role of Chair be passed to the annual council meeting with this committee’s support;
- ii. That the annual council meeting be recommended to agree that the Solicitor to the Council be authorised to consult those three individuals and determine, in the light of that, which appointment should be on the basis of a four year initial term or, failing that, a two year initial term;
- iii. That the recommendation of the Members Allowances Independent Review Panel with regard to a co-optees allowance for the Chair of the Standards Committee be passed to the annual council meeting with the support of this committee.

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BACKGROUND PAPERS

Notes of meetings of the panel of members selecting the external Standards Committee members.

KIRKLEES METROPOLITAN COUNCIL

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| BOARD/FORUM/COMMITTEE: COUNCIL BUSINESS COMMITTEE |
| DATE: 14 MAY 2007 |
| TITLE: REVIEW OF THE COUNCIL'S CONSTITUTION |
| STATUS OF REPORT: PUBLIC |
| AREA COMMITTEES/WARDS AFFECTED: ALL |
| WHY IS IT COMING HERE: To consider and refer to the council proposed amendments to the Constitution. |
| IS THIS NOTION/ACTION APPROVED BY THE CHAIR OF SCRUTINY: NO |
| KEY FACTS: The annual council meeting will, as usual, need to review the Constitution in the light of its operation in the current municipal year. This report deals with a number of issues and is intended to allow the committee to consider those and to decide whether to recommend the proposed changes to the annual council meeting. One or two issues, particularly relating to cabinet responsibilities and delegations are for cabinet decision rather than council, but are included in this report for information and completeness. The attached paper sets out issues which have arisen through either practical problems, comment by members or officers, legislative change since the last annual council meeting or decisions of this committee arising from some of the four going. The committee is asked to decide whether it wishes to recommend to the annual council meeting that the proposed amendments to the relevant parts of the constitution should be made. Where any decisions are a matter for the cabinet these will be dealt with by the brief cabinet meeting immediately after the annual council meeting. |
| RECOMMENDATION: It is recommended that the proposals be considered and those accepted be submitted to the annual meeting of the council with the recommendation that they be approved and adopted and that either the Solicitor to the Council or the Head of Legal Services be authorised to amend the Constitution appropriately and to make any necessary consequential amendments. |

CONSULTEES:

The Chief Executive, the Director of Corporate Development and the Head of Policy and Governance or their relevant staff have been consulted on these proposals and their comments reflected in the attached paper. Most of the proposals have also been considered at a meeting of leading members and again comments are incorporated. Various individual issues have also been discussed with or prepared by relevant officers and/or members (e.g. Overview and Scrutiny issues).

The Chief Executive has joined in this report for the purpose of presenting and making the recommendation regarding the designation of Monitoring Officer.

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BACKGROUND PAPERS

File of correspondence held by Solicitor to the Council

ISSUES / AMENDMENTS TO THE CONSTITUTION 2007

1. Recommended changes

1. **Overview and Scrutiny.** Attached at Annex 1 is a draft revision to Article 6 showing the proposed amendments and insertions which have been put together by the Scrutiny Office in consultation with relevant members, which slightly amend some of the standing panel titles and scope; add a new 6.2.4 reflecting an earlier decision of the Standards Committee; add provision for Community Call Panels to take on the process under the Community Call for Action; and at 6.5 (e) make provision for the work currently being done with the LPSBs.

Annex 2 similarly sets out the proposed amended Overview and Scrutiny Procedure Rules which reflect in particular the amendments to Article 6 relating to Community Call Panels and the LPSBs and provide the detail to support those and also some minor amendments, for instance, at 12.3 and 18.1 to improve efficiency of operation.

2. **Standards Committee.** Article 9 of the Constitution should be amended to take account of the revised arrangements for external and parish members and the appointment of an external Chair as previously agreed by CBC.

It is also proposed that there should be an indication that a meeting of either the committee or one of its sub-committees should have at least one Kirklees Council member present to be included in the quorum.

Provision needs to be included for the new external Chair of Standards Committee to report to the council meeting and to be able to respond to the comments and questions. In his absence, the committee should be able to nominate one of the Kirklees members to carry out that role.

Annex 3 to this paper includes the relevant proposed amendments to Article 9.2 and the new Article 9.5 for that purpose.

3. **Officers.** Article 12 shows the basic responsibilities of the members of the Executive Management Group and other posts reporting direct to the Chief Executive (designated chief officers for the purposes of the Constitution). Part 7 of the Constitution sets out a structure diagram of the management arrangements. These will need to be amended in due course to reflect structural changes approved by Cabinet and Personnel Committee and to be implemented later this year. Reference to the role of the Director of Public Health and her dual responsibility to the chief executives of both the council and the Kirklees Primary Care Trust also need to be included now. Article 12.1 b authorises the Chief Executive to amend the details of responsibilities of individual officers. It is proposed that any necessary amendments be incorporated in Article 12.1 b (Chief Officers) and in the structure diagram set out in Part 7.
4. **Monitoring Officer.** Article 12.1 c specifies that the Solicitor to the Council is designated the statutory Monitoring Officer. The Solicitor to the Council will be retiring on 8th July 2007 and the Chief Executive is recommending that this arrangement should be changed so that the designation in that article will,

from the 9th July, be the Head of Legal Services. As a consequence he is also recommending that the current Head of Legal Services, Susan Betteridge, who is currently the Deputy Monitoring Officer, should be appointed as the Council's Monitoring Officer from that date.

Also from that date, all references in the Constitution to the Solicitor to the Council should be replaced with references to the Head of Legal Services. There is already provision which covers the current circumstances with both posts in existence indicating that (apart from the role of Monitoring Officer) any reference to the Solicitor to the Council is interpreted as a reference to either of the two posts.

5. **Head of Policy and Governance.** Again following restructuring, all references in the Constitution to the Head of Democratic Support Service should be replaced by references to the Head of Policy and Governance.
6. **Licensing.** The terms of reference and delegations to the Licensing and Safety Committee need to take on the duties which it will now have under the Gambling Act 2005.

It is also proposed that the Licensing Panels, which currently carry out the licensing functions, particularly liquor licensing, under the Licensing Act 2003, and the Regulatory Panels which are responsible for all other licensing, including taxis, should be combined to a single Licensing and Regulatory Panel of three members selected from the full membership of the committee. Annex 4 sets out the proposed revised provisions with regard to that committee.

The approval of the council's gambling policy must be made by the full council, as is the case with the licensing policy and it is suggested that for clarity both of those policies be included in the policy framework in article 4 of the Constitution, those being all the policies which need to be approved by the full council. Reference should also be made in the appropriate part of that article to the power under section 166 of the Gambling Act 2005 which permits the licensing authority to resolve not to issue casino premises licenses. That decision is also by statute retained by the full council.

7. **Time of start of council meeting.** Council Procedure Rule 2(3) needs slight amendment to make it more clear and also to provide a little more flexibility to take account of possible variations in the arrangement. It is proposed that Article 2(3) should be amended to state "ordinary meetings of the Council will be held at 2 pm at the Town Hall, Huddersfield or at such other times and places which may be agreed in respect of particular meetings by the Mayor and the Leader of the Council or on the recommendation of the Council Business Committee.

"On those occasion where arrangements are made for members to meet to discuss policy, development or similar issues at informal sessions prior to other council business, then the start of the Council meeting may be similarly agreed to be brought forward to a suitable time, but in any event will be opened by the Mayor and then adjourned until an agreed time for the start of formal council business to allow the informal briefing to proceed."

8. **Training for quasi judicial sub-committees and panels.** It is clearly important that any councillor who is to take part in a hearing or other process leading to a quasi judicial decision should have been trained in that process. It is therefore proposed that in the introduction to part 3 of the Constitution (Responsibilities for Functions) there should be inserted a new paragraph 6, with the following paragraphs being renumbered accordingly:-

“6. Any person or body responsible for nominating, appointing or selecting members of any of the following:-

- i Appeals Panel
- ii Licensing Panel
- iii Planning Sub-Committee
- iv Standards Sub-Committees

should ensure that no-one is selected to be a member of such sub-committee or panel unless they have either received any relevant training already or will have received it before they are required to attend any meeting unless this is wholly impracticable in the particular circumstances”

9. **Corporate Parenting Panel.** Provision for this advisory committee which is being recommended to the Council by the Cabinet, should be included in part 3 of the Constitution under Council/Committee Functions. The Panel’s draft constitution, incorporating those elements to be set out in the Council’s Constitution, is attached at Annex 5.

10. **Delegations to Officers.** As usual there will be brought to the annual meeting a revised draft of officer delegations, taking into account all changes which have taken place over the last year.

2. **Proposals requiring discussion**

1. **Budget meeting.** After the budget meeting in February this year, the issue was raised as to whether deputations and/or public questions should be allowed back onto the agenda for the council budget meeting. The committee is asked to consider this issue. If either or both are allowed to be back on the agenda, the committee may wish to consider whether there should be any limit on numbers or time available.
If they are not to be put back on the agenda, Council Procedures Rules 9 and 11 which deal with deputations and public questions respectively should be amended to make that clear, since the current situation is referred to at present only under CPR 3 which deals with the budget meeting.
2. **Membership of Planning Sub-Committees.** Proposals have been raised that the number of members of each planning sub-committee should be reduced from 15 to 10 or possible 12. This has been discussed informally by the current Chairs and Vice Chairs of Planning Sub-Committees, who were in agreement with the proposal and also, informally, by all business managers who were also in agreement but decided to take the issue back to their groups. The principal advantage would be to avoid having to put people onto the sub-committees who don’t have a real interest in that particularly significant work (particularly bearing in mind the effect which it has on the ability to champion the particular groups of their constituents). It would also help to make the meetings more manageable and efficient and would make it

easier to ensure that there were non decision-making ward members to take up the causes and views of their constituents on one side or the other where appropriate.

The issue has not yet been finally resolved and the committee is asked to make a decision on the point.

3. **Council Business Committee.** Leading Members have agreed that the possibility of replacing the process whereby this committee formally considers events and agendas of past and forthcoming council meetings, by an informal discussion between relevant members should be explored. However, this committee has a substantial number of other functions, although not every meeting has other issues on the agenda. If it is to be replaced there needs to be a proper assessment of alternative ways of working on other corporate issues, including reviewing the constitution and various procedure rules and other elements of corporate governance. It is therefore suggested that at the moment, pending the opportunity to carry out such an assessment, Council Business Committee and Business Managers Sub-Committee remain as they are but officers agree with relevant members a process whereby the consideration of council business can be dealt with by an informal process so far as possible, while this committee will be timetabled in the diary but called only if there are other or connected items which need to be determined.
4. **Scrutiny Panel Progress Reports.** Overview and Scrutiny Management Committee at its last meeting considered that in order to increase the information available to councillors about the work of the standing scrutiny panels it would be valuable for the quarterly reports of Lead Members to be added to the minutes of the relevant Management Committee meeting, giving the Lead Members, if they wish, the opportunity to make a statement on their programmes.

If this is agreed, it could be accommodated by adding a further paragraph to the council Procedure Rules 12(i)(ii) [which deals with consideration of Cabinet and committee minutes] as follows:-

“Quarterly reports of Scrutiny Lead members may be added to the relevant minutes of Overview and Scrutiny Management Committee for consideration under this item”.

Item 6 (B) – Amended copies of Annex 1 & 2 to replace versions attached to Annual Meeting Agenda

ANNEX 1

ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION

6.1 Overview and Scrutiny Management Committee

- 6.1.1 The Council will appoint the Overview and Scrutiny Management Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act and any subsequent legislation conferring overview and scrutiny functions, including that relating to scrutiny of health service provision. The Management Committee will also co-ordinate, oversee and manage the performance of those functions carried out by overview and scrutiny panels

Membership

The Management Committee shall comprise the Chair of Overview and Scrutiny and five other elected Members. The Management Committee shall appoint the Chairs of the standing Overview and Scrutiny Panels listed below. Those Chairs shall not be members of any of the political groups represented on the Cabinet (unless this is impractical for any reason – e.g. following the appointment of a shared administration across all or most political groups). The Chair of the Management Committee shall not be the Lead Member of a Standing Panel.

Panels and Sub-Committees

- 6.1.3 The Overview and Scrutiny Management Committee will appoint a number of permanent and short-term panels to carry out the overview and scrutiny function. All scrutiny panels will constitute formal subcommittees of the Overview and Scrutiny Management Committee. The Management Committee will also appoint members to joint panels with neighbouring authorities where required to carry out scrutiny of cross boundary health issues.

6.2 Standing Scrutiny Panels

- 6.2.1 The Scrutiny Management Committee will appoint the standing scrutiny panels set out in the left hand column of the following table to discharge an overview and scrutiny function in relation to the matters set out in the right hand column of the same table.

| Panel | Scope |
|--|--|
| Regeneration (including Culture and Leisure) | All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), and activities of other |

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| | organisations relating to the Regeneration portfolio (including Culture and Leisure and Housing spatial policy) |
| Safer Stronger Communities (including Environment, Housing and Transportation) | As above in relation to the Safer Stronger Communities portfolio (including Environment, Housing Management and Transportation) |
| Adults and Healthier Communities (including Health) | As above in relation to the Adults and Healthier Communities portfolio (including Health) |
| Children and Young People | As above in relation to the Children and Young People portfolio |
| Corporate Affairs | As above in relation to Corporate Affairs |

Membership

6.2.2 The membership of each standing panel (with the exceptions set out below) will consist of the Panel Chair, 5 other elected Members, and co-opted members. Other elected members and members of the public will be encouraged to attend.

Exceptions:

The Children and Young People's Overview and Scrutiny Panel may also include one additional elected member, whose role will be to be a member of the Council's Adoption Panel, and shall include in its membership (if nominated by the relevant body) the following representatives with rights to vote on education matters:-

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 3 parent governor representatives.

6.2.3 The Chairs of the standing Overview and Scrutiny Panels will be known as Lead Members for the relevant functions.

6.2.4 The Chairs of the standing Overview and Scrutiny Panels shall not be members of the corresponding Local Public Service Board.

6.3 Ad-hoc Scrutiny Panels, Mini Ad Hocs and Joint Health Panels

6.3.1 The Overview and Scrutiny Management Committee will appoint task-orientated, time-limited ('ad-hoc') scrutiny panels to review in depth, investigate and report on a

particular topic related to the functions of the Council and issues affecting the community, with such terms of reference and duration as it considers appropriate to that topic. Overview and Scrutiny Panels may undertake “mini” Ad Hoc work as part of the delivery of their work programme (see note to para 2.3.1 (xi) of the Overview and Scrutiny Procedure Rules in part 4 of the Constitution for an explanation of “mini ad-hoc”).

Membership

- 6.3.2 The Overview and Scrutiny Management Committee will appoint the membership of each panel (both elected members and co-opted members). The number of members will be proportionate to the nature and requirements of the task, though no panel shall consist of less than two elected members. Any panel dealing with education matters must also include the church and parent governor representatives from the Children and Young People’s Overview and Scrutiny Panel.

Joint Health Panels

- 6.3.3 The Overview and Scrutiny Management Committee will appoint members to any Joint Health Scrutiny Panels which may be required with neighbouring authorities. Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

Community Call Panels

- 6.3.4 The Overview and Scrutiny Management Committee will appoint members to any Community Call Panel, established as a result of the Community Call for Action. Terms of reference and all connected matters will be agreed by the Overview and Scrutiny Management Committee.

6.4 Political Balance

- 6.4.1 The Overview & Scrutiny Management Committee may, subject to compliance with legal procedures, decide that the normal political balance requirements shall not apply to scrutiny panels. In that case the Management Committee may determine an alternative distribution of membership between political groups.

6.5 General Role of the Scrutiny Function

- a) Review or scrutinise decisions made or actions taken in connection with the discharge of the Council’s functions
- b) On behalf of the Council review or scrutinise all Cabinet /Cabinet Committees recommendations to the Council, including policy and budgetary proposals.

- c) Exercise the right to call-in and review decisions of the Cabinet /Cabinet Committees in line with the procedure for the 'call-in' of decisions set out in the Overview & Scrutiny Procedure Rules in Part 4 of this Constitution.
- d) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- e) Review or scrutinise decisions made or actions taken by the Local Strategic Partnership, specifically the performance of the Local Public Service Boards, in relation to the Local Area Agreement.
- f) Consider any matter affecting the area or its inhabitants.
- g) Consider how the services and resources of other organisations in the district impact on Kirklees residents and liaise with other external organisations operating in the District, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.
- h) Make reports or recommendations to the full Council, the Cabinet/Cabinet Committees or any joint or area committee on the outcomes of the scrutiny process and in connection with the discharge of any function.
- i) Assist the Council and the Cabinet/Cabinet Committees in the development of the budget and policy framework.
- j) Conduct research, involve the community and undertake other relevant consultation.
- k) Invite attendance by appropriate individuals (with the agreement of the Overview and Scrutiny Management Committee) to advise them (as an expert witness). Such individuals will have expertise in the area being scrutinised, e.g. they may be a service user or a professional or academic in the relevant discipline.
- l) Question Cabinet Members in relation to the overview and scrutiny of Cabinet/Cabinet Committee recommendations and the performance of Council services. (In the case of Cabinet/Cabinet Committee recommendations to Council, scrutiny will take place before the recommendations are considered by full Council). Cabinet Members and appropriate officers are required to be available to attend meetings of the relevant Overview and Scrutiny Management Committee/Panel if so requested.
- m) Question Council Officers in relation to the overview and scrutiny of service performance/delivery and the reports on which Cabinet/Cabinet Committee decisions are based. Such officers are required to attend meetings of the relevant Overview and Scrutiny Management Committee/Panel if so requested.
- n) Request attendance by the Council's section 41 representatives (joint authorities) in connection with the scrutiny of those bodies.

- o) Invite attendance by senior representatives of outside organisations and invite reports from them on their activities and performance, where necessary, in accordance with the Management Committee's/Panel's terms of reference.
- p) Question and gather evidence from any person (with their consent)
- q) Make recommendations to Cabinet/Cabinet Committee and/or Council on issues arising from the overview and scrutiny of Cabinet/Cabinet Committee decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.
- r) Identify issues for attention within the terms of reference of overview and scrutiny.

ANNEX 2

OVERVIEW AND SCRUTINY PROCEDURE RULES

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. The number and arrangements for Overview and Scrutiny Committee and Panels.

1.1 The Council will appoint the Overview and Scrutiny Management Committee to oversee the management, co-ordination and development of the overview and scrutiny function. The Committee will appoint Standing Panels, Ad-hoc Panels, Mini Ad-hocs, Community Call Panels, and members of Joint Health Scrutiny Committees as set out in Article 6 of the Constitution and will appoint to them as it considers appropriate from time to time. The Overview and Scrutiny Management Committee may appoint further sub-committees as may be required.

2. Terms of Reference & Functions of Committee & Panels

2.1 The Overview and Scrutiny Management Committee

2.1.1 The Overview and Scrutiny Management Committee will:

- (i) Have the power to exercise overall responsibility for the finances made available to it, and have the power to exercise overall responsibility for the work programme of the officers employed to support its work.
- (ii) Have overall responsibility for the management, co-ordination and development of the scrutiny function through which the decisions taken by the Cabinet and by committees and officers of the Council are scrutinised and the use of resources/provision of services are reviewed.
- (iii) Co-ordinate the work programmes of the Overview and Scrutiny Panels and monitor progress.
- (iv) Co-ordinate the activity of Overview and Scrutiny Panels in relation to best value reviews of issues and services within the terms of reference of more than one panel.
- (v) Have an overview of and contribution to the Council's approach to and contribution to
- (vi) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions of the Cabinet/Cabinet Committees as set out in the procedures in these Rules, particularly on issues that fall between the responsibilities of the separate panels.

- (vii) Agree arrangements for managing overview and scrutiny business (including the call-in of Cabinet/Cabinet Committee decisions) within the scope of more than one panel.
- (viii) Receive requests from members of the public/Councillors/officers of the council/ co-optees /other organisations for particular topics to be scrutinised and determine the appropriate action.
- (ix) Receive proposals from the overview and scrutiny panels for planned in-depth scrutiny review, investigation and report on issues relating to the Council's functions, and determine the appropriate action.
- (x) Appoint task-orientated, time-limited ('ad-hoc') overview and scrutiny panels to review in depth, investigate and report on a particular topic with such terms of reference and duration as it considers appropriate to that topic.
- (xi) Consider and formally agree the reports of all ah-hoc panels and Community Call Panels, and submit them to Cabinet and or relevant agencies for response and action,
- (xii) Consider and formally agree the reports of all ad-hoc panels and Community Call Panels, and submit them to the Council for consideration.
- (xiii) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, the Local Public Service Boards, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xiv) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xvi) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvii) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xviii) Monitor and review the effect of and consequence of the call-in of decisions of the Cabinet/Cabinet Committee.

- (xix) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xx) Co-ordinate the production of an annual report to Council at the end of each municipal year on the activity of the overview and scrutiny function.
- (xxi) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.
- (xxii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxiii) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function
- (xxiv) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.
- (xxv) Agree terms of reference and work plans of ad-hoc review panels and Community Call Panels, and monitor their progress.
- (xxvi) Advise ad-hoc review panels and Community Call Panels on the contents of reports.
- (xxvii) Undertake overview and scrutiny work, in its own right, as deemed appropriate.

2.2 Standing Overview and Scrutiny Panels

2.2.1 The Overview and Scrutiny panels will:

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated decisions of the Cabinet/Cabinet Committee and council services
- (ii) Scrutinise, advise and contribute to the Cabinet/Cabinet Committee and any relevant Council Committees in relation to issues arising from its work programme;
- (iii) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (iv) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions taken by or on behalf of the Cabinet /Cabinet Committee as set out in the procedures in the Overview & Scrutiny Rules.
- (v) Have an overview of the practice and policy of the relevant service areas;

(vi) Identify areas of service practice and implementation or of policy that cause concern to members of the public and councillors and report these to the Overview & Scrutiny Management Committee to determine what action should be taken;

(vii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;

(viii) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;

(ix) Promote the work of the panels, including through the local media.

(x) Develop focused programmes of work and identify the most appropriate means of progressing such work including task based approaches and “mini” Ad Hocs.

(xi) Scrutinise the work of the local strategic partnership and the Local Public Service Boards and the Council’s contribution to them Specifically the performance of the Local Public Service Boards in relation to the Local Area Agreement

(xii) To scrutinise the effectiveness of the Council’s representatives in regional/sub regional and national forums.

NOTE: The role of the Adults and Healthier Communities Overview and Scrutiny Panel will in addition include the specific responsibilities of the Council for the scrutiny of health matters.

2.3 Ad-hoc Overview & Scrutiny Panels

2.3.1 The Overview and Scrutiny Management Committee will appoint task-orientated, time-limited (‘ad-hoc’) scrutiny panels to review in depth, investigate and report on particular topics related to the functions of the Council, with such terms of reference and duration as it considers appropriate to the relevant topic.

NOTE: A “mini” Ad Hoc will be used to carry out short, sharp pieces of scrutiny work. These may be panel specific or cross cutting, but not large enough to warrant a full blown AD Hoc approach. Mini Ad Hocs looking at cross cutting / cross panel issues will be co-ordinated by the Management Committee,

2.4 Community Call Panel

- 2.4.1 The Overview and Scrutiny Management Committee will appoint time limited Community Call Panels to raise issues arising through Community Call for Action where the Committee considers it appropriate. Community Call Panels shall consist of non executive councillors from the affected locality and scrutiny voluntary co-optees (or statutory education co-optees if the issue includes education matters).

3. Membership of Overview and Scrutiny

- 3.1 Any Councillor, except a member of the Cabinet, may be a member of the Overview and Scrutiny Management Committee or its panels or ad hocs.
- 3.2 No member, however, may be involved in scrutinising a decision in which he/she has been directly involved. In addition, each member of an Overview and Scrutiny Management Committee/panel is required to consider whether s/he has a personal interest in an issue to be examined by that Committee/Panel and to declare any such interest. If s/he determines that the interest is prejudicial and financial in nature, s/he must not participate in the debate on the issue and must leave the room during that debate. These requirements are set out in detail in paragraphs 11 and 12 of the Council's Code of Conduct for members in Part 5 of the Constitution.
- 3.3 The membership of the Overview and Scrutiny Management Committee will reflect the political composition of the Council, unless the Council decides otherwise in accordance with the appropriate legal procedures.

4. Co-optees

- 4.1 The Overview and Scrutiny Management Committee will agree the appointment of non voting co-optees for each Overview and Scrutiny Panel/Ad Hoc/Community Call Panel.

5. Education representatives

- 5.1 The Children and Young People's Overview and Scrutiny Panel and any Ad Hoc Panel or Community Call Panel relating to education matters shall include in its membership the following voting representatives (if appointed by the relevant group):

- (a) 1 Church of England diocese representative ;
- (b) 1 Roman Catholic diocese representative ; and
- (c) 3 parent governor representatives.

- 5.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

6. Meetings of the Overview and Scrutiny Management Committee and Panels

- 6.1 The Overview and Scrutiny Management Committee and its Panels will meet as required to conduct the necessary business efficiently and effectively. There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year. The ad-hoc Panels will be time limited and will meet as required to fulfil the task allocated to them.
- 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Management Committee/Panel, by any 3 members of the body or by the Head of Democratic Support Services or the Scrutiny Office if he/she considers it necessary or appropriate.

7. Quorum

The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the Council Procedure Rules in Part 4 of this Constitution.

8. Chairs of Overview and Scrutiny Management Committee/Panels

- 8.1 The Council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a Standing Panel.
- 8.2 The Chair of Overview and Scrutiny will be from a different political group from that of the Leader of the Council.
- 8.3 The Chair of Overview and Scrutiny will chair the Overview and Scrutiny Management Committee.
- 8.4 The Overview and Scrutiny Management Committee will appoint the Lead Members of the Standing Panels who will chair those panels.
- 8.5 The Overview and Scrutiny Management Committee will appoint the Chairs of Ad-hoc Panels. These may be from the membership of the Overview and Scrutiny Management Committee/Standing Panels or other members of the Council with the necessary expertise.

9. Work programme

- 9.1 The Overview and Scrutiny Management Committee will be responsible for setting its own objectives and work programme and in doing so shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.
- 9.2 The Standing Panels (subject to the co-ordination and monitoring of the Overview and Scrutiny Management Committee) shall be responsible for setting their own work programme to overview and scrutinise the work of the Cabinet, Cabinet Committees, Local Public Service Boards, relevant Council Committees and services and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.
- 9.3 Ad-hoc Panels will be set up with specified terms of reference to scrutinise and review in depth particular issues.

10. Agenda items

- 10.1 Agenda items for the Management Committee and Panels shall be set by members identifying issues which they wish to consider, for example through reviewing the Cabinet's forward work programme of items for consideration or through their overview of service issues and performance, or through calling in particular decisions of the Cabinet/ Cabinet Committee.
- 10.2 Any member of the Overview and Scrutiny Management Committee or panels (including the statutory education representatives) shall be entitled to give notice to the Scrutiny Office that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Scrutiny Office will ensure that it is included on the next available agenda. The Committee/Panel shall then determine whether it wishes to pursue the item suggested by the member and, if appropriate, whether it should be referred to the Overview & Scrutiny Management Committee.
- 10.3 The Council is keen to encourage members of the public, community and voluntary groups, other agencies, all Councillors, and officers of the Council to suggest issues to be considered by Overview and Scrutiny. All such referrals will usually be considered by the Management Committee who will determine the appropriate action to take.
- 10.4 The Management Committee and Panels shall also respond, as soon as their work programme permits, to requests from the Council and if it

considers it appropriate, the Cabinet/Cabinet Committee, to review particular areas of Council activity.

- 10.5 Area Committees shall have the right to draw matters to the attention of the Management Committee and panels.

11. Policy review and development

- 11.1 The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, Local Public Service Boards and Council and hence to ensure that these views are taken into account in policy development.

- 11.2 The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the budget and policy framework, recommendation to Council.

- 11.3 The minimum role of Overview and Scrutiny in relation to the development of the Council's budget and policy framework is set out in Rule 2 of the Budget and Policy Framework Procedure Rules and in Rule 11.2 above.

- 11.4 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 may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- 11.5 If there are concerns about the implementation or subsequent outcomes of an agreed policy the Overview and Scrutiny Management Committee may commission standing panels or appoint ad-hoc panels to hold enquiries and investigate the available options to recommend changes/improvements to the policy to make it more effective.

12. Reports from Overview and Scrutiny Management Committee

- 12.1 Once an Ad Hoc Panel (or in some instances a Standing Panel) has formed recommendations on proposals for development, a report will be prepared for informal consultation with the Overview and Scrutiny Management Committee.

- 12.2 Once the Overview and Scrutiny Management Committee's comments have been taken into account, the report shall be submitted by the Overview and Scrutiny Office who shall ensure that a draft report is considered informally by the relevant officers/Cabinet Member/Cabinet/Cabinet Committee/Local Public Service Board.

- 12.3 The Cabinet Member/Cabinet//Cabinet Committee/Local Public Service Board /officers shall comment on any issues or factual accuracy which recommendations that they accept and which they cannot accept. For each recommendation that is accepted they shall state when and how it will be implemented. For those that are not accepted the relevant reasons must be set out.
 - 12.4 Once those comments have been added, the Overview and Scrutiny Management Committee shall submit the report to Cabinet Member/Cabinet//Cabinet Committee/ Local Public Service Board/Council for information and debate, particularly on issues of difference.
 - 12.5 If any recommendations would require a departure from or a change to the agreed Budget and Policy Framework these must be considered by Council.
 - 12.6 If a significant minority of a Scrutiny Management Committee/Panel cannot agree on the final recommendations of the report to the Cabinet/Cabinet Committee/ Council as appropriate, then the report will indicate where the major differences lie. Minority reports will not be accepted.
 - 12.7 The Cabinet/Cabinet Committee and then Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.
- 13. Making sure that overview and scrutiny reports are considered by the Cabinet**
- 13.1 The reports of Overview and Scrutiny referred to the relevant Cabinet Member shall be given consideration as soon as practicable following the completion of the report/recommendations.
 - 13.2 If the Cabinet Member/Cabinet/Cabinet Committee does not consider the report and respond within one month the Overview and Scrutiny Management Committee will have the right to refer the report direct to Council without following the procedure set out in 11 above.
- 14. Rights of Overview and Scrutiny Management Committee & Panel members to documents**
- 14.1 In addition to their rights as councillors, members of Overview and Scrutiny Management Committee/Panels 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.
 - 14.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee and panels as appropriate depending on the particular matter under consideration. Indeed this liaison is encouraged to enable members of

scrutiny panels to develop an effective overview of services, developments, and issues for consideration.

- 14.3 All members of the Council will have access in accordance with the Access to information Procedure Rules to agendas, reports in support of decisions to be made and notices of decisions (to be posted within 2 working days) through the intranet.
- 14.4 Overview and Scrutiny Members will also be informed of key decisions made by Officers under the scheme of delegation.

15. Members and officers giving account

- 15.1 Overview and Scrutiny Management Committee or any Panel 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 Cabinet, the Head of Paid Service, senior officers, or other officers if necessary to attend before it to explain in relation to matters within their remit:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy; and/or
- c) their performance.

- 15.2 By virtue of the provisions of the Local Government Act 2000, the Overview and Scrutiny Management Committee/Panels can require officers and Cabinet Members to respond to their requests and attend their meetings, and (by virtue of the Act) it is the duty of those persons to attend if so required.
- 15.3 Requests for attendance of officers or the provision of information to Overview and Scrutiny shall generally be channelled through the Council's Directors/Heads of Service who will identify appropriate officers to respond to the requests. Services shall also identify contact officers for each Overview and Scrutiny Management Committee/Panel.
- 15.4 Such requests will be made in writing by or on behalf of the Chair of the relevant Management Committee/Panel and as much notice of the meeting as practicable will be given allowing for the need to gather information and/or prepare a report.

Where, in exceptional circumstances, a Cabinet Member or officer is unable to attend on the required date, then the Chair of the relevant Overview and Scrutiny Management Committee/Panel shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place as soon as practicable from the date of the original request.

16. Attendance by others

- 16.1 Once an issue has been agreed for consideration terms of reference shall be agreed which identify the aims and objectives of the review, the lines of enquiry to be pursued, how the review will be carried out, and who shall be invited to participate in the consideration of the issue.
- 16.2 The Overview and Scrutiny Management Committee/Panels shall be expected to seek to consult widely on the issues which they are considering and this would include inviting people other than those people referred to in section 14 above to discuss issues of concern and/or answer questions. This could include Area Committees and Parish/Town Councils where appropriate, other public, private and voluntary/community organisations with an interest in the issue, residents and service users and may involve inviting experienced/knowledgeable individuals to attend meetings. On occasions the Overview and Scrutiny Management Committee/Panels may seek the views of members of the public through a variety of consultation methods.
- 16.3 External experts and other persons identified as possible contributors shall be invited to attend meetings to give evidence and advice, but the Overview and Scrutiny Management Committee/Panels cannot require them to do so and therefore their participation will be on a voluntary basis.

17. Decision-Making and Call-in

- 17.1 A key function of overview and scrutiny is to hold the Cabinet to account for the discharge of its functions. Two of the principal elements of this are:
- Scrutinising decisions which are proposed to be taken by or on behalf of the Cabinet/Cabinet Committee, and
 - Scrutinising executive decisions before they are implemented (a so-called 'call-in' mechanism)
- 17.2 One of the basic principles that has been important to the development of scrutiny in Kirklees is that the Council is one body and it is in the interests of all Councillors and the public that the Council makes the right decision first time. This implies a constructive role for Overview and Scrutiny, as it would be perverse to wait until the point of decision-making (or after) to raise concerns.
- 17.3 The roles of the Overview and Scrutiny Panels and their Chairs make it clear that they should be working with the Cabinet Member, and the Heads of Service that report to her/him, to build up an understanding of the work programme in that portfolio, the issues that are around, and the decisions that are on the horizon.

17.4 This will mean that the Overview and Scrutiny Panel Chair and the Panel will be aware at an early stage of the issues that the Cabinet/Cabinet Committee will be addressing. They must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focussed on a particular option and likely decision. Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.

17.5 Through early involvement it should be possible to take on board the concerns of scrutiny and ensure that the right decision is taken first time. However, there may be times when differences will not be resolved, or when an item surfaces at short notice on an agenda. In these circumstances Overview and Scrutiny and non-executive councillors should follow the procedure set out below. This procedure gives Overview and Scrutiny the opportunity before a decision is taken to issue a formal 'notice of concern' which will be recorded, and after a decision is taken, but before it is implemented, to 'call-in' a decision.

17.6 It is fundamental to remember that:

- the Cabinet Member is responsible for the work programme within her/his portfolio and to determine, in consultation with the Leader of the Council, the items that will be on the Cabinet /Cabinet Committee agenda, and
- the Cabinet /Cabinet Committee has the responsibility to make decisions within its remit, and to oversee and be accountable for the taking of decisions on its behalf by officers, joint committees or area committees.

17.7 The procedure set out in this section is designed to give Overview and Scrutiny a proper role in having an overview of decision-making.

18. Notice of Concern - Procedure

18.1 The Overview and Scrutiny Panel Chair will receive the Forward Plan, information about other decisions to be taken, papers in support of a decision considered by the Cabinet Member/Cabinet/Cabinet Committee, including the reports containing the Cabinet Member's recommendation. If the Overview and Scrutiny Panel Chair or Chair of Overview and Scrutiny at this stage feels that scrutiny's concerns have not been adequately addressed or it is an item brought forward late at short notice, and the Scrutiny Panel Chair is unhappy with the Cabinet Member's recommendation, the Scrutiny Panel Chair should issue a 'notice of concern'. This must be sent in writing to the Head of Policy and Governance the main recipient and also for information to the

Cabinet Member and the Chair of the Overview and Scrutiny Management Committee within 3 working days of the publication of the agenda for the relevant Cabinet /Cabinet Committee meeting.

- 18.2 If possible, all efforts should be made to consult with the Overview and Scrutiny Panel and the Overview and Scrutiny Management Committee before issuing a 'notice of concern'. If this is not possible there must at least be consultation with the Chair of the Overview and Scrutiny Management Committee.
- 18.3 All Councillors who are not in the Cabinet can contribute to Overview and Scrutiny and can request Overview and Scrutiny to issue a 'notice of concern'.
- 18.4 The notice must set out the grounds that cause the concern.
- 18.5 The notice will have more strength if it also indicates a proposed course of action and the further considerations that should be taken into account.
- 18.6 The Cabinet Member in consultation with the relevant member of Executive Management Group and the Leader of the Council will have full discretion on how to proceed. The item could be deferred for further consideration or continue on the agenda.
- 18.7 If the concerns set out in the notice of concern are adequately addressed prior to the meeting, the Overview and Scrutiny Panel Chair may withdraw the notice of concern.
- 18.8 If the item is kept on the agenda for the Cabinet Member /Cabinet /Cabinet Committee, the 'notice of concern' will be indicated on the agenda. At the meeting, when that item is taken, the Head of Policy and Governance will formally announce that Overview and Scrutiny had placed a 'notice of concern' on that item and the reasons given. The meeting will consider the item in the light of that knowledge.
- 18.9 Under the delegated authority of the Cabinet /Cabinet Committee the decision that is made at the meeting will be the final recorded decision, subject to the call-in procedures below. The minutes though will record the 'notice of concern'.
- 18.10 However, if the Cabinet /Cabinet Committee at its meeting had agreed an amendment to the Chair's recommendation, the Scrutiny Panel Chair in consultation with panel members may, after the meeting and within 5 working days, withdraw the 'notice of concern', if it is felt that the concerns have been adequately addressed. A note will be added to the minutes to this effect.

19. Call-in - procedure

- 19.1 The decision-summary of Cabinet/Cabinet Committee and individual Cabinet Members will be published (including, where possible by electronic means) and sent to the appropriate Overview and Scrutiny Panel within 2 working days of the decision and sent to the members of the appropriate Overview and Scrutiny Panel – e.g. this will be the Friday following a Cabinet Meeting on Wednesday.
- 19.2 There will be a standard period of 2.5 full working days after the day of publication before decisions are implemented (e.g. midday on Wednesday following a Cabinet/Cabinet Committee meeting the previous Wednesday). A decision can be called-in only during this period.
- 19.3 To call in a decision of the Cabinet/Cabinet Committee, written notice must be given to the Head of Policy and Governance as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma will be made available to make this easier.
- 19.4 A decision can be called in by:
- either, 5 non executive Councillors
 - or 2 members of the Overview and Scrutiny Management Committee, one of whom should be the Chair
 - or 2 Members of the relevant Overview and Scrutiny Panel, one of whom should be the Chair

All efforts should be made to consult with the Chair of the Overview and Scrutiny Management Committee.

- 19.5 To be valid a call in must be submitted in writing (on paper or electronically) signed by all parties to the call in and must state the reasons for the suspension of the decision and request for a review.
- 19.6 When a valid written notice is received within the period referred to above, all action to implement the decision must be suspended for 2 weeks from receipt of the notice, during which time the appropriate Overview and Scrutiny Panel must meet. If the issue that has been called-in falls between or overlaps with the responsibility of more than one panel, the Head of Policy and Governance will take the advice of the Overview and Scrutiny Management Committee, which will determine which Panel to refer the matter to or indeed whether it should be considered by the Overview and Scrutiny Management Committee.
- 19.7 When a valid written notice is received the Head of Policy and Governance will notify all Cabinet Members and the Leader of the Council. A meeting of the appropriate Overview and Scrutiny Panel will take place within two weeks of the call in, giving notice required by Rule 4 of the Access to Information Procedure Rules. If the decision has been called-in by 5 non-executive Members they must attend, if

possible, the Overview and Scrutiny Panel Meeting. The Head of Policy and Governance will also notify all Members that this decision has been called-in.

19.8 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the Cabinet/ Cabinet Committee and will be able to question the relevant officers and Cabinet Member, and in appropriate cases hear from all other interested parties including members and members of the public.

19.9 Having considered the decision in question, the Overview and Scrutiny Panel must resolve either to

- Free the decision for implementation; or,
- Refer it back to the Cabinet/Cabinet Committee or decision-maker with a recommendation for amendment; or,
- In exceptional circumstances, refer the issue to the next Council Meeting if the decision is not consistent with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Solicitor to the Council.

If the Overview and Scrutiny Panel refers the decision back to Cabinet/Cabinet Committee with a recommendation, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may:

- Accept the recommendation of the Overview and Scrutiny panel and amend its decision;
- Decide that further work needs to be done and defer the item until this is completed. The Overview and Scrutiny Panel/non-executive members should be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;
- Not accept the view of the overview and scrutiny panel and confirm its original decision;
- Refer the issue for discussion at the next appropriate Council meeting.

19.10 If the Cabinet/Cabinet Committee rejects the recommendation from the Overview and Scrutiny Panel and confirms its decision it can be implemented immediately as there is no scope for further review and challenge. Whilst unable to challenge the final decision, the outcome of called-in decisions will be reported to the next Council meeting and Scrutiny can use its time to explain its views to Council.

19.11 A decision may only be reviewed once.

19.12 **Urgent decisions that require quick implementation** - The right to suspend and review a decision of Cabinet/Cabinet Committee cannot be exercised where the Cabinet/Cabinet Committee or the decision-maker, with the agreement of the Chair of the Overview and Scrutiny Management Committee or his/her nominee, resolves that the decision is urgent for reasons stated in the resolution.

19.13 Once decisions have been taken and recorded, and are being implemented Overview and Scrutiny has the subsequent right to programme reviews on any matters decided by the Executive.

19.14 The Chair of the Overview and Scrutiny Management Committee will be responsible in consultation with the Leader and the Chief Executive for monitoring the use of call-in and reviewing the procedure to ensure that it does not unduly defer or disrupt proper decision-making processes but rather plays its proper role in overseeing and holding to account the Cabinet/Cabinet Committee in a constructive and supportive way.

19.15 **Key decisions taken by officers** – If a key decision is to be taken by an officer under the scheme of delegation, all Members and Overview and Scrutiny will have the same rights to information and to use the procedures set out above for the call-in of decisions.

20. Call-in of decisions outside the budget or policy framework.

20.1 Where the stated reason for a request for call-in made under Rule 19 is that the decision is contrary to the budget or policy framework, the procedure in Rule 19 will apply, but with the following amendments.

20.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the Chief Finance Officer and any other relevant officer. If that advice is that the decision is not outside the framework, the Panel may either:-

- Accept that advice and free the decision for implementation; or
- Decide to follow the procedure set out in Rule 20.3.

20.3 If the advice is that the decision is or may be outside the budget or policy framework, the Overview & Scrutiny Panel must resolve either:-

- To refer the decision to the Cabinet/Cabinet Committee, with a recommendation for amendment to comply with the budget and policy framework; or

- Refer the issue to the next Council meeting.
- 20.4 If the Panel refers the decision back to the Cabinet/Cabinet Committee, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may take any of the actions set out in Rule 19 other than to confirm its original decision.
- 20.5 If the decision is referred to the Council, it will be considered at the next ordinary Council meeting, or, if urgent, at an additional meeting to be called as early as practicable. The Council will receive reports from the Overview & Scrutiny Panel and the Cabinet/Cabinet Committee. The Council may either:-
- Decide that the decision is within the existing budget and policy framework, in which case it will be freed for implementation;
 - Decide that the decision is contrary to the budget and policy framework, but agree to the decision, with immediate effect; or;
 - Decide that the decision is contrary to the budget and policy framework; that the Council is not prepared to agree to the decision; and require the Cabinet/Cabinet Committee to re-consider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

21. The Group Business Manager

- 21.1 The Council views whipping as incompatible with overview and scrutiny. Therefore, the political groups shall not give any instruction to any councillor as to how that councillor shall speak or vote on any matter before overview and scrutiny, nor apply any sanction in respect of that councillor should he/she speak or vote in any particular manner.

22. Procedure at overview and scrutiny meetings

- 22.1 The Overview and Scrutiny Management Committee and its Panels are encouraged to develop less formal approaches to meetings that support the reflection required by the Overview and Scrutiny role. In doing so the Management Committee and Standing Panels will ensure the inclusion of some basic items, such as minutes of the last meeting; declarations of interest; consideration of any decisions that have been called in; issues from the Cabinet's forward plan and/or of service delivery; responses of the Cabinet to reports of the Overview and Scrutiny Management committee; and the business otherwise set out on the agenda for the meeting.
- 22.2 Where ad-hoc panels, or mini ad hocs within / across Panels, conduct investigations, they or the Overview and Scrutiny Management Committee may also ask people to attend to give evidence at panel

meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting the panel 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.

22.3 Following any investigation or review, the Panel in consultation with the Overview and Scrutiny Management Committee shall prepare a report for submission to the Cabinet/Cabinet Committee and/or Council as appropriate and shall make its report and findings public.

23. Matters within the remit of more than one overview and scrutiny panel

23.1 Where a matter for consideration by overview and scrutiny falls within the remit of one or more overview and scrutiny panels, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Management Committee.

23.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all panels affected by the issue and to report the outcomes to all such panels.

ANNEX 3

ARTICLE 9 – THE STANDARDS COMMITTEE

9.1 Standards Committee

The Council will establish a Standards Committee

9.2 Membership

- a. The Standards Committee will be composed of at least:-
- four councillors not including the Leader or any other member of the Cabinet but including, so far as possible, representatives from at least four political groups on the Council;
 - three persons who are not councillors or officers of the Council or any other body having a Standards Committee (external members);
 - two persons who are members of a parish or town council wholly or mainly in the Council's area (parish members).
- b. External members and parish members, as well as councillors, will be entitled to vote at meetings;
- c. At least one external member and one member from Kirklees Council must be present at any meeting of the committee.
- d. At least 1 parish member must be present when any matter relating to parish councils or their members is being considered;
- e. The committee will be chaired by one of the external members.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) To promote and maintain high standards of conduct by members, including co-opted members;
- (b) To prepare and advise the Council on the adoption of the members' code of conduct;
- (c) To monitor and review, as appropriate, the members' code of conduct and to advise the Council on any changes;
- (d) To provide advice and guidance to members and co-opted members on issues relating to the members code of conduct and ethical standards and to arrange the provision of training on such matters;

- (e) To consider and, if appropriate, grant dispensations to members and co-opted members from requirements relating to interests set out in the members' code of conduct;
- (f) To deal with:-
 - any report from a case tribunal or interim case tribunal established under Section 76 of the Local Government Act 2000; and
 - any report from the Monitoring Officer on any matter which is referred to him by an ethical standards officer appointed under that Act
- (g) The exercise of (a) to (f) above in relation to the parish and town councils wholly or mainly within Kirklees and the members of those councils;
- (h) To comment on any matter raised by the Council's auditors or the Local Government Ombudsman relating to the above and referred to it by the Chief Executive, the Monitoring Officer or the Overview and Scrutiny Committee;
- (i) To recommend to the Council, if appropriate, the adoption of protocols relating to members' conduct supplementary to the members code of conduct and to determine procedures for dealing with allegations of breaches of such protocols;
- (j) To consider and take action on any reports referred to it by the Council Business Committee relating to the monitoring of the performance of councillors.

9.4 Sub-Committees

The Standards Committee may arrange the appointment of sub-committees for any of its functions. The details and terms of reference of such sub-committees are set out in Section 2 of Part 3 of this Constitution (Responsibility for Council Functions).

9.5 Chair attending Council meetings.

The Chair of the Standards Committee may attend any meeting of the Council at any time when matters relating to the Committee or any of its functions are under consideration.

On such occasions the Chair will have the same rights and obligations as the Chair of any other Committee with regard to making statements, speaking in any relevant debate and answering or responding to questions and comments.

The Standards Committee may nominate any one of its Kirklees Council membership to carry out that role in the absence of the Chair.

ANNEX 4

LICENSING AND SAFETY COMMITTEE

Membership

15 Members of the Council

Terms of Reference

This Committee constitutes the Licensing Committee for the purposes of the Licensing Act 2003 and the Gambling Act 2005 and has delegated authority in respect of all the Council's functions under those Acts or regulations made under them which may be delegated, including (2003 Act) licensing of premises and persons and (2005 Act) licensing of premises and other licences, permits etc. in respect of gambling and connected activities set out in the Act. This includes but is not limited to:-

1. To recommend to the Cabinet/Council a Statement of Licensing Policy, or any revisions to such Policy, in accordance with the Licensing Act 2003.
2. To recommend to the Cabinet/Council a three year Licensing Policy or any revisions to such policy in accordance with the Gambling Act 2005.
3. To exercise all licensing functions under the Licensing Act 2003 including determining and dealing with applications for licences, certificates, temporary events and other notices and all variations, transfers, withdrawals and reviews of such matters.
4. To exercise all licensing and related functions allocated to the local licensing authority under the Gambling Act 2005, including determining and dealing with applications for licenses, certificates, permits, registration, temporary use of premises and other notices and all variations, transfers, surrenders, revocations, reviews of such matters (but not including the power to pass a resolution not to issue casino licences under section 166 of the 2005 Act).
5. To establish the Licensing and Regulatory Panels, consisting of three Members, and arrange for the discharge of all or some of the functions under the 2003 and 2005 Acts to be exercised by the Panels.
6. To make arrangements for authorised persons of the Council to discharge those functions which may be delegated to an Officer under the terms of the 2003 or 2005 Act.
7. To consider and determine any other functions which may properly be referred to this Committee by the Council under the terms of the 2003 or the 2005 Act, including the setting of fees and the initiation of prosecution for offences.
8. To receive reports from the Licensing and Regulatory Panels as required.

9. To determine all applications referred to the Committee by either the Licensing Panels or Officers.
10. To consider all policy matters under the terms of the 2003 and 2005 Acts with the referral of appropriate recommendations to Council for adoption.

Delegated authority in respect of all other licensing and registration functions which are not, by virtue of any legislation, present or future, the responsibility of the Executive (Cabinet) and which are not specifically delegated to any other Committee or required by legislation to be carried out by the full Council. This includes:-

1. To delegate to the Licensing and Regulatory Panels power to carry out such licensing and registration functions other than 2003 and 2005 Acts functions as the Committee may determine.
2. All the Council's functions relating to the power of designating alcohol control zones under sections 12 – 15 of the Criminal Justice and Police Act 2001

Delegated authority in respect of functions under any of the "relevant statutory provisions" 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.

LICENSING AND REGULATORY PANELS

(Sub-committees of the Licensing & Safety Committee)

Membership

Any three members of the Licensing and Safety Committee selected by the Head of Policy and Governance.

Terms of Reference

1. To exercise all licensing functions under the Licensing Act 2003 including determination and dealing with applications for licences, certificates, temporary events and other notices and all variations, transfers, withdrawals and reviews of such matters.
2. To exercise all licensing and related functions allocated to the local licensing authority under the Gambling Act 2005, including determining and dealing with applications for licenses, certificates, permits, registration, temporary use of premises and other notices and all variations, transfers, surrenders, revocations, reviews of such matters.
3. To consider and determine any other functions referred to the Panel by the Council or the Licensing and Safety Committee under the terms of the Licensing Act 2003 or the Gambling Act 2005.
4. Power to license hackney carriages and private hire vehicles.
5. Power to license drivers of hackney carriages and private hire vehicles.

6. Power to license operators of hackney carriages and private hire vehicles.
7. Power to register pool promoters.
8. Power to grant track betting licences.
9. Power to license inter-track betting schemes.
10. Power to grant permits in respect of premises with amusement machines.
11. Power to register societies wishing to promote lotteries.
12. Power to grant permits in respect of premises where amusements with prizes are provided.
13. Power to issue cinema and cinema club licences.
14. Power to issue theatre licences.
15. Power to issue entertainment licences.
16. Power to licence sex shops and sex cinemas.
17. Power to licence performances of hypnotism.
18. Power to register premises for acupuncture, tattooing, ear-piercing, and electrolysis.
19. Power to license pleasure boats and pleasure vessels.
20. Power to license market and street trading.
21. Power to license dealers in game and the killing and selling of game.
22. Power to license scrap yards.
23. Power to issue, amend, or replace, safety certificates (whether general or special) for sports grounds.
24. Power to issue, cancel, amend, or replace, safety certificates for regulated stands at sports grounds.
25. Power to issue fire certificates.
26. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:-
 - (a) an exchange of lands affected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to the Acquisition of Land Act 1981 (c.67) or
 - (b) an order under section 147 of the Inclosure Act 1845 (c.8 and 9 Vict. C118).

27. Power to register variation of rights of common.
28. Power to sanction persons to collect for charitable and other causes.
29. Power to license agencies for the supply of nurses.
30. Power to sanction use of parts of buildings for storage of celluloid.
31. Power to make, vary or revoke closing orders with respect to take-away food shops.
32. Power to register premises or stalls for sale of goods by way of competitive bidding.
33. Power to license premises for the breeding of dogs.
34. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
35. Power to register animal trainers and exhibitors.
36. Power to license zoos
37. Power to license dangerous wild animals.
38. Power to license knackers' yard.
39. Power to grant consent for the operation of a loudspeaker.
40. Power to issue licences for the movement of pigs.
41. Power to license the sale of pigs.
42. Power to license collecting centres for the movement of pigs.
43. Power to issue a licence to move cattle from a market.
44. Power to approve meat products premises.
45. Power to approve premises for the production of minced meat or meat preparations.
46. Power to approve dairy products establishments.
47. Power to approve egg products establishments.
48. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
49. Power to approve fishery products premises.
50. Power to approve dispatch or purification centres.

51. Power to register food business premises.
52. Power to license the employment of children.
53. Power to approve premises for the solemnisation of marriages.
54. Power to revoke/refuse to grant permits under the Pollution, Prevention and Control (England and Wales) Regulations 2000 and authorisations under the Environmental Protection Act 1990.
55. Power to approve the commencement of proceedings in the High Court in respect of offences under the Environmental Protection Act 1990 and the Pollution, Prevention and Control (England and Wales) Regulations 2000.

Delegated authority in respect of functions under any of the "relevant statutory provisions" 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

ANNEX 5

CORPORATE PARENTING PANEL – DRAFT CONSTITUTION

This body is an advisory committee of the council, established on the recommendation of the Cabinet, in consultation with Overview & Scrutiny.

Membership

Four members of the Council, including:-

- the Cabinet member with responsibility for children and young people (Chair);
- one member of the Children & Young People's Overview & Scrutiny Panel
- two councillors who are not members of either of the Cabinet or that Panel

One co-opted representative of each of the following partner agencies:

West Yorkshire Police
Kirklees Primary Care Trust
Connexions West Yorkshire

One co-opted representative of each of the following, representing service users:

Children's Rights Service
Foster Carers
Looked- after children

Co-opted members of the Panel will have all the rights of other members except the right to vote.

Terms of Reference

The role of the panel is to ensure that the Council is fulfilling its duties towards looked after children corporately and in partnership with other statutory agencies.

In carrying out that role it will:-

1. take an overview of the Council's and partner agencies' responsibilities towards looked after children;
2. examine ways in which the Council as a whole and partner agencies can improve the life chances of looked after children and care leavers;
3. ensure there are good joint working arrangements between Council departments and partner agencies;
4. provide a forum for young people and looked after children to participate and influence policy and service development ;
5. comment on and contribute to plans, policies and strategies for looked after children and make appropriate recommendations for action;

6. have a monitoring role, by receiving regular progress reports on relevant key performance indicators e.g. educational attainment;
7. receive regular reports on the needs of care leavers including employment, further education, training and housing;
8. receive annual reports on the following services:
 - Adoption
 - Fostering
 - Complaints
 - Looked After Children Service
 - Independent Reviewing Officers;
9. meet with looked after children and their carers on a regular basis to consult and celebrate achievements, festivals etc;
10. manage and arrange Member visits to:
 - children's homes
 - foster placements
 - frontline services
11. provide regular reports and advice on all the above matters to the Cabinet and Overview and Scrutiny, report to the Council as may be appropriate and maintain appropriate links with the Children and Young People's Local Public Service Board and the Safeguarding Children Board.

The above will be the information which goes in the Council's constitution. What follows explains other elements of the Panel's operation.

Advisors

The Panel will be advised by relevant senior officers including:

- Head of Safeguarding & Specialist Provision
- Head of Learning
- Representatives of head teachers

Representatives of other partner agencies or relevant organisations may be invited to provide advice or information as required.

Meetings

The Panel will be serviced by officers from the Policy & Governance Service with items for the agenda being determined through the Directorate of Children & Young People.

Frequency, venue, and sub-groups, if any, to be determined

Annex 6

Agenda Item 6(a) - see Section 2.5 of Page 5 of the Report of the Solicitor to the Council headed "Review of Council Constitution"

OFFICER DELEGATIONS

4. DELEGATED POWERS OF OFFICERS

Note: These delegations include both executive and non-executive functions.

EMERGENCY ACTION

The Chief Executive (or any Director nominated from time to time by the Chief Executive, or if any such Director is not available or if no such nomination has been made, any Director) is empowered, in consultation with the Leader or relevant Committee Chair (unless the urgency makes this impractical) to make decisions on any issues in circumstances which he/she reasonably considers to be an emergency, reporting to the Cabinet or relevant Committee as soon as possible thereafter.

(Delegated from Cabinet and all Committees)

CHILDRENS SERVICES

Children and Young People's Service

1. Director for Children and Young People

1.1 Nursery, Primary, Secondary and Special Schools

- 1.1.1 To determine staffing of schools not included within the adopted Local Management of Schools Scheme.
- 1.1.2 To determine applications for assistance towards boarding education;
- 1.1.3 To determine at first instance applications for increased fees for pupils at schools not maintained by this Authority;
- 1.1.4 To second teachers for courses including overseas service and arrange teacher exchanges;
- 1.1.5 To determine applications for use of schools as polling stations following consultation with Governing Bodies;
- 1.1.6 To ensure that all statutory obligations placed on the Director of Children and Young People by legislation relating to all appointments, are met;
- 1.1.7 To take legal proceedings under Sections 437, 443 and 444 of the Education Act, 1996, and Section 1(2)(e) of the Children and Young Persons Act, 1969;
- 1.1.8 To determine directions under the Education (National Curriculum) (Temporary Exceptions for Individual Pupils) (England) Regulations, 2000.
- 1.1.9 To submit planning applications for additional accommodation at schools and other premises held or used for education purposes, and in those cases where planning permissions is required in respect of projects which would not otherwise be brought to Cabinet's attention, and also in relation to major maintenance works requiring planning approval - for examples, boilerhouse, chimneys, external cladding.
- 1.1.10 To determine statements of special need under the School Standards and Framework Act and subsequent legislation.
- 1.1.11 (or such other persons as may be authorised in writing by the Director for Children and Young People) to institute legal proceedings under Section 36 of the Children Act 1989 in respect of children who fail to attend school on a regular basis.
- 1.1.12 To establish LEA Action Plans and responses for schools in special measures and with serious weaknesses.

- 1.1.13 To withdraw delegation from a Governing Body in accordance with the LEA/School Code of Practice.
- 1.1.14 To release Headteachers from their posts as a result of disciplinary matters. To discuss as necessary but not to agree the terms of any settlement.
- 1.1.15 To agree in consultation with Governing Bodies any name changes for Schools.
- 1.1.16 The Director for Children and Young People and the Solicitor to the Council are empowered to make orders for the making or amending of Instruments of Government for Kirklees Schools provided that they agree that there is no matter of policy or principle involved in any particular case.

1.2 Further and Higher Education

- 1.2.1 To determine at first instance applications for Further and Higher Education statutory awards and discretionary awards.

1.3 Other Matters

- 1.3.1 To determine licences for children to take part in public performances, and for the employment of or performances by children and young people;
- 1.3.2 To authorise home tuition;
- 1.3.3 To make special provision for transport between school and home in exceptional cases and to arrange free transport to and from schools in accordance with Council policy;
- 1.3.4 Subject to the allocation of responsibilities defined by the adopted Local Management of Schools Scheme to determine upon applications to hold functions at premises held or used for education purposes;
- 1.3.5 To administer grant-in-aid for maintenance, school clothing, and free meals service;
- 1.3.6 To authorise the payment of extra district charges in accordance with the current legislation at the Authority's discretion;
- 1.3.7 To arrange the admission and allocation of pupils and students to schools in accordance with Council policy;
- 1.3.8 To grant paid leave of absence in exceptional circumstances for school based staff;
- 1.3.9 To respond on behalf of the Authority when its views are sought by Governors on admission arrangements, (School Standards and Framework Act)

1.3.10 To undertake any necessary investigations and determine appropriate responses relating to complaints about the Education function of the Council.

1.3.11 To determine statements of special needs under the Education Act, 1996 and subsequent legislation.

1.3.12 To apply for Child Safety Orders following consultation with the Solicitor to the Council.

1.3.13 To prosecute in those cases where employers breach Local Authority bye-laws or contravene Section 559(3)(4) of the Education Act 1996, as amended.

1.3.14 To apply in the Courts for Parenting Orders under the provisions of the Anti-Social Behaviour Act 2003.

2. Those Officers from time to time authorised by the Cabinet or previously by the Education Committee are

To authorise legal proceedings under Section 547 of the Education Act 1996

3. The Head of Kirklees Early Years Service is authorised

3.1 To determine grants to organisations concerned with the provision of childcare up to a maximum of £500.

3.2 In relation to the Children Act 1989, to inspect and register (a) childminding facilities (including playgroups) for children under eight and (b) day care facilities.

3.3 To make grants to organisations concerned with the provision of childcare up to a maximum of £500.

3.4. In any case involving the registration of persons or premises under the Children Act 1989, the Head of the Kirklees Early Years Service shall have power to refuse or cancel, where appropriate, on the understanding that there is a right of appeal in those instances to the Appeals Panel.

4.1 Children and Young People

4.1.1 To place children in the care of the Council in suitable accommodation and to authorise the payment of appropriate allowances (in accordance with approved procedures and scales) to foster parents of children, prospective adopters and persons undertaking the long term care or respite care of children.

4.1.2 To make arrangements with or contributions to other Authorities or Voluntary Organisations providing such accommodation or premises in accordance with Council or Cabinet policy as appropriate.

4.1.3 To supervise and review children in the care of the Council including the giving of any necessary consent.

4.1.4 To ascertain the suitability of foster parents and their premises. To impose requirements or prohibitions on foster parents and their accommodation, including the authorisation of conditional grants to a maximum of £5,000 to foster parents in order to provide suitable accommodation standards for foster children.

ENVIRONMENT AND HIGHWAYS MATTERS

1. Environmental Matters

(Delegated as appropriate from:-

(1) The Cabinet

(2) Regulatory Panel

N.B. The following tables indicate which functions are delegated to Officers and which are retained by the Cabinet or Panel, as appropriate.)

| | | | |
|-------------|--------|---|---|
| Key: | AD | = | Assistant Director |
| | EHM | = | Environmental Health Manager |
| | SWM | = | Strategic Waste Manager |
| | TM(W) | = | Technical Manager (Waste) |
| | CM | = | Cleansing Manager |
| | EPM | = | Environmental Projects Manager |
| | EWTM | = | Environmental Waste and Transport Manager |
| | TM | = | Team Manager |
| | EHO | = | Environmental Health Officer |
| | SEHO | = | Senior EHO |
| | PTO(D) | = | Principal Technical Officer (Drainage) |
| | STO | = | Senior Technical Officer |
| | TO | = | Technical Officer |
| | AHWO | = | Animal Health & Welfare Officer |
| | DW | = | Dog Warden |
| | RP | = | Regulatory Panel |

| Legislation | Extent of Delegation | Delegated To |
|--|--|--|
| Various statutes where LA entitled to institute legal proceedings in Magistrates Court or High Court | Authority to institute legal proceedings in respect of all powers and duties exercised by Cabinet. | AD EHM/SWM |
| Cabinet. | Authority to institute Injunction proceedings in respect of powers and duties exercised | Statutory Noise Nuisance - AD All other matters by - Cabinet |

| | | |
|--|---|--|
| Various statutes Where LA entitled works in default of notices requiring the execution of works | Authority to institute works in default | TM/PTO(D)/ SEHO up to to carry out £2,000 EHM/SWM up to £10,000 AD over £10,000 |
|--|---|--|

Agriculture (Miscellaneous Provisions) Act 1968

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| S.6(2) | Authorisation in writing of Officers to act in relation to matters arising under the Act and regulations or orders made thereunder. | AD/EHM |

Animal Boarding Establishments Act 1963

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------------|-------------------------------------|
| S.1 | Power to grant or refuse licences | Approve - AD/ EHM Refuse - RP |

Animal Health Act 1981

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| S.52 | Relating to appointment of inspectors and other officers for execution and enforcement of Act Regulations and Orders made thereunder. | AD/EHM |

Animal By-Products Regulations

| Legislation | Extent of Delegation | Delegated To |
|--------------------------------|---|---------------------|
| Animal By-Products Regulations | To appoint Officers to enforce the provisions of Animal By-Products Regulations which are made under the European Communities Act 1972. | AD/EHM |

Anti-Social Behaviour Act 2003

| | | |
|------|---|--------|
| S.40 | Power of Chief Executive to make Closure Order in respect of noisy Licensed premises. | AD/EHM |
|------|---|--------|

Breeding of Dogs Act 1973 as Amended by the Breeding & Sale of Dogs (Welfare) Act 1999

| Legislation | Extent of Delegation | Delegated to |
|--------------------|-----------------------------------|-------------------------------------|
| S.1 | Power to grant or refuse licences | Approve - AD/ EHM Refuse - RP |

Building Act 1984

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.59 | Power to serve Notice regarding defective drainage | AD/EHM |
| S.60 | Power to serve Notice regarding use and ventilation of soil pipes | AD/EHM |
| S.62 | Power to require sealing of disused drains | AD/EHM |
| S.64 | Power to serve Notice requiring provision of closets | AD/EHM |
| S.65 | Power to serve Notice requiring provision of closets at workplaces | AD/EHM |

| | | |
|------|--|------------|
| S.66 | Power to serve Notice requiring replacement of earth closets | AD/EHM |
| S.68 | Power to give consent for erection of public sanitary conveniences | Cabinet |
| S.73 | Power to serve Notice requiring raising of chimney height | AD/EHM |
| S.76 | Power to serve Notice re defective premises | AD/EHM |
| S.79 | Power to serve Notice re ruinous and dilapidated buildings and neglected sites | AD/EHM/SWM |
| S.81 | Power to serve Notice re demolition works | AD/EHM |
| S.84 | Power to serve Notice requiring drainage of yards and passages | AD/EHM |

Caravan Sites and Control of Development Act 1960 as Amended by the Local Government (Miscellaneous Provisions) Act 1982

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|-------------------------------------|
| S.3 | Power to issue and refuse licences | Approve - AD/ EHM Refuse - RP |
| S.5 | Power to attach conditions to licences | AD & EHM |
| S.8 | Power to alter conditions | AD & EHM |
| S.10 | Power to transfer licences | AD & EHM |
| S.11 | Power to require a site licence to be delivered up | AD & EHM |
| S.19 | Power to require reduction in numbers of caravans | AD & EHM |
| S.23 | Power to prohibit caravans on commons | AD & EHM |
| S.24 | Power to provide sites for caravans (policy) | Cabinet |
| S.25 | Register of site licences | AD & EHM |

Clean Air Act 1993

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|--|
| S.4 | Power to approve new furnace installations | AD/EHM |
| S.6 | Power to approve or refuse to approve arrestment plant for furnaces | Approve - AD/ EHM Refuse - RP |
| S.8 | Power to approve or refuse to approve plant for arresting grit and dust | Approve - AD/ EHM Refuse - RP |
| S.10 | Power to serve Notice requiring measurement of grit and dust | AD/EHM |
| S.12 | Power to serve Notice requiring details of fuel used | AD/EHM |
| S.15 | Power to approve, either conditionally or otherwise, or reject chimney heights report to Cabinet | Approve - AD/ EHM (Report to Ward Members); Refuse - AD/EHM subject to subsequent |
| S.18 | Power to declare smoke control areas | Cabinet |
| S.24 | Power to approve proposals, payment of grants and to serve Notice requiring adaptations to be carried out. | AD & EHM |
| S.26 | Power to approve or reject proposals and pay grants in respect of charities, churches, etc. | Approve - AD/ EHM Refuse - Cabinet |
| S.36 | Power to require information regarding emission of pollutants and other substances into the air from premises | AD/EHM |
| S.45 | Power to grant exemptions for research in smoke control areas | TM |
| S.46 | Power to report emissions from Crown premises to responsible Minister | AD/EHM |
| S.51 | Power to sign written notifications regarding smoke offences | EHO/STO |

The Clean Neighbourhood & Environment Act 2005

| | |
|---|-------------|
| Various powers under the Act applicable | Director/AD |
|---|-------------|

to Environmental Services. In particular, provisions relating to nuisance vehicles, litter, refuse, waste, dog control and alarms

Power to identify land, publish the relevant notices, consider any objections received and determine whether any such objections should alter the Council's proposals (Section 94B) AD

Powers to authorise specific officers to issue Fixed Penalty Notices if appropriate (Section 94B) AD

Authorised to implement a consent system, including vetting consent conditions and determining an appropriate application fee (Section 94B) Head of Building Control, Licensing and Markets

Control of Pollution Act 1974

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---|
| S16 | Power to serve notice requiring removal of controlled waste | SWM |
| S.60 | Power to serve Notice re noise from construction sites | AD/EHM |
| S.61 | Power to grant or refuse to grant Prior Approval for noise levels from construction sites | Approve - AD/ EHM Refuse - RP |
| S.63 | Power to designate noise abatement zones | Cabinet |
| S.64 | Power to measure and serve details of noise levels | SEHO |
| S.65 | Power to grant consent to exceed registered levels in noise abatement zones | Approve - AD/ EHM Refuse - RP |
| S.66 | Power to serve noise reduction Notices | AD/EHM |
| S.67 | Power to measure and record noise and serve details in respect of new buildings within noise abatement zones | SEHO |

| | | |
|------|---|--------------------------------------|
| S.93 | Power to serve Notice requiring information | EHO/ SWM /CM/ TM(W)/ EPM |
| S.5 | Power to require production of authority, stop and search, etc | AD/SWM |
| S.5A | Supplementary powers related to S.5 | AD/SWM |
| S.5B | Power to serve fixed penalty notices for failure to produce authority | AD/SWM |

Dangerous Dogs Act 1991 as amended by Dangerous Dogs (Amendment) Act 1997

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.5 | Seizure of exempted dogs and dogs dangerously out of control | EHO/TO/AHWO/ DW |

Dangerous Wild Animals Act 1976

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---|
| S.1 | Power to grant or refuse licences | Approve - AD/ EHM Refuse - RP |
| S.4 | Power to seize and retain any animal Power to destroy and recover costs | EHO/TO TM |
| S.31 | Power to appoint any Veterinary Surgeon, Veterinary Practitioner, or such other competent person in connection with the inspection of premises | AD/EHM |

Dogs (Fouling of Land) Act 1996

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| | To take action where appropriate under the Act. | AD(E)/ EHM |

Environment Act 1995

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|
|--------------------|-----------------------------|---------------------|

| | | |
|----------|--|--------|
| S.108(1) | Power to authorise suitable Officers | AD/EHM |
| S.109 | Power to deal with cause of imminent Danger of serious pollution | AD/EHM |

Environmental Protection Act 1990

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| | Power to authorise officers to act in matters arising under the Act | AD/EHM |

PART I

| | | |
|----------------|---|--|
| S.6 | Power to grant or refuse authorisation respect of prescribed processes | Approve - in AD/ EHM Refuse - RP |
| S.8(8) | Revocation of authorisation for non-payment of subsistence fee Initial consideration of Appeals | RP RP |
| S.10 | Variation of authorisations by enforcing authority | AD/EHM |
| S.11 | Variation of authorisation by holders of authorisations | AD/EHM |
| S.12 | Revocation of authorisation where process has not been carried on for a period of 12 months initial consideration of Appeals | RP RP |
| S.13 | Power to serve Enforcement Notices | AD/EHM |
| S.14 | Power to serve Prohibition Notices | AD/EHM |
| S.19 | Power to serve Notice to obtain information | TM |
| S.24 | Power to institute proceedings in the High Court | Cabinet |
| PART II | | |
| S.34A | Power to serve fixed penalty notices for certain offences under S.34 | AD/SWM |
| S.34B | Power to search and seize vehicles etc | AD/SWM |

| | | |
|-----------------|--|----------------|
| S.46 | Power to require household waste to be placed in receptacles as specified | AD/SWM/EWTM |
| S.47 | Power to require receptacles for commercial or industrial waste to be provided | AD/SWM/EWTM |
| S.47ZA | Power to serve fixed penalty notices for offences under Sections 46 & 47 | AD/SWM |
| S.52 | Power to make payments to organisations for recycling waste (Recycling Credits) | AD(E)/ SWM |
| S.59 | Powers to require removal of waste unlawfully deposited. | AD(E)/ SWM |
| S.59ZA | Supplementary power in relation to owner of land and 5.59 | AD/SWM |
| S.71 | Obtaining of information from persons (Note KMC as WRA) | AD(E)/ SWM |
| PART IIA | | |
| S.78B | Notice that Local Authority has identified contaminated land. | AD/EHM |
| S.78C | Notice of designation of special sites | AD/EHM |
| S.78E | Service of remediation notices. | AD/EHM |
| S.78N | Works in default | AD/EHM |
| S.78P | Recovery of costs | AD/EHM |
| S.78R | Set charges for copy of register entries | Cabinet |
| S.78T | Notice of confidentiality | AD/EHM |
| PART III | | |
| S.80 | Power to serve Notice requiring abatement of statutory nuisance | AD/EHM /SWM |
| S.81(1) | Power to serve Notice under S.80 where nuisance caused by more than one person | AD/EHM /SWM |
| S.81(2) | Power to serve Notice under S.80 where cause of nuisance arises outside district | AD/EHM/SWM |

| | | |
|---------|--|---------------|
| S.81(5) | Power to take proceedings in High Court in relation to noise | Cabinet AD(E) |
|---------|--|---------------|

PART IV

| | | |
|------|---|--------|
| S.88 | Power to serve fixed penalty notices for leaving litter | AD/SWM |
|------|---|--------|

| | | |
|------|--|--------|
| S.92 | Power to serve litter abatement notice | AD/SWM |
|------|--|--------|

| | | |
|-------|--|--------|
| S.92A | Power to serve litter clearing notices | AD/SWM |
|-------|--|--------|

| | | |
|------|---|--------|
| S.93 | Power to serve street litter control Notice | AD/SWM |
|------|---|--------|

| | | |
|-------|--|--------|
| S.94A | Power to serve fixed penalty notice for non-compliance with Sections 92C(2) or 94(8) | AD/SWM |
|-------|--|--------|

| | | |
|-------|---|--------|
| S.94B | Powers related to controls on free distribution of printed matter | AD/SWM |
|-------|---|--------|

| | | |
|------|---|--------|
| S.99 | Powers in relation to abandoned Shopping trolleys | AD/SWM |
|------|---|--------|

PART VIII

| | | |
|-------|-----------------------|---------------|
| S.149 | Seizure of stray dogs | EHO/TO/AHI/DW |
|-------|-----------------------|---------------|

**Food and Environment Protection Act 1985
The Control of Pesticides Regulations 1986**

| | | |
|--------------------|-----------------------------|---------------------|
| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|

| | |
|---|--------|
| Designation of appropriate Officers for the purposes of enforcement of the Act and Regulations. | AD/EHM |
|---|--------|

| | |
|---|--------|
| Designation of proper officers to receive notification of aerial crop spraying (FEPA) | AD/EHM |
|---|--------|

Food Safety Act 1990 (as amended) and any Orders and Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972 and any modification or re-enactment to the foregoing

| | | |
|--------------------|-----------------------------|---------------------|
| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|

| | |
|---|--------|
| Power to authorise, in writing any persons (whether or not an Officer of the Authority) either generally or | AD/EHM |
|---|--------|

specifically to act in matters arising under the Legislation including approval of establishments and enforcement issues relating to imported food (subject to no person being authorised unless he/she has such qualifications as may be prescribed by the Legislation)

Health and Safety (Enforcing Authority) Regulations 1998

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|
| | Transfer of premises | AD/EHM |

Health and Safety at Work etc. Act 1974 and the Relevant Statutory Provisions

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| | To appoint inspectors for the purposes of the Act and relevant statutory provisions. The Act gives appointed officers powers to serve notices, enter premises, remove/ render harmless articles or substances, investigate, examine, take recordings, photographs, measurements, seize articles or substances, require information, take copies of documents etc. | AD/EHM |
| S.20(2)(c)(i) | Power to authorise other persons for the purpose of workplace inspections (i.e. persons with specialist expertise, e.g. electrical, structural) | EHO/STO |

Horse Passports (England) Regulations 2004

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|
| Reg 21 | Power of entry | AD/EHM |
| Reg 25 | Enforcement of Regulations | AD/EHM |

Local Government (Miscellaneous Provisions) Act 1976

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.16 | Power to obtain particulars of persons interested in land | TM |
| S.20 | Power to serve Notice requiring provision of sanitary accommodation at places of entertainment | EHM |

| | | |
|------|---|---------|
| | Approval of Policy re numbers of appliances | Cabinet |
| | Deviation from approved policy under certain circumstances | EHM |
| S.35 | Power to serve Notice requiring removal of obstruction from private sewer | AD/EHM |

Local Government (Miscellaneous Provisions) Act 1982

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| S.14 | Duty of LA to register any person who applies for registration in respect of the practice of acupuncture | AD/EHM |
| | NOTE: It is an offence for any person to carry on acupuncture without such registration but the LA must register any applicant, who then has to comply with local byelaws. | |

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| S.15 | Similar provisions to S.14 with respect to tattooing, ear piercing and electrolysis. Again there is no discretion, all applicants must be registered. | AD/EHM |
| S.29 | Power to serve Notice requiring execution of works to prevent unauthorised entry to buildings and to recover expenses. | AD/EHM |

Natural Mineral Water Spring Water and Bottled Drinking Water Regulations 1999 and Amendment Regulations 2003 & 2004

| Legislation | Extent of Delegation | Delegated To |
|--|---|---------------------|
| Schedule 1, Part 1 of 1999 Regulations | Recognition of natural mineral waters | AD/EHM |
| Reg 13 of 2003 Regulations | Power to carry out periodic checks on any water recognised as natural mineral water | AD/EHM |

Noise Act 1996 as amended by the Anti Social Behaviour Act 2003

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| | Power to authorise officers to assist in | AD/EHM |

relation to Sections 3, 8 and 10 of the Act

Performing Animals Act 1925

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-------------------------------------|-------------------------------------|
| | Power to license Performing Animals | Approve - AD/ EHM Refuse - RP |
| | Determination of Application Fee | Cabinet |

Pet Animals Act 1951

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------------|-------------------------------------|
| S.1 | Power to grant or refuse licences | Approve - AD/ EHM Refuse - RP |

Pollution Prevention and Control (England and Wales) Regulations 2000

| Legislation | Extent of Delegation | Delegated To |
|-----------------------------|--|-----------------------------|
| Part II Regulation 10 | Authority to issue Permits | Approve - AD Refuse - RP |
| Part II Regulation 17 | Authority to vary Permits | AD/EHM |
| Part II Regulation 18(9) | Authority to serve Notice requiring information in pursuit of determining a Permit Transfer | AD/EHM |
| Part II Regulation 19(8) | Authority to accept surrender of Permit | RP |
| Part II Regulation 21 | Authority to revoke Permits | RP |
| Part III Regulation 24 | Authority to issue Enforcement Notice | AD/EHM |
| Part III Regulation 25 | Authority to issue Suspension Notice | AD/EHM |
| Part III Regulation 26 | Authority to take steps to prevent or remedy pollution | AD/EHM |
| Schedule 4 Paragraph 4 | Authority to serve Notice requiring information in pursuit of determining a Permit application | AD/EHM |
| Schedule 7 Paragraph 3 | Authority to serve Notice requiring information in pursuit of determining a Permit variation | AD/EHM |

| | | |
|----------------------------|---|--------|
| Part V Regulation 28(2) | Authority to serve Notice requiring a person to furnish the regulator with information necessary for the discharge of their functions | TM |
| Schedule 4 Paragraph 11 | Authority to serve Notice of intention to include off site conditions | AD/EHM |
| Part VI Regulation 33 | Authority to institute proceedings in the High Court | RP |

Prevention of Damage by Pests Act 1949

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.2 | Power to carry out inspections and destroy rats/mice | EHO/TO |
| S.4 & S.6 | Power to enforce duties of owners and occupiers and to serve notices | AD/EHM/SWM |

Protection of Animals Act 1911 as amended by Protection of Animals (Amendment) Acts 1954 & 2000

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---------------------------------------|---------------------|
| | Power to act on behalf of the Council | EHO/TO/ AHWO/DW |

Public Health (Control of Diseases) Act 1984

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| S.1 | Power to appoint Proper Officers for the purposes of notifiable disease and food poisoning. | AD & EHM |
| S.16 | LA may resolve to make temporary order in relation to making a disease notifiable within its district, other than those specified in S.10 and S.13. | AD/EHM |
| S.23 | Prohibition and restriction of admission of persons under a prescribed age to places of entertainment or assembly. | AD/EHM |
| S.24 | Power to require information from the occupier of any building in relation to the laundering of articles. | AD/EHM |
| S.25 | Power to disinfect or destroy library books exposed to infection from | AD/EHM |

| | | |
|------|--|--------|
| | notifiable disease. | |
| S.26 | Power to serve notice in relation to infected material. | AD/EHM |
| S.28 | Prohibition of certain works on premises where notifiable disease exists. | AD/EHM |
| S.30 | Power to serve notice on owners and occupiers of houses in relation to cessation of occupation after recent case of notifiable disease. | AD/EHM |
| S.31 | Power to serve Notice to cleanse and disinfect premises and to disinfect and destroy articles. | AD/EHM |
| S.32 | Power to cause the removal of any person from any house where infectious disease has occurred, and the provision of temporary accommodation. | AD/EHM |
| S.34 | Power to provide for disinfection of public conveyance. | AD/EHM |
| S.37 | Power to apply to a Justice of the Peace for an order to remove to hospital a person suffering from a notifiable disease. | AD/EHM |
| S.38 | Power to apply to a Justice of the Peace for the detention in hospital of a person suffering from a notifiable disease. | AD/EHM |
| S.41 | Power to remove by order a person suffering from a notifiable disease from a common lodging-house to a hospital. | AD/EHM |
| S.42 | Power to apply to a Magistrates' Court for a common lodging-house to be closed. | AD/EHM |
| S.51 | Power to take such steps as necessary to prevent the spread of infectious disease in relation to persons on a canal boat. | AD/EHM |

Public Health (Infectious Diseases) Regulations 1988

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| Reg.11 | Power to take measures for destroying all rats in district and preventing rats from gaining entry into buildings. | AD(E)/EHM |

Public Health Act 1936

| Legislation | Extent of Delegation | Delegated To |
|------------------------|--|-----------------------------------|
| S.45 | Power to serve Notices requiring repair of closets | AD & EHM |
| S.48 | Examination of drains | AD/EHM |
| S.50 | Power to serve Notice re overflowing or leaking cesspools | AD/EHM |
| S.78 | Power to cleanse common courts and passages | AD/EHM/ SWM/EWTM |
| S.79 | Power to serve Notice requiring removal of noxious material | AD/EHM SWM/EWTM |
| S.83 | Power to serve Notice requiring cleansing of filthy or verminous premises | AD/EHM/ EWTM |
| S.84 | Power to cleanse or destroy filthy or verminous articles | AD/EHM/ EWTM |
| S.85 | Power to cleanse filthy and verminous persons and their clothing | AD/EHM |
| S.140 | Power to close or restrict use of water from polluted supply | AD(E)/EHM |
| S.259, S.260, S.261 | Power to deal with ponds, ditches, etc. in such a state as to be prejudicial to health or a nuisance | AD/EHM |
| S.262 | Power to require culverting of watercourses | AD/EHM |
| S.264 | Power to require repair maintenance and cleansing of culverts | AD/EHM |
| S.268 | Power to deal with nuisance from tents, vans, sheds, etc. | AD/EHM |
| S.269 | Power to issue, either conditionally or otherwise or refuse to issue, licences in respect of movable dwellings | Grant - AD/ EHM Refuse - RP |

| | | |
|-------|---------------------------------------|--------|
| S.275 | Power to carry out works by agreement | AD/EHM |
| S.276 | Sale of materials | AD/EHM |

Public Health Act 1961

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|---------------------|
| S.17 | Power to repair drains, etc. | AD/EHM |
| S.34 | Power to remove rubbish | AD/EHM/ SWM/EWTM |
| S.36 | Power to require vacation of premises during fumigation | AD/EHM |
| S.37 | Prohibition of sale of verminous articles | AD/EHM |
| S.74 | Power to reduce number of pigeons and other birds in built up areas | AD/EHM |

Refuse Disposal (Amenity) Act 1978

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.2A | Power to serve fixed penalty notices for abandoning vehicles | CM/TM(W)/EPM |
| S.2B | Power to require name and address | CM/TM(W)/EPM |
| S.3 | Power to remove abandoned vehicles | CM/TM(W)/EPM |
| S.4 | Power to dispose of abandoned vehicles | CM/TM(W)/EPM |
| S.6 | Power to remove other refuse | CM/TM(W)/EPM |
| S.8 | Powers of entry upon land | CM/TM(W)/EPM |

Riding Establishments Act 1964 and 1970

| Legislation | Extent of Delegation | Delegated To |
|--------------------|---|-------------------------------------|
| S.1 | Power to grant or refuse licences | Approve - AD/ EHM Refuse - RP |
| | Determination of charges for licences | Cabinet |
| S.2 | Power to authorise suitably qualified personnel to enter premises and inspect | AD/EHM |

Smoke Free Regulation 2006

| | |
|--|---|
| Powers under the Legislation relating To enforcement of the Smoke Free Provisions delegate to Officers | AD/EHM Head of Building Control, Licensing and Markets |
|--|---|

Sunday Trading Act 1994

| Legislation | Extent of Delegation | Delegated To |
|---------------------|---|---------------------|
| Para. 3, Schedule 2 | Relating to appointment of Officers to enforce the provisions of the Act. | AD/EHM |

Town and Country Planning Act 1990

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.215 and 219 | Power to Serve Notices on owners and occupiers of land requiring the removal of waste etc. | SWM |

Water Industry Act 1991

| Legislation | Extent of Delegation | Delegated To |
|--------------------|--|---------------------|
| S.77 | Duty of Local Authority to keep itself informed of water quality | AD/EHM |
| S.78 | Duty of Local Authority to notify water undertaker and Secretary of State of unsatisfactory public supply. | AD/EHM |
| S.79 | Powers of Local Authority to require water undertaker to provide a wholesome supply of water | AD/EHM |
| S.80 | Remedial powers of Local Authority in relation to private water supply | AD/EHM |
| Legislation | Extent of Delegation | Delegated To |
| S.81 | Requirement to confirm certain private supply notices with Secretary of State | AD/EHM |
| S.82 | Enforcement and variation of private supply notices. | AD/EHM |
| S.83 | Duty of Local Authority to act as if a water undertaker in certain circumstances. | AD/EHM |
| S.84 | Powers of entry | AD/EHM |

| | | |
|------|-----------------------------|--------|
| S.85 | Power to obtain information | AD/EHM |
|------|-----------------------------|--------|

West Yorkshire Act 1980

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|
|--------------------|-----------------------------|---------------------|

| | | |
|------|--|-----|
| S.44 | Power to serve Notice requiring control of the emission of dust. | EHO |
|------|--|-----|

| | | |
|--|--------------------------------|-----|
| | Power to give consent to steps | EHO |
|--|--------------------------------|-----|

| | | |
|--|---|--|
| | proposed to be taken to prevent the emission of dust. | |
|--|---|--|

| | | |
|------|--|--------|
| S.81 | Power to serve Notice re trees impeding natural light. | AD/EHM |
|------|--|--------|

Working Time Regulations 1998

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|
|--------------------|-----------------------------|---------------------|

| | | |
|--|---|--------|
| | Power to appoint inspectors to enforce the Working Time Regulations 1998. | AD/EHM |
|--|---|--------|

Zoo Licensing Act 1981 and the Zoo Licensing Act 1981 (Amendment) (England & Wales) Regulations 2002

| Legislation | Extent of Delegation | Delegated To |
|--------------------|-----------------------------|---------------------|
|--------------------|-----------------------------|---------------------|

| | | |
|--|-------------------------|--------|
| | Power to issue licences | AD/EHM |
|--|-------------------------|--------|

| | | |
|--|--|--------|
| | Granting of requests for dispensations | AD/EHM |
| | Power to refuse licences | RP |

Generally

Authorisations Required

The AD, EHM and SWM are empowered to authorise suitably qualified officers, as appropriate, to undertake duties and responsibilities, including Powers of Entry, under the following statutes and regulations and orders made thereunder:

1. Animal Boarding Establishments Act 1963
2. Animal By-Products Regulations
3. Animal Health Act 1981
4. Anti Social Behaviour Act 2003
5. Breeding of Dogs Act 1973 (As Amended)
6. Building Act 1984
7. Caravan Sites and Control of Development Act 1960 (As Amended)
8. Clean Air Act 1993
9. Clean Neighbourhoods & Environment Act 2005
10. Control of Pollution (Amendment) Act 1989

11. Control of Pollution Act 1974
12. Dangerous Dogs Act 1991 (As Amended)
13. Dangerous Wild Animals Act 1976
14. Dogs (Fouling of Land) Act 1996
15. Environment Act 1995
16. Environmental Protection Act 1990
17. Food & Environment Protection Act 1985
18. Food Safety Act 1990 (As Amended)
19. Health & Safety (Enforcing Authority) Regulations 1989
20. Health & Safety at Work etc. Act 1974
21. Horse Passports (England) Regulations 2004
22. Local Government (Miscellaneous Provisions) Act 1976
23. Local Government (Miscellaneous Provisions) Act 1982
24. Natural Mineral Water Spring Water and Bottled Drinking Water
25. Noise Act 1996 (As Amended)
26. Performing Animals Act 1925
27. Pet Animals Act 1951
28. Pollution Prevention & Control (England & Wales) Regulations 2000
29. Prevention of Damage by Pests Act 1949
30. Protection of Animals Act 1911-1964 (As Amended)
31. Public Health (Control of Diseases) Act 1984
32. Public Health (Infectious Diseases) Regulations 1988
33. Public Health Act 1936
34. Public Health Act 1961
35. Refuse Disposal (Amenity) Act 1978
36. Regulations 1999 (As Amended)
37. Riding Establishments Acts 1964 and 1970
38. Sunday Trading Act 1994
39. The Agriculture (Miscellaneous Provisions) Act 1968
40. The Control of Pesticides Regulations 1986
41. Town & Country Planning Act 1990
42. Water Industry Act 1991
43. West Yorkshire Act 1980
44. Working Time Regulations 1998
45. Zoo Licensing Act 1981 (As Amended)

Former Public Convenience Sites

The AD is authorised to arrange disposal and/or alternative use of former public convenience sites up to 0.25 acre including buildings remaining on site where appropriate, following the satisfactory outcome of consultations with Ward Members; in cases where Ward Members raise objections a report is to be submitted to Cabinet for determination.

Environment Budget Allocations

The Head of the Environment Unit is authorised to approve small environmental grants up to £500 for local voluntary groups from the voluntary sector funding allocation within the Environment Budget.

Banning of Trade Waste and Residents Permits at Household Waste and Recycling Centres

The Director of Environment, Transportation and Property is authorised to determine how the ban of trade waste is upheld and how to avoid Kirklees residents meeting the cost of disposing of rubbish dumped by people from outside the Borough.

2. Property Matters

1.1 The Head of Design and Property Service, the Estates Manager, or their nominee, will act on behalf of the Council in respect of all negotiations for the management, acquisition or disposal of land and properties as conducted by the Estates Division of Design and Property Service.

1.2 Compensation

The Head of Design and Property Service, the Estates Manager, or their nominee, will negotiate and authorise for payment:

- (a) Statutory compensation under the Landlord and Tenant Act 1954
- (b) Compensation in respect of Farm Business Tenancies and Agricultural Holdings
- (c) Compensation under Section 278 of the Public Health Act 1936 (compensation to an individual for damage resulting from exercising the powers under the Act)
- (d) Compensation under the Land Compensation Act 1973 including the payment of advance payments
- (e) Miscellaneous claims
- (f) Compensation arising out of the Housing Act 1985 (such as closing and demolition orders).
- (g) Compensation arising out of planning decisions such as revoking, modifying or discontinuing orders
- (h) Compensation under the Highways Act 1980 such as pedestrian and stopping up orders
- (i) Compensation relating to the compulsory acquisition of land and buildings in accordance with Land Compensation Act 1961 and Compulsory Purchase Act 1965.

1.3 Planning applications

The Head of Design and Property Service, the Estates Manager, or their nominee, will prepare all planning applications to be made regarding the Council's land and property and submit them for approval subject to the following:

- (a) Ward members are consulted at least fourteen days before the proposed application. Adverse comments will be submitted to Cabinet or Cabinet Committee as part of a report for consideration

- (b) Confirmation is obtained from Planning Services that the proposal is in accordance with the approved planning for the area.

1.4 **Landlord and tenant**

The Head of Design and Property Service, the Estates Manager, or their nominee, will:

- (a) Prepare and submit all notices and notices to quit under the Landlord and Tenant Act 1954, Agricultural Holdings Act 1986 and the Agricultural Tenancies Act 1995 for all Council properties.
- (b) Approve applications for the assignment of leases subject to satisfactory references.
- (c) Conclude terms for the letting of all commercial or surplus land and property and instruct the Solicitor to the Council.
- (d) Conclude terms and complete standard forms of agreement for licences and tenancies relating to sites for garages, caravans, access, gardens and grazing, and licences for site compounds and site investigations.
- (e) Conclude rent reviews contained in leases including arbitration as necessary, and instruct the Solicitor to the Council to make any endorsements on the lease.
- (f) Approve any changes of use or extension to user clauses within tenancies or leases.
- (g) Authorise formal deeds of apportionment of ground rents of leasehold properties.
- (h) Conclude the surrender of tenancies or leases as agreed in circumstances where:
 - (i) The tenant wishes to take the tenancy or lease of alternative Council-owned accommodation
 - (ii) Prolonging the contract will cause financial hardship to the tenant potentially resulting in financial loss to the Council

- (iii) The tenant agrees to reimburse the Council against losses incurred in both marketing the premises and interim rent until the new lease is concluded
- (iv) The premises are unlikely to be easily re-let and a commuted lump sum has been negotiated
- (v) Where it is in the Council's wider interests.
- (i) Take all necessary action to recover rent or other monies due to the Council under the provisions of tenancies, leases or licences including the powers of distraint, forfeiture and suing on the personal covenant.
- (j) Negotiate and conclude disturbance payments to tenants up to a value of £10,000 in consultation with the Director of Finance.
- (k) Conclude terms for leases in respect of sites or easements required by mains services providers of water, gas, electricity for installing apparatus and instruct the Solicitor to the Council to complete the documentation.
- (l) Conclude negotiations and authorise amendments or variations to covenants in tenancies or leases where such amendments or variations are not prejudicial to other policies or objectives of the Council or the interest of the other tenants.
- (m) Conclude terms for the restructure or renewal of long leases where this is in the longer term interests of the Council.

1.5 Disposal of land and property by private treaty

The Head of Design and Property Service, the Estates Manager, or their nominee, will:

- (a) Approve heads of terms and authorise instruction of the Solicitor to the Council concerning freehold or leasehold disposals in respect of the following, subject to consultation as indicated below:

| Type | Consultee |
|-------------------------------|---|
| Housing associations | Ward members and Housing Services |
| Industrial land: | |
| (i) Industrial estates | Head of Economic Development Service |
| (ii) Miscellaneous industrial | Head of Economic Development Service and ward members |

| | |
|---------------------------|------------------------------------|
| Sitting tenants | Ward members |
| Adjoining owners | Ward members and Planning Services |
| Surplus land and property | Ward members and Planning Services |

In the case of surplus land and property being sold on a competitive basis other than by way of formal tender, offers will only be accepted if they are more than 10% below the official estimate of value recorded for that purpose.

- (b) Approve heads of terms and instruct the Solicitor to the Council concerning negotiations for the conclusion of disposals of the Council's freehold reversionary interests in:
 - (i) Properties affected by the Leasehold Reform Act
 - (ii) Other properties held on long lease where such disposals will not prejudice the long term interests of the Council.
- (c) Conclude negotiations and complete the necessary documentation for:
 - (i) Grant of easements and other wayleaves
 - (ii) Amendments or variations to covenants contained in conveyances, insofar as they are not prejudicial to other policies or objectives of the Council, subject to consultation with ward members

1.6 Disposals to adjoining owners

Subject to consultation with ward members, the Head of Design and Property Service, the Estates Manager, or their nominee, will conclude the arrangements for the apportionment of sale proceeds and instruct the Solicitor to the Council.

1.7 Leases to the Council

The Head of Design and Property Service, the Estates Manager, or their nominee, will conclude negotiations and instruct the Solicitor to the Council in respect of new leases to the Council or the renewal of existing leases and the rent reviews incorporated within such leases, subject to appropriate consultation with the Director of Finance and approval from the appropriate Head of Service.

1.8 Acquisitions

The Head of Design and Property Service, the Estates Manager, or their nominee, will conclude terms and instruct the Solicitor to the

Council, for the acquisition of land and property by agreement in advance of compulsory purchase and in cases arising out of the service of a purchase or blight notice for Council or Council-supported schemes where consultation with the relevant Head of Service or Service finance manager has been undertaken.

1.9 **Public open space**

The Head of Design and Property Service, the Estates Manager, or their nominee, will initiate procedures under Section 123 of the Local Government Act 1972 relating to the disposal of public or quasi open space subject to consultation with ward members.

Where objections to the proposed disposal have been received from members of the public, a report will be submitted to Cabinet or Cabinet Committee for determination.

1.10 **Provisions**

- (a) Where ward members are to be consulted, they will be given at least fourteen days to respond and any adverse comments on the proposal will be included in a report to Cabinet or Cabinet Committee for consideration.
- (b) The Head of Design and Property Service and the Estates Manager, will submit on a regular basis schedules of all new lettings, lease renewals, rent reviews, assignments, surrenders, planning applications and all disposals (including proposed disposals of public open space where no objections have been received from members of the public) to Cabinet or Cabinet Committee for information.

The exercise of all highways and transportation powers and functions contained within:-

- (a) the Portfolio of the Cabinet Member for Environment and Highways; and
- (b) the Terms of Reference of the Planning and Highways Committee is delegated to the officers indicated below from the Planning & Highways Committee and Cabinet:-

1. **Assistant Director Highways & Transportation or nominated officer**

Delegated powers shall be exercised subject to the exceptions that:-

Matters are referred to the Planning & Highways Committee, or Cabinet, as appropriate:-

- (i) If the delegated officer so decides
- (a) with the agreement of the Chair of the Planning & Highways Committee or the relevant Cabinet Member; or
- (b) due to the significant volume of local opinion (including through Area Committees or Parish Councils).
- (ii) Where the relevant Cabinet Member or the Chair of Planning and Highways Committee so requests.
- (iii) Where any member so requests in relation to any matter within their Ward. The member shall specify in writing his/her reasons for making the request.
- (iv) Where there is not majority support for the proposed action by the 3 Ward Members.
- (v) Where objections are received to the establishment of pedestrian crossings, the installation of road humps, the making of speed limit orders, traffic regulation orders or on street or off street parking places orders.
- (vi) Where objections are received at the preliminary consultation stage to the making of orders for the stopping up or diversion of footpaths or bridleways under the Town and Country Planning Act 1990 (or any legislation revoking and re-enacting that Act with or without modification).
- (vii) Where objections are received at the preliminary consultation stage to the making of public path extinguishment orders or public path diversion orders under the Highways Act 1980 (or any legislation revoking and re-enacting that Act with or without modification).
- (viii) In respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking and re-enacting that Act with or without modification).
- (ix) Where they are or relate to key decisions as defined by Article 13.3(b) of Part 2 of the Council's Constitution.
- (x) Where the delegated officer in consultation with the relevant Chair has determined that the matter relates to the formulation of policy.
- (xi) Where required in accordance with the Council's Financial Procedure Rules.

2 Solicitor to the Council

Authority to take all necessary action to implement (in relation to all highways and transportation powers and functions referred to above) the decisions of:-

- (i) The Planning & Highways Committee;
- (ii) The Cabinet or;
- (iii) The Highways officers specified in 1 above.

HOUSING AND PROPERTY MATTERS

Delegated from the Cabinet.

Housing Matters

N.B. Housing Management functions are largely delegated to the Council's Arms Length Company "Kirklees Neighbourhood Housing". These delegations should be read in the light of that.

1. **Director of Adult Community Services/Assistant Director of Strategic Housing**
 - 1.1 To authorise legal proceedings in all housing related matters dealt with by Cabinet subject to the Cabinet Member being informed of such action.
 - 1.2 To authorise prosecutions in all housing related matters dealt with by Cabinet, wherever necessary.
 - 1.3 General management, maintenance, regulation and control of all of the Authority's dwellings held under Part II of the Housing Act 1985 (Provision of Housing Accommodation) and all other forms of property, land and buildings held or managed for housing purposes, including oversight of and liaison with Kirklees Neighbourhood Housing.
 - 1.4 General authority in matters covered by Part IV of the Housing Act 1988 (Change of Landlord: Secure Tenants) to act for the Council in respect of:
 - (a) Notices of information in response to applications.
 - (b) Determination of property to be included in the application.

- (c) Determination of purchase price as laid out in the Act.
 - (d) Response to notice by applicant of intention to proceed.
 - (e) Completion of any application and transfer of properties.
- 1.5 To maintain proper accounts under Part VI of the Local Government and Housing Act 1989.
 - 1.6 To provide annual reports to tenants as required by the Part IX Local Government and Housing Act 1989.
 - 1.7 To authorise Officers to enter premises in pursuance of any power conferred by legislation relating to housing matters.
 - 1.8 To manage the Supporting People Budget after 1 April 2003 making appropriate payments to Service Providers.
 - 1.9 To do any act otherwise delegated by this Scheme to any other Officer within Housing Services.
 - 1.10 To adopt or amend the Houses in Multiple Occupation Mandatory Licensing Scheme under any relevant secondary legislation and to issue when necessary/revoke licenses to landlords/managers of Houses in Multiple Occupations which fall within the Scheme.

2. Service Managers

- 2.1 To take any necessary action to recover possession of Council dwellings and all other forms of property, land and buildings held or managed for housing purposes and any arrears of rent or other debt due in respect thereof.
- 2.2 To determine the allocation of Council dwellings in accordance with the Council's policies and procedures.
- 2.3 To implement any programme of improvement, repair, modernisation or demolition of Council dwellings.
- 2.4 To approve sales of land under one quarter acre and disposals short of total sale (e.g. grants to Wayleaves) affecting parcels of less than one quarter acre.
- 2.5 To arbitrate where persons who could succeed to secure tenancies under Section 89 of the Housing Act 1985 cannot agree.
- 2.6 In his/her absence to do all things otherwise delegated to the Director of Housing.

2.7 To do all things otherwise delegated to any officer in his/her respective Division.

3. Contract Managers/Area Managers/Principal Housing Managers

3.1 Under the Housing Act 1985:

- (a) To determine the allocation of Council dwellings and all other forms of property, land and buildings held or managed for housing purposes in accordance with relevant policies.
- (b) To issue Notices to Quit or Notices of Seeking Possession or Notices of Termination, as necessary, in order to commence proceedings for possession of Council dwellings and all other forms of property, land and buildings held or managed for housing purposes and to take such further action as is necessary to obtain possession thereof.
- (c) To authorise proceedings for pursuit and recovery of rent arrears, former tenants' rent arrears and any miscellaneous claim in respect of damage suffered to property held or managed for housing purposes.
- (d) To take all necessary steps to ensure that the terms of the Council's Tenancy Agreement are complied with.
- (e) To approve the determination of persons qualified to succeed upon the death of a secure tenant.
- (f) To give or refuse consent to assignments of tenancy including those by way of exchange.
- (g) To give or refuse consent to the sub-letting or parting with possession of part of a dwelling by the Secure Tenant.

3.2 To instruct the Solicitor to the Council to take all necessary legal proceedings to obtain possession of properties which are being occupied without authority, and to issue any necessary Notices.

3.3 To authorise and implement the general maintenance of Council dwellings and communal areas including any property, land or buildings held or managed for housing purposes.

3.4 To authorise temporary accommodation for persons ordinarily resident in private sector housing in appropriate cases where their homes are undergoing major works of improvement and/or

repair.

- 3.5 To recharge tenants (or others) with the cost of repairs/replacements and to permit exemption in proven cases of hardship from this requirement.
- 3.6 To provide information on tenancies and allocations under Part IV of the Housing Act 1985 (Secure Tenancies and Rights of Secure Tenants).
- 3.7 To determine tenants' improvements applications for the installation of approved appliances and fittings; the execution of suitable internal/external alterations, and the provision of vehicle hardstandings, garages and other miscellaneous structures to dwellings held or managed for housing purposes, such works in each case to be carried out at the expense of the tenant.
- 3.8 To determine applications by tenants to install satellite TV dish aerials.
- 3.9 To submit planning applications for the construction of, or use of land for premises as Housing Area Offices.
- 3.10 Under Part II and III of the Housing Act 1985 (Provision of Housing Accommodation and Housing and Homeless) to approve;
 - (a) Provision of furnishings, fittings, board and laundry facilities.
 - (b) Financial assistance towards tenants/residents removal expenses.
 - (c) The exercise of powers of entry to premises held or managed for housing purposes in order to carry out survey and/or examination of works.
 - (d) The storage and/or disposal of property coming into the Council's possession as a result of its housing function.
- 3.11 To implement the Council's current policy and procedure relating to decoration allowances and decanting.
- 3.12 To take all necessary steps to comply with Section 96 of Housing Act 1985 (Right to Repair).

4. **Principal Manager (Contract Finance)**

- 4.1 To be the Designated Officer for the Administration of the

Concessionary TV Licence Scheme.

- 4.2 To take any action considered necessary for the recovery of current or former tenant arrears arising from any group heating scheme.
- 4.3 To determine Service Charges payable after disposal of dwellings and provision of information as required by Part II of the Housing Act 1985 (Section 45 et seq). To issue accounts and recover arrears.
- 4.4 To fix and control district heating charges to tenants pursuant to Part IV Housing Act 1985 (Section 108). To issue accounts and recover arrears.
- 4.5 To authorise any proceedings for pursuit and recovery of rent arrears, former tenants' arrears and any miscellaneous claim in respect of damage suffered to property held or managed for housing purposes.

5. **Homelessness and Housing Needs Manager**

- 5.1 To provide a service to fulfil the Council's obligations to deal with homelessness and threatened homelessness in accordance with the Housing Act 1985 and/or any subsequent legislation.

6. **Accommodation Manager/Assessment Manager**

- 6.1 To instruct the Solicitor to the Council to take all necessary legal proceedings to obtain possession of properties which are being occupied without authority.
- 6.2 Under the Housing Act 1985:
 - (a) To determine the allocation of Council dwellings and all other forms of property, land and buildings held or managed for housing purposes in accordance with relevant policies.
 - (b) To issue Notices to Quit or Notices of Seeking Possession or Notices of Termination, as necessary, in order to commence proceedings for possession of Council dwellings and all other forms of property, land and buildings held or managed for housing purposes and to take such further action as is necessary to obtain possession thereof.
 - (c) To authorise proceedings for pursuit and recovery of rent

arrears, former tenants' rent arrears and any miscellaneous claim in respect of damage suffered to property held or managed for housing purposes.

- (d) To take all necessary steps to ensure that the terms of the Council's Tenancy Agreement are complied with.
- 6.2 To authorise and implement the general maintenance of Council dwellings and communal areas including any property, land or buildings held or managed for housing purposes.
 - 6.3 To authorise temporary accommodation for persons ordinarily resident in private sector housing in appropriate cases where their homes are undergoing major works of improvement and/or repair.
 - 6.4 To recharge tenants (or others) with the costs of repairs replacements and to permit exemption in proved cases of hardship from this requirement.
 - 6.5 In his/her absence to do all things otherwise delegated to the Homelessness and Housing Needs Manager.
 - 6.6 To make determinations under Part III of the Housing Act 1985.
 - 6.7 Under the Housing Act 1985 (Provision of Housing Accommodation and Housing the Homeless), to authorise:
 - (a) Provision of furnishings, fittings, board and laundry facilities.
 - (b) Financial assistance towards tenants/residents removal expenses.
 - (c) The exercise of powers of entry to premises held or managed by Cabinet for the purpose of survey and/or examination of works.
 - (d) The storage and/or disposal of property coming into the Council's possession as a result of its housing function. (See also delegated powers of Area Housing Managers).
 - 6.8 To procure and allocate temporary accommodation to homeless persons to whom the Council owes a duty under Part III of the Housing Act 1985.
 - 6.9 To agree terms and conclude agreements with hoteliers for bed and breakfast accommodation for homeless people when other temporary accommodation is not available.

7. Service Finance Officers and Right to Buy Officers and Contract Managers

- 7.1 To operate the Right to Buy Scheme, as governed by current legislation, together with the exercise of such repayment provisions specified by that legislation.
- 7.2 To operate the Rents to Mortgage Scheme, as governed by current legislation.

8. Principal Manager (Private Sector)

- 8.1 To instruct the Solicitor to the Council, following consultation with the Head of Design and Property Service to conclude the purchase by agreement with owners of land, premises, etc. within clearance areas or areas affected by proposed Compulsory Purchase Orders.
- 8.2 To make a Closing Order or Demolition Order in the case of any unfit dwellings where it is considered the most appropriate course of action.
- 8.3 To determine all matters relating to breaches of grant conditions and the subsequent recovery of grant payments.
- 8.4 To make a Control Order in the case of any Flat or House in Multiple Occupation where this is deemed to be the most appropriate course of action.
- 8.5 Power under Sections 215 and 219 of the Town and Country Planning Act 1990 to Serve Notices on owners of land where the land is in such a condition that it adversely affects the amenity of the area.

9. Improvement Managers/Principal Manager (Private Sector)

- 9.1 To serve Notices under the Building Act 1984 to remedy the state of defective premises prejudicial to health or a nuisance, to require sufficient facilities for drainage and to require repair, demolition or works of restoration to ruinous or dilapidated buildings or sites. To authorise works in case of default by owners served with such Notices.
- 9.2 To deal with any matters arising under the Local Government (Miscellaneous Provisions) Act 1976 and any amending enactments relating to assistance in cases where supplies of gas, electricity or water have been disconnected.
- 9.3 To authorise such works of support and/or weatherproofing to

gable walls exposed by demolition, as are considered necessary including the provision of cavity wall where considered to be the most appropriate.

- 9.4 To serve notices under the Housing Act 1985, any amending enactments and other relevant enactments to require the good management and/or safety or improvement or repair of or provision of means of escape from fire to houses or flats or houses or flats in multiple occupation or the common parts of any building, including the abatement of overcrowding and all matters arising from the service of such Notices. To authorise default works following non-compliance with such Notices and any Court proceedings.
- 9.5 To determine grants for the improvement, repair or conversion of houses or flats and house or flats in multiple occupation including the provision of separate water service pipes, adaptations for persons with disabilities and for the common parts of the building occupied as flats.
- 9.6 The service of Notices for the protection of unoccupied buildings to prevent unauthorised access and to authorise default works in the event of non-compliance with such Notices, together with the power to recover the expense thereof and to take any court proceedings.
- 9.7 To require registration of houses in multiple occupation.
- 9.8 To authorise payments at interim and completion stages of all types of approved grants.
- 9.9 To determine the revocation of Closing or Demolition Orders or Undertakings where premises have been restored to fitness for human habitation.
- 9.10 To identify areas for declaration as Renewal Areas and to conduct housing surveys so as to report upon housing conditions, authorise Neighbourhood Renewal Assessments and recommend the most appropriate options for dealing with the conditions recommending proposed policy changes in accordance with such duty imposed upon the Authority by the Housing Act 1985 and amending enactments.
- 9.11 The service of Notices requiring information about interests in an ownership of land, premises, etc. and any matter arising from the service of such Notices.
- 9.12 Service of Notices relating to Powers of Entry to any premises for the purposes of survey and examination.

10. **Tenancy Relations Officers/Improvement Managers/Principal Manager (Private Sector)**
 - 10.1 To instruct the Solicitor to the Council to take all necessary legal proceedings in cases of harassment and illegal eviction under the Protection from Eviction Act 1977 and other offences under the Housing Act 1988 and Landlord and Tenant Act 1985 (rent books and information)
 - 10.2 To arrange re-instatement of services to properties under the Local Government Miscellaneous Provisions Act 1976.
11. **Adaptations Manager/Principal Manager (Housing and Health)**
 - 11.1 To determine disabled facility grants (and related improvement grants) for the provision of adaptations for people with disabilities.
 - 11.2 To determine all requests for adaptations to Council properties for people with disabilities.
 - 11.3 To operate the Disabled Facilities Grant and Council tenants' means testing scheme for adaptations.
 - 11.4 To recharge tenants (or others) with their assessed contribution towards the cost of adaptations, and to permit exemption in proven cases of hardship from this requirement.
 - 11.5 To authorise proceedings for pursuit and recovery of charges for the provision of adaptations.
 - 11.6 To reimburse tenants towards the cost of their contributions toward adaptations in line with current policy.
 - 11.7 To authorise financial assistance towards tenants/residents rehousing expenses in line with current policy, where such expenses would avoid greater expenditure on adaptations.
12. **Principal Surveyor (Client)**
 - 12.1 To determine applications for reimbursement of costs for former tenants improvements in line with current Council policy with the exception of applications which involve home extensions.
13. **Solicitor to the Council**
 - 13.1 To postpone the Council's Statutory Charge, where a property is mortgaged to an approved lending institution under the Housing Act 1985 is mortgaged to another lending institution, or where a secure loan is required from the original approved lending

institution or from another approved lending institution, subject in each case:

- (a) The Solicitor to the Council being satisfied that the value in each case of the property concerned is, or will be, sufficient to adequately protect the Council's interests.
- (b) Any and all costs incurred by the Council in the granting of the postponement being met in full by the application.

14. Service Manager (Strategy and Partnerships)

- 14.1 To determine applications for Extra Support Grant (within the approved Budget) from Tenants and Residents Associations, following consideration of bids by a joint Officer/KFTRA Panel.

15. Improvement Officers

- 15.1 The service of Notices relating to Powers of Entry to any premises for the purposes of survey and examination

ADULT SERVICES

The role of the Head of Adult Services encompasses the responsibilities of the statutory post of Director of Adult Social Services, i.e. the post holder "is responsible for the delivery of local authority social services functions listed in Schedule 1 of the Local Authority Social Services Act 1970, other than those for which the Director of Children's Services is responsible, in respect of adults". (Best Practice Guidance on the Role of Director of Adult Social Services). NB statutory guidance is due for publication on 15-17 May.

The Head of Adult Services has delegated authority on behalf of the Council as follows:

1. Operation Decisions

- 1.1 To make all appointments to posts in the Service, in accordance with the approved establishment.
- 1.2 To exercise day to day control of and have responsibility for the operational management and efficiency of the Service.
- 1.3 To manage the accommodation, premises and other assets held or used for the purposes of the Service.
- 1.4 To administer arrangements for the care of older people, people with physical disabilities, people with learning disabilities and people who are mentally ill.

- 1.5 To authorise the admission of persons to accommodation under the control of the Council for the purposes of Social Services and where appropriate accommodation under the control of another authority or voluntary organisation.
- 1.6 To make arrangements with or contributions to other Authorities or voluntary organisations providing such accommodation or premises in accordance with Council or Cabinet policy as appropriate.
- 1.7 To make arrangements for the temporary protection of the property of persons admitted to hospital or other accommodation.
- 1.8 To make arrangements for the burial or cremation of persons dying in accommodation provide under Part III of the National Assistance Act, 1948 and to recover funeral expenses from the deceased estate.
- 1.9 To assess and determine contributions required for Services, accommodation and the use of facilities, to reduce or waive such contributions and to institute and conduct proceedings to recover such contributions.

2. Decisions Delegate by Council/Cabinet

- 2.1 **In conjunction with the Cabinet Member for Health and Social Care**

To award ex-gratia payments over £1,000.
- 2.2 **To exercise delegated powers in the following areas:**
 - 2.2.1 To award ex-gratia payments up to £1,000.
 - 2.2.2 To authorise the donation of items of equipment to charitable organisations when these items are no longer of use to the Service.
 - 2.2.3 To appoint Proper Officers under Section 47 of the National Assistance Act 1948 and Amending Legislation.
 - 2.2.4 To authorise legal proceedings in all matters relating to Adult Services functions, including the care and protection of adults.
 - 2.2.5 To authorise prosecutions in all matters relating to Adult Services functions, including the care and protection of adults.

- 2.2.6 To make application to act as receiver of property for persons who, by reasons or mental disorder, are incapable of managing their own affairs.

2.3 The Group Finance Manager

The authorised nominee for the Council to take out a Grant of Representation to secure the proceeds from the sale of a property to recover unpaid debts is the Group Finance Manager or in her/his absence the Head of Adults and Communities, Group Services.

REGENERATION MATTERS

The following powers and functions are delegated to the officers indicated below from Planning and Highways Committee or Cabinet

1. DETERMINATION OF PLANNING APPLICATIONS

The Head of Planning Services, the Assistant Head of Planning Services, the Group Managers, and the Development Control Team Leaders

- 1.1 planning applications for the extension, alteration, change of use or improvement to any existing premises
- 1.2 planning applications where the area to be developed is 0.5 hectares or less and the decision is in accordance with the Development Plan except in the case of applications for retail development in excess of 750 sq. metres gross floor area which officers are proposing to approve
- 1.3 approval of reserved matters submissions and of matters where specific approval is required by planning conditions
- 1.4 requests for minor alterations to existing planning permissions e.g. amendments to the design or materials of buildings
- 1.5 applications under section 73 of the Town and Country Planning Act 1990 to develop land without compliance with planning conditions previously attached to planning permissions
- 1.6 to decline to determine planning applications in accordance with section 70A of the Town and Country Planning Act 1990
- 1.7 determinations as to the need for and content of environmental statements in relation to Environmental Impact Assessments
- 1.8 authority to enter into agreements under section 106 of the Town and Country Planning Act 1990 and other enabling powers

- 1.9 authority to enter into agreements to modify or discharge planning obligations

1.10 - NOTES

Categories 1.1, 1.2, 1.3 , and 1.5 above are also subject to the exceptions that such applications/submissions will be determined by the appropriate Committee or Sub-Committee:-

- (i) If the delegated officer so decides
 - (a) with the agreement of the Chair of the relevant Committee or Sub-Committee; or
 - (b) due to the significant volume of local opinion
- (ii) Where any ward member so requests in relation to any application/submission within their ward. The member shall specify in writing his/her reasons for making the request which shall reasonably relate to some aspect of the site or the development. The reasons will be incorporated in full in the Committee/Sub-Committee report.

2. NOTIFICATIONS UNDER THE TOWN AND COUNTRY PLANNING GENERAL PERMITTED DEVELOPMENT ORDER 1995 (AS SUBSEQUENTLY AMENDED OR REPLACED)

The Head of Planning Services, the Assistant Head of Planning Services,, the Group Managers, and the Development Control Team Leaders

- 2.1 all matters relating to the notification procedure under the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as subsequently amended or replaced, and subsequent consideration/approval of any details requested,

3. LISTED BUILDINGS AND CONSERVATION AREAS

The Head of Planning Services, the Assistant Head of Planning Services, the Group Managers/Leaders, the Development Control Team Leaders and the Principal Planning Officer (Conservation and Design).

- 3.1 determination of applications for conservation area consent
- 3.2 determination of applications for listed building consent except those applications involving the partial or total demolition of Grade I or Grade II* listed buildings

- 3.3 the serving of building preservation notices under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in cases of urgency
- 3.4 the serving of a notice under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 informing the owner of a listed building of the local planning authority's intention to carry out works urgently necessary to preserve the building
- 3.5 the serving of a notice under section 76 of the Planning (Listed Buildings and Conservation Areas) Act 1990 informing the owner of an unlisted building in a conservation area of the local planning authority's intention to carry out works urgently necessary to preserve the building, subject to the direction of the Secretary of State
- 3.6 entry onto land and the execution of any works which appear necessary for the preservation of:-
 - (a) a listed building under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
 - (b) an unlisted building in a conservation area under section 76 of the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to the direction of the Secretary of State
- 3.7 the serving of a notice under section 55 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the recovery of expenses incurred by the local planning authority in carrying out urgent works pursuant to section 54 of the Act and, in the event of non-payment, the institution of legal proceedings to recover those expenses
- 3.8 the making of representations to the appropriate Government Department in relation to the listing of historic buildings, subject to prior discussion between the Head of Planning Services, the Assistant Head of Planning Services, and the Group Managers
- 3.9 the serving of repairs notices under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 where the Council has resolved to pursue action under section 47 of the Act

4. ADVERTISEMENTS

The Head of Planning Services, the Assistant Head of Planning Services,, the Group Managers, and the Development Control Team Leaders (and in relation to 4.1 only, the Senior Planning Officers)

- 4.1 determination of applications for the display of advertisements
- 4.2 the serving of discontinuance notices
- 4.3 the removal or obliteration of placards and posters under section 225 of the Town and Country Planning Act 1990

5. MINERALS AND WASTE DISPOSAL/TRANSFER/RECYCLING

The Head of Planning Services, the Assistant Head of Planning Services,, the Group Managers, the Principal Planning Officer (Minerals and Waste), and the Development Control Team Leaders;

- 5.1 planning applications where the area to be developed is 0.5 hectares or less
- 5.2 planning applications for the disposal of solid waste not exceeding 50,000m³ in volume other than special hazardous wastes
- 5.3 applications for renewals of planning permission relating to landfill and mineral extraction sites
- 5.4 requests for approval of minor amendments to existing permissions provided for in conditions
- 5.5 approval of schemes submitted as required by conditions of planning permissions for minerals extraction or ancillary development, waste landfill and waste facilities
- 5.6 applications under section 73 of the Town and Country Planning Act 1990 to develop land without compliance with conditions previously attached to planning permissions for minerals extraction or ancillary development, waste landfill, waste storage transfer and treatment facilities, scrap yards and car dismantling uses
- 5.7 applications for prior approval of development ancillary to mining operations as specified in Parts 19, 20, 21 and 23 of the Town and Country Planning General Permitted Development Order 1995
- 5.8 applications to determine the conditions to which mineral planning permissions are to be subject under the Periodic Review procedures set out in Schedule 14 of the Environment Act 1995

6. TREES, HEDGEROWS AND HIGH HEDGES

The Head of Planning Services, the Assistant Head of Planning Services, the Group Managers, and the Senior Trees Officer

- 6.1 determination of applications to top, lop or fell trees protected by tree preservation orders and responding to notices of intention to carry out works to trees in conservation areas
- 6.2 the making of tree preservation orders where these are to replace existing tree preservation orders containing area notations
- 6.3 the making of provisional tree preservation orders in cases of urgency
- 6.4 the revocation, modification or amendment of any existing tree preservation order
- 6.5 the serving of enforcement notices requiring the replacement of trees under section 207 of the Town and Country Planning Act 1990
- 6.6 the exercise of powers under sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976 relating to dangerous trees on private land
- 6.7 the exercise of all powers under the Hedgerow Regulations 1997 including:-
 - (a) issue of hedgerow retention notices
 - (b) the serving of notices requiring the replanting of a hedgerow
- 6.8 the exercise of all powers under Part 8 of the Anti-Social Behaviour Act 2003 including:-
 - (a) the investigation of complaints relating to high hedges
 - (b) the issue, withdrawal or relaxation of the requirements of remedial notices

7. ENFORCEMENT ACTION, PROSECUTIONS AND INJUNCTIONS

The Head of Planning Services, the Assistant Head of Planning Services,, the Group Managers, and the Development Control Team Leaders

- 7.1 to authorise the institution of prosecutions relating to any planning matter including listed buildings, protected trees, protected hedgerows, high hedges, advertisements and hazardous substances
- 7.2 the serving of planning contravention notices
- 7.3 the issue of temporary stop notices
- 7.4 the issue, variation and withdrawal of enforcement notices
- 7.5 the serving of stop notices
- 7.6 the serving of breach of condition notices
- 7.7 In cases of urgency, following consultation with the Cabinet Member for Regeneration, and in circumstances when action must be instigated prior to the next scheduled Sub Committee, applications to court for an injunction to restrain;-
 - (a) any actual or apprehended breach of planning control
 - (b) any actual or apprehended offence under the Hedgerow Regulations 1997
 - (c) any actual or apprehended offence under sections 210 or 211 of the Town and Country Planning Act 1990
 - (d) any actual or apprehended contravention of section 9(1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 7.8 the serving of notices under section 215 of the Town and Country Planning Act 1990 with regard to land adversely affecting the amenity of the neighbourhood
- 7.9 to authorise:-
 - (a) persons to enter onto land to carry out works in default in the event of non-compliance with the requirements of an enforcement notice, a notice served under section 215 of the Town and Country Planning Act 1990 or a remedial notice; and
 - (b) the institution of legal proceedings to recover any expenses reasonably incurred by the Council in executing the works in default

8. POWERS OF ENTRY

The Head of Planning Services, the Assistant Head of Planning Services, and the Group Managers

- 8.1 to authorise the appropriate officers with regard to powers of entry under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Part 8 of the Anti-Social Behaviour Act 2003 and the Hedgerow Regulations 1997 and other relevant legislation.

9. APPLICATIONS FOR CERTIFICATES OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT AND PROPOSED USE OR DEVELOPMENT

The Head of Planning Services, the Assistant Head of Planning Services,, the Group Managers, and the Development Control Team Leaders

- 9.1 determination of applications for certificates of lawfulness of existing use or development under section 191 of the Town and Country Planning Act 1990
- 9.2 determination of applications for certificates of lawfulness of proposed use or development under section 192 of the Town and Country Planning Act 1990

10. GRANT APPLICATIONS/FINANCIAL ASSISTANCE

The Head of Planning Services, the Assistant Head of Planning Services, and the Group Managers

- 10.1 authority to submit applications to Central Government, the European Community or any other external sources for grant etc. to assist the proper planning of the area or the conservation of any historic feature
- 10.2 authority to approve, following consideration by appropriate Appraisal Panels, applications for financial assistance under the following schemes from the Council's own resources or in partnership with another funder e.g. English Heritage:-
 - (i) grants or loans for the repair or improvement of listed buildings or historic buildings within a conservation area
 - (ii) grants or loans in relation to a building which has been agreed as a Targeted Building at Risk

- (iii) any other grant or loan scheme established by or in partnership with the Council and administered by the Planning Service

10.3 in consultation with the Director of Finance and the Solicitor to the Council to authorise appropriate recovery action including the institution of legal proceedings where the recipient of any financial assistance referred to in 10.2 above is in breach of any terms or condition of that assistance

11. MISCELLANEOUS

The Head of Planning Services, the Assistant Head of Planning Services,, the Group Managers, Area Planning Officers, Development Control Team Leaders and, in relation to 11.1 to 11.3 only, the Principal Planning Officers

11.1 obtaining information on the ownership of land/premises under section 330 of the Town and Country Planning Act 1990

11.2 obtaining information from the DVLA and the District Land Registry

11.3 action under section 79 of the Buildings Act 1984 with regard to ruinous or dilapidated buildings

11.4 the making of recommendations to the Peak Park Authority or other neighbouring planning authorities on planning applications or notifications under the provisions of the Town and Country Planning (General Development Order) 1995 as subsequently amended or replaced

11.5 responding to requests by Government Departments or Statutory Undertakers or bodies for the views of the local planning authority in respect of their own proposed development

Economic Development Matters

6. The Head of Economic Development Services or his Nominee

6.1 To submit applications for grant and proposals to deliver contracts to provide services on behalf of the Council, partners and other agencies etc. for the future development of areas, or for any other project within the aegis of the Regeneration portfolio, to Central Government and its agencies, the European Union and any other external sources.

6.2 To accept, on behalf of the Council, offers of grant aid, contracts for the delivery of services including relevant terms and conditions, the submission of which is authorised by 6.1.

- 6.3 To deliver those bids or to sub-contract approved bids to an appropriate agency for delivery, and to transfer responsibility for the delivery of any successful bids, by way of novation or otherwise.
- 6.4 To approve on behalf of the Council and following consideration by appraisal and Advisory Panels, if appropriate, applications and proposals for funding and financial assistance (i.e. grants, loans to individuals, business and other agencies etc.) and to finalise such funding agreements, sub-contracts etc. as are appropriate.
- 6.5 To sign licences in connection with Business and Enterprise Centres operated by the Service
- 6.6 In consultation with the Director of Finance and the Solicitor to the Council, to authorise appropriate recovery action where the recipient of any financial assistance is in breach of any terms or conditions of that assistance.

2. The Solicitor to the Council

- 2.1 To prepare and execute leases in connection with lettings at the Council's Enterprise Centres.

Building Control Matters

1. The Head of Building Control, Licensing and Markets

- 1.1 Determine applications and approve works under the Building Regulations.
- 1.2 Determine applications for relaxation, waiver or dispensation of Building Regulation requirements.
- 1.3 The giving of notice of lapse of deposit of plans under the Building Regulations.
- 1.4 Serve notices requiring the exposure of works for inspection, or the alteration of works.
- 1.5 Improve conditions as to the carrying out of demolition works.
- 1.6 Determine the numbering and re-numbering of houses.
- 1.7 Determine the naming and re-naming of streets in consultation with Ward representatives, referring the matters to Cabinet in cases of dispute.
- 1.8 To exercise the powers of the Council to make formal objection to any proposed name for a street.

- 1.9 The erection and maintenance of street name plates and other signs.
- 1.10 Serve notices under Section 262 of the Public Health Act 1936.
- 1.11 Approve the reject plans under Section 263 of the Public Health Act 1936.
- 1.12 Establish and maintain a public register of raised reservoirs and agreement on responsibility for cross boundary reservoirs under Section 2 of the Reservoirs Act 1975.
- 1.13 Submit reports to the Secretary of State by Council as enforcement Authority under Section 3 of the Reservoirs Act 1975.
- 1.14 To authorise emergency action to avert the escape of water from an unsafe reservoir and to appoint a qualified civil engineer under Section 16 of the Reservoirs Act 1975.
- 1.15 Serve notices requiring information under Section 12 of the Mines and Quarries (Tips) Act 1969.
- 1.16 Authorise remedial works under Section 17 of the Mines and Quarries (Tips) Act 1969.
- 1.17 Recover costs of remedial works under Section 23 of the Mines and Quarries (Tips) Act 1969.
- 1.18 Submit applications for grant towards the costs of remedial works under Section 25 of the Mines and Quarries (Tips) Act 1969.
- 1.19 To exercise the powers of the Council in respect of unfenced dangers adjoining streets (Sect. 165, Highways Act 1980)
- 1.20 Section 16 (Local Government Miscellaneous Provisions Act 1976) Powers to obtain particulars of persons interested in land.
- 1.21 Authorise prosecution in matters relating to building control.
- 1.22 Seek Court Orders under Section 77 of the Building Act 1984 for the carrying out of remedial works on dangerous structures.
- 1.23 To determine applications for new, variations and renewal of a Permit under Section 34(5) (e) of the Gaming Act 1968. (The Playing of Gaming Machines within Premises).
- 1.24 To determine applications for new, variations and the renewal of a Permit under Section 16 of the Lotteries and Amusements Act

1976. (The Playing of Bingo within Premises).

1.25 To determine applications for new, variations and the renewal of Street Trading Consent Licences (where there are no objections).

1.26 To determine applications for the renewal of Sex Shop Licences where there are no objections

(recommended by Licensing and Safety Committee on 24 May 2004).

2. The Head of Building Control, Licensing and Markets, Divisional, Senior, Building and Assistant Building Surveyor

2.1 Exercise the powers and duties of the Council relating to the authorisation of emergency works to dangerous buildings (Section 78 Building Act, 1984).

3. The Head of Building Control, Licensing and Markets, Divisional and Senior Building Surveyors

3.1 Gain power to entry onto land under Section 17 of the Reservoirs Act 1975 and Section 13 and 18 of the Mines and Quarries (Tips) Act 1969.

3.2 Authorise emergency action under Section 17 of the Mines and Quarries (Tips) Act 1969.

Licensing and Safety Matters

Delegated from Licensing and Safety Committee

1. Head of Building Control, Licensing and Markets, Environmental Services Manager, Director of Housing and Chief Building Surveyor

1.1 To authorise appropriate officers to deal with the provisions of Section 13 of the Cinemas Act 1985.

1.2 To authorise appropriate officers to deal with the provisions of Paragraph 14 of Schedule 1 of the Local Government (Miscellaneous Provisions) Act 1982.

2. The Head of Building Control, Licensing and Markets following consultation with the Solicitor to the Council

2.1 Safety of Sports Grounds Act.

(a) The authorisation of applications under Section 7 of the

Act to Magistrates Court for a safety condition to operate pending an appeal against that condition to the Secretary of State (in consultation with the Chair of Licensing and Safety Committee)

- (b) The authorisation of applications under Section 10 of the Act to a Magistrates Court for an Order to limit or prohibit spectators at a sports ground (in consultation with the Chair of Licensing and Safety Committee)
- (c) The authorisation of appeals under Section 10 of the Act to the Crown Court against the refusal of the Magistrates Court to make an Order under Section 10(1) or a decision by a Magistrates Court cancelling or modifying an Order made under an application under Section 10(1) (in consultation with the Chair of Licensing and Safety Committee)
- (d) To deal with an appeal to a Magistrates Court against a notice served under Section 10 of the Safety of Sports Grounds Act (as amended by the Fire Safety and Safety of Places of Sports Act).
- (e) To appeal, if necessary, to a Crown Court against any decision made by a Magistrates Court, Cancelling, annulling, amending or modifying a notice served under Section 10 of the Safety of Sports Act (as amended by Section 24 of the Fire Safety and Safety of Places of Sports Act).
- (f) To appeal to a Crown Court against any order made by the Magistrates Court on appeal made under Section 5 of the Safety of Sports Ground Act (as amended by Section 22 Fire Safety and Safety of Places of Sports Act)
- (g) To institute proceedings in the Magistrates Court for offences under the Act.
- (h) Authorised to serve, amend or withdraw Prohibition Notices under Section 10 of the Safety of Sports Grounds Act 1975 (as amended by Section 23 of the Fire Safety and Safety of Places of Sports Act 1987) (The Chair of the Licensing and Safety Committee to be notified of such action as soon as practicable)
- (i) To determine, that an applicant for a safety certificate is a qualified person within the provisions of Sections 2 and 3 of the Act.
- (j) Authorised to serve notices of a decision under the

provisions of Section 5 of the Act following determination by the Licensing and Safety Committee that an applicant is not a qualified person.

- (k) Authorised to issue, amend, replace and transfer safety certificates.
- (l) The cancellation of a safety certificate on the death of the holder or the dissolution of the corporate body.

2.2 Fire Safety and Safety of Places of Sports Act 1987.

- (i) Authorised to issue, amend or replace Safety Certificates for Regulated Stands under Sections 26 and 27.
- (ii) To inform the qualified person of the determination as to whether a Stand is a Regulated Stand under Section 28.

3. Head of Building Control, Licensing and Markets

3.1 To authorise officers to inspect and test Hackney Carriages and Private Hire Vehicles under Part II of the Local Government (Miscellaneous Provisions) Act 1976.

3.2 To deal with certain aspects of licensing as indicated below.

- (a) House to house collections - Approvals
- (b) Street collections.
- (c) Vehicles, drivers and operators in respect of Hackney Carriage and Private Hire Vehicles - Approvals and refusals in accordance with the criteria laid down by the Council.
- (d) Theatre and stage plays - Approvals.
- (e) Theatrical employers - Approvals.
- (f) Registration of societies for lotteries purposes - Approvals.
- (g) Late night refreshment houses - Renewals.
- (h) Game Licences.
- (i) Scrap Metal - Registration.
- (j) Cinematograph - Renewals
- (k) To determine applications for Minibus Permits

- (l) Local Government (Miscellaneous Provisions) Act 1982 - Licensing of Public Entertainments.
 - (i) To deal with an application for an entertainments licence notwithstanding the fact that the applicant has failed to give the requisite notice.
 - (ii) To confirm a provisional entertainments licence as a full licence when agreed works have been completed.
 - (iii) Authorised to cancel an entertainments licence at the written request of the holder.
 - (m) Authorised to deal with matters and nominate such appropriate officers in writing to deal with matters in respect of Paragraph 25 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
 - (n) To grant or refuse certificates as to the suitability of premises for music and dancing.
 - (o) To grant extensions of licensed hours in such cases, if considered that a Justices Licence to sell intoxicating liquor would have been granted had such application been made, subject to any such extensions not exceeding beyond midnight on Saturday nights or 1.00 a.m. on other days of the week.
- 3.3 To grant, renew or transfer entertainments licences in cases of urgency, subject to such action being reported for information to the next meeting of the Licensing and Safety Committee.
 - 3.4 To authorise prosecutions in matters dealt with by the Licensing and Safety Committee (in consultation with the Chair of that Committee)
 - 3.5 To impose and remove "Stop Notices" in respect of any film (in consultation with the Chair of the Licensing and Safety Committee).
 - 3.6 Authorised to view films and determine whether or not they may be shown and the form in which they may be show (in consultation with the Chair of the Licensing and Safety Committee).
 - 3.7 Authorised to suspend licences issued under the Town Police Clauses Act 1984 and the Local Government (Miscellaneous Provisions) Act 1976, to drive Hackney Carriages and Private

Hire Vehicles (in consultation with the Chair of the Licensing and Safety Committee)

- 3.8 To certify true copies of the regulations relating to the licensing of public entertainments in accordance with Paragraph 11(5) of Schedule 1 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.9 In consultation with the Markets Manager, to receive Notices and discuss proposed temporary markets with the organisers thereof in accordance with Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.10 In consultation with the Markets Manager, to authorise the issue of licences in respect of flea markets, antique fairs and events of a similar character subject to payment of the fee specified by the Council from time to time.
- 3.11 In consultation with the Markets Manager, to authorise the issue of Charity Market Licences.
- 3.12 Authorised, following consultation with the Chair of the Licensing and Safety Committee, to commence proceedings in the Magistrates Court for any contravention or offences set out in Paragraph 10 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, in relation to street trading, and authorised to issue consents.
- 3.13 To authorise appropriate Officers to be nominated for the purpose of liaising with Police for vetting of applications to drive hackney carriage and private hire vehicles under the Road Traffic Act 1991.
- 3.14 To revoke an Entertainments Licence or refuse to renew or transfer a licence following consideration of a report from the Chief Officer of Police that there is a serious problem relating to the supply or use of controlled drugs at the premises with the benefit of the Licence, or at any place nearby which is controlled by the holder of the Licence; or
- 3.15 Instead of revoking the Licence, to have delegated powers to attach appropriate conditions to the Licence if satisfied that, to do so, would significantly assist in dealing with the problem.
- 3.16 Authorised to vary the standard fee scales of the Local Government Association model scheme by + or - 10% and to amend procedural details of the scheme where necessary, in consultation with the Head of Resources.
- 3.17 Authorised to vary the standard fee scales of the Local

- Government Association model scheme by a percentage greater than + or - 10%, in consultation with the Head of Resources.
- 3.18 Authorised to approve the registration of individuals as Door Persons.
 - 3.19 Authorised to refuse the registration of an individual as a Door Person and authority to cancel an individuals registration.
 - 3.20 Authorised to acknowledge Temporary Event Notices under the Licensing Act 2003 as well as the issuing of counter notices.
 - 3.21 Authorised to take appropriate action under the Clean neighbourhoods and Environment Act 2005 in relation to controls on free distribution of printed matter and site waste management plans.

4. Head of Building Control, Licensing and Markets or Markets Manager

- 4.1 Management of markets, slaughterhouses and cold stores and the issue of licences for the sale of marketable articles.
- 4.2 To approve all assignments relating to the shops and stalls in the Huddersfield, Cleckheaton and Dewsbury Market Halls and Dewsbury Open Market, all applications for change of or an extension to the user clause and new lettings.

5. The Solicitor to the Council or a Solicitor nominated by the Solicitor to the Council following consultation with the Head of Building Control, Licensing and Markets

- 5.1 To serve notice on reservoir owners requiring appointment of qualified civil engineer or execution of safety works under Sections 8, 9, 10, 12 and 14 of the Reservoirs Act 1975.
- 5.2 Serve emergency notices under Section 16 of the Reservoirs Act 1975.
- 5.3 Serve notices requiring remedial works to prevent danger under Section 14 of the Mines and Quarries (Tips) Act 1969.
- 5.4 Deal with appeals, cancel notices and deal with applications for costs under Section 15, 16 and 24 of the Mines and Quarries (Tips) Act 1969.
- 5.5 Serve notices preparatory to the Council undertaking remedial works under Section 17 of the Mines and Quarries (Tips) Act 1969.

6. The Director of Finance, and the Solicitor to the Council or a

Solicitor nominated by the Solicitor to the Council

6.1 In consultation with the Head of Planning Services/Head of Economic Development Services to take appropriate recovery action where the recipient of any financial assistance is in breach of any term or condition of that assistance.

Leisure and Recreation matters

(Delegated from the Cabinet)

Leisure Services

The following functions are delegated to the Head of Culture and Leisure.

1. Management and maintenance of Parks, Commons, Recreation Grounds, Play Areas, Rest Gardens, Public Statutory and Monuments, Camping, Caravan and Picnic Sites, Allotments, Public Swimming Baths, Sports and Leisure Centres, grass verges and highway trees all land held by the Council specifically for public open space, recreation or leisure, letting of land and premises, major sporting/recreational events engaging performers, stewards and all other necessary staff. Commissioning Kirklees Active Leisure, where appropriate.
2. Provision of Floral Decorations.
3. Catering Services under the control of the Service area.
4. Treatment of injurious weeds under Weeds Act, 1959.
5. The management of recreation and interpretation of the countryside in terms of programmes of activities, provision of facilities, countryside management, environmental interpretation and community involvement in all aspects of the countryside.
6. Specialist development of sport, leisure and recreation throughout the community in the form of sports programmes, leisure for specialist groups, grant aid and the support of voluntary organisations with interests in sport.
7. Provision of Countryside Services by the Countryside Section (except Oakwell Hall Country Park).
8. Letting of land held or used for leisure or cultural purposes to circuses and travelling shows.

Head of Culture and Leisure, the Head of Property Services and the Director of Finance

Authority to manage the programme of expenditure of the capital programme

of essential repairs and maintenance within the approved ceiling.

Cultural Services

The following functions are delegated to the Head of Culture and Leisure:-

1. Art Galleries, Museums and Libraries, Public Halls, Community Centres and Country Parks, including Princess Alexandra Walk, Huddersfield and Longcauseway, Dewsbury and all ancillary functions connected with the above including letting of premises, engaging performers, stewards, and all other necessary staff.
2. To arrange hospitality for visiting performers and to negotiate with firms to sponsor performances.
3. Letting of land held or used for cultural or leisure purposes for Street Fairs.
4. To accept offers of books as donations.
5. To accept offers of museum specimens and works of art etc.; being gifts or bequests in accordance with the Acquisition and Transfer Policy approved by Cabinet.
6. To issue on loan museum specimens and works of art to museums, universities, colleges of further and higher education, schools and broadcasting and television authorities and other bodies of a like nature.
7. To accept loans to the Council of museum specimens and works of art in accordance with the Acquisition and Transfer Policy approved by Cabinet.
8. To decide upon applications to reproduce museum specimens works of art and reproductions from books etc.
9. To arrange lectures, exhibitions and openings relating to the Council's museum and art collections.
10. To select and buy books, periodicals, gramophone records, manuscripts, maps, prints, photographs and other articles of a like nature for the Libraries and Museums within approved estimates.
11. To arrange holiday closing of Libraries, Museums and Art Galleries, within the holiday periods adopted by Cabinet.
12. To issue on loan books, etc., to libraries, homes for old people, educational and other institutions.
13. To arrange for the display of literature and publicity in Libraries and Museums.

14. Town Twinning visits and financial contributions.
15. To manage the Oakwell Hall Country Park.
16. To recommend transfer of museum specimens etc. for consideration by Cabinet in accordance with the approved Acquisition and Transfer Policy and in accordance with the Museums and Galleries Commission Registration criteria.
17. To authorise loans to Voluntary Organisations up to a level of £1,000 in consultation with the Cabinet Member in emergency.
18. To make grants to organisations concerned with literature up to £1,000.

FINANCE AND LEGAL MATTERS

Delegated from the Cabinet.

1. The Solicitor to the Council

- 1.1 To serve notices in connection with the duties of conducting land transactions;
- 1.2 To take steps to obtain vacant possession of land held by the Council and occupied by caravans and vehicles etc. of trespassers and gypsies.
- 1.3 After consultation with the Head of Design and Property Service to take all necessary legal proceedings to obtain possession of any land or premises owned, leased or occupied by the Council (for any function) which are occupied without the consent of the Council.
- 1.4 To initiate proceedings for forfeiture and recovery of possession of premises where tenants are a quarter in arrears with their rent.
- 1.5 Completion of the necessary legal documentation in order to give effect to decisions delegated to the Head of Design and Property Service in Section 5 below and to affix the Common Seal of the Council to such documentation as required.

2. Head of Revenues and Benefits

2.1 Revenues

- 2.1.1 To act on behalf of the Council on all matters relating to the Council Tax and National Non-Domestic Rates including assessments, determinations, recovery and enforcement, and bankruptcy in accordance with:-

- The Local Government Finance Act 1992
- The Council Tax (Administration and Enforcement) Regulations 1992

2.2 **Benefits**

2.2.1 To act on behalf of the Council on all matters relating to the determination of Benefit Entitlement including classification and verification of overpayments, rent restrictions, backdating provisions, appeals, decisions made under the Discretionary Housing Payments scheme, prosecutions, and "write-offs" of overpaid benefit (as detailed in the Authority's Financial Procedure Rules), in accordance with:

- Social Security Administration Act 1992
- Social Security Contributions and Benefits Act 1992
- Social Security Act 1998
- Housing Benefit (General) Regulations 1987
- Council Tax Benefit (General) Regulations 1992
- Social Security Administration (Fraud) Act 1997
- Child Support, Pensions and Social Security Act 2000
- The Housing Benefit and Council Tax Benefit (Decisions and Appeals Regulations 2001)
- The Discretionary Financial Assistance Regulations (2001)

and any associated Legislation and statutory modifications to the above.

3. **Director of Finance**

- 3.1 Insurance on a reinstatement basis of all corporate buildings subject to an annual report of the action taken thereon being submitted to the Cabinet.
- 3.2 Management of the Council's loan debt, investments and finance by leasing arrangements.
- 3.3 To make payments of honoraria approved in accordance with 7.3 below.
- 3.4 To deal with claims for ex-gratia payments not exceeding £20.

4. **All Heads of Service**

- 4.1 To serve Notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, with regard to the ownership of land for the purposes of the Council's functions.

- 4.2 To apply for planning permission under the provisions of Regulations 4.1 and 5.2 of the Town and Country Planning (General) Regulations 1976 for any scheme in the Capital Plan.
- 4.3 Operational aspects of the Local Conditions of Service as determined by the Council.

5. Management of the Capital Plan

Delegated from Cabinet

All Directors

Directors, in consultation with the appropriate Cabinet Member, are authorised to approve virement within a programme area subject to:-

- (i) spending on the whole programme being contained within the resources allocated;
- (ii) the amount of interest into or from any other project being less than the tolerance levels set out in Financial Procedure Rule 3.20, or £25,000 whichever is the larger; and
- (iii) Directors being required to report quarterly to the Cabinet on virement they approve.

All Heads of Service

Heads of Service responsible for managing programme areas are authorised to bring forward or defer projects from the agreed programme to assist in the overall management of that programme.

MISCELLANEOUS MATTERS

Delegated from Cabinet or Council as appropriate.

1. Chief Executive

- 1.1 Appointment of Deputy Returning Officers for District and Parish Council elections.

2. The Solicitor to the Council

- 2.1 To authorise Officers to appear in Court on behalf of the Authority under Section 223(1) of the Local Government Act 1972.
- 2.2 To determine requests from other Local Authorities for contributions towards legal costs in connection with litigation.

- 2.3 Power to apply for any Anti-Social Behaviour Orders following reference by any Director or Head of Service.
- 2.4 Power to issue licences for use of the Kirklees Badge, to respond to requests for use of the Kirklees Arms and those of constituent former Councils and, in consultation with the Chair of the Council Business Committee, to give appropriate consents and approvals.

3. The Director of Finance or the Solicitor to the Council

- 3.1 All matters specifically delegated to the Director of Finance or the Solicitor to the Council in Article 14 of the Constitution, the Contract Procedure Rules, the Financial Procedure Rules or any other procedure rules or codes of practice adopted by the Council or the Cabinet.

4. Head of Human Resources

- 4.1 To act as the Proper Officer under Section 2 of the Local Government and Housing Act 1989.

5. Head of Culture and Leisure

- 5.1 Responsibility for all historic civic insignia not specifically referred to within the terms of reference of the Council Business Committee.

6. The Chief Executive, the Solicitor to the Council and the Head of Democratic Support Service

Proper Officer appointments under statutes or subordinate legislation.

- 6.1 Concerning Political Groups in the Local Government (Committees and Political Groups) Regulations 1990 - The Chief Executive
- 6.2 Concerning Committees in the Regulations mentioned at 6.1 - the Head of Democratic Support Service
- 6.3 Other Officer appointments - as already appointed or as appointed by the Chief Executive and/or a Deputy Chief Executive in consultation with the Solicitor to the Council.

7. Head of Community Support Services

- 7.1 To approve, in consultation with the Cabinet Member, applications for Grant Aid under the Community Chest Scheme.

8. Registrar

- 8.1 Determination of applications for approval of buildings for the purpose of marriages under the Marriage (Approved Premises) Regulations 1994.

9. Kirklees Access Grants Panel

- 9.1 To determine grant applications of up to £5,000 per project in respect of the Buildings are for People grant aid budget.

10. Head of Democratic Support Service

- 10.1 In consultation with the Leader to determine Member attendance at conferences etc. in those cases where it is not possible for approval to be sought from the Cabinet or the appropriate Committee due to the time limits for booking arrangements; the Cabinet or the appropriate Committee to be notified of any action under this delegation.

- 10.2 To determine, in consultation with Group Business Managers, nominations to outside bodies where, in his opinion, time or other circumstances do not permit consideration by the Council or the Council Business Committee, such nominations to be reported to the Council Business Committee for information.

11. The Head of Customer Relations

- 11.1 The Head of Customer Relations is hereby authorised:-

To determine bids up to £2,000 from the Kirklees Open Door Award (Reception Accreditation Scheme) Capital Budget

12. Relevant Head of Service

Neighbourhood Management Initiatives in Kirklees

In connection with the NM Pathfinder Delivery Plans until each Delivery Plan is signed off by the two NM Partnerships, leverage spend of up to £10,000 be signed off by the relevant Head of Service and reported retrospectively to the Cabinet Committee Neighbourhood Renewal Fund, and that spend over £10,000 be submitted to the Cabinet Committee for determination.

PERSONNEL MATTERS

(Delegated from: - Personnel Committee in respect of appointments and terms and conditions. Cabinet in respect of all other matters)

(Reference should be made to the Officer Employment and Procedure Rules Section for an explanation of definitions used and appointment/disciplinary procedures to be followed)

1. The establishment of new posts, the deletion or redesignation of existing posts which represent minor changes to the establishment (i.e. costing up to £100k) and are within the agreed Service Plan and Budget, are delegated to the relevant Head of Service/Assistant Director in consultation with the Head of Human Resources.
2. All other restructures or Service Reviews are subject to Cabinet approval following consultation with the Head of Human Resources.
3. The determination of grading of posts within the separate Service areas will be undertaken as follows:-
 - (a) The posts of Chief Executive, Deputy Chief Executive and Director are subject to approval by the Personnel Committee on recommendation of the Head of Human Resources.
 - (b) The grading of Heads of Service/Assistant Director posts will be delegated to the Chief Executive in consultation with the Chair of the Personnel Committee and the relevant Cabinet Member and the Head of Human Resources and on the advice of the HAY Grading Panel.
 - (c) Posts grading Principal Officer ranges 5 to 12 (or equivalent) will be delegated to the Head of Human Resources acting on advice from the Officer Grading Panel.
 - (d) Posts graded up to and including Principal Officer range 4 will be delegated to the appropriate Head of Service acting on advice from the Officer Grading Panel.
4. In cases of disagreement between the relevant Head of Service and/or the appropriate recognised Trade Unions and the Officer Grading Panel the matter will be referred to the established processes for managing such disputes, including Central Negotiating Team and thereafter Personnel Committee for final determination, if necessary.
5. The sanctioning of compulsory redundancies shall be as follows:

Chief Executive - approved by Council (upon recommendation of Personnel Committee)

Chief Officers - approved by Personnel Committee

All other posts - approved by Executive Management Group

6. All decisions regarding compulsory redundancies shall be made following advice of the Director of Finance and the Head of Human Resources.
7. The sanctioning of early retirement/voluntary severance or ill health retirement shall be as follows:-

Chief Executive - approved by Council upon recommendation by Personnel Committee

Chief Officers - approved by Personnel Committee

All other posts - approved by the relevant Director and subject to an Annual report to Personnel Committee
8. All decisions regarding early retirement or voluntary severance shall be made following advice of the Director of Finance and the Head of Human Resources.
9. All ill health retirements are subject to appropriate certification by the Council's Medical Advisers.
10. The implementation of nationally negotiated pay rates and terms and conditions of employment is delegated to the Head of Human Resources. Discretionary areas of national agreements are subject to determination by the Personnel Committee.
11. Local terms and conditions of employment shall be approved by the Personnel Committee.
12. With the exception of the following specific areas, the application of terms and conditions of employment shall be as set out in the Local Terms and Conditions Handbook.
 - (a) Discretionary Days Holiday - approved by Personnel Committee
 - (b) Compromise Agreements, including financial terms of settlement of employment tribunal claims - approved by the Head of Service/Assistant Director in consultation with the Head of Human Resources and the Solicitor to the Council.
13. The Head of Service, in consultation with the Head of Human Resources, shall approve any honorarium payment to an employee arising out of the undertaking of additional duties and responsibilities not related directly and entirely to those of a higher graded post.
14. Any grievance raised by the Chief Executive shall be heard by a Panel appointed by the Personnel Committee.
15. Any grievance raised by a Chief Officer shall be heard as appropriate by the Chief Executive or the relevant Director.

16. Any grievance not resolved by the above processes will be heard by the Members Appeals Panel, whose decision will be final

| | |
|--|---|
| REPORT TO: | EXECUTIVE MANAGEMENT GROUP AUDIT COMMITTEE COUNCIL BUSINESS COMMITTEE COUNCIL |
| DATE: | |
| STATUS OF THE REPORT: | PUBLIC |
| AREA COMMITTEES / WARDS AFFECTED: | ALL |
| TITLE: | REVISIONS TO CONTRACT PROCEDURE RULES (CPRs) AND FINANCIAL PROCEDURE RULES (FPRs) 2007 |
| WHY IS IT COMING HERE? / WHAT DECISION IS REQUIRED? | To consider if changes to CPRs and FPRs are necessary. |
| IS THIS AN URGENT ACTION APPROVED BY THE CHAIR OF SCRUTINY? | NO |
| WHAT ARE THE KEY POINTS? | <ol style="list-style-type: none"> 1. This report recommends a number of changes to CPRs, to put in place changes to EU procurement regulations, and to reflect the e procurement systems implemented during 2006. No changes to FPRs are recommended this year 2. The EU has determined that in order to increase competition across Europe a greater proportion of public contracts should be subject to some form of advertisement. They consider it necessary to advertise contracts at a value of 10% or more of their thresholds at which full EU procurement rules apply (ie for most items 10% of £144,000= £15,000) and all other contracts, except where the council already has in place open standing lists or EU procurement contracts apply. 3. The requirement to “advertise” these contracts can be fulfilled by notification on the council's procurement website. These amendments proposed embody this requirement in the CPRs and also seek to reduce the number of different limit values |
| RECOMMENDATION | <ol style="list-style-type: none"> 1. EMG and Council Business Committee agree that Annual Council be recommended to make the changes to FPRs and CPRs as described. |
| CONSULTEES | Director of Finance, Assistant Director Purchasing & Procurement |
| CONTACT OFFICER AND RELEVANT PAPERS | |
| M. E. Dearnley, Senior Audit Manager | Tel: 860 1133 |

Schedule of Amendments

Definitions; Add a definition of “alito” (the Councils procurement web site), and amend EU threshold definition.

Values

2.4 , 4.2, 4.8 Amend value to £140,000 previously £160,000

3.2, 3.3, 4.2, 5.1, 10.1, 11.3 (e)(f) ,12.1(b)(c) Amend value to £15,000 previously £10,000

11.3 (d) Amended value to £140,000 previously £200,000

11.4 Amended value £500,000 previously £200,000

4.3 Amend values and text (£15,000/£140,000)

Additional /amended text

4.9- 4.10 Describes new arrangements for procurement advertising/ use of Alito.

10.3 describes arrangements for e tendering using Alito

Deleted texts

Former 10.3 and 10.7 that described temporary arrangements for e procurement that no longer apply

KIRKLEES METROPOLITAN COUNCIL

CONTRACT PROCEDURE RULES

JUNE 2007

Strategic Finance
Legal Services
Partnerships & Procurement Service

CONTRACT PROCEDURE RULES

DEFINITIONS

| | |
|---|--|
| <u>Assets</u> | All property of the Council, and interests therein and including contractual rights, intellectual property rights, land easements and other property. |
| <u>“CPRs”</u> | These Contract Procedure Rules. |
| <u>Capital Project Review Group</u> | The group responsible for advising the council on the prioritisation of capital investment |
| <u>Director</u> | The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive. |
| <u>Disposal</u> | Sales, leases, licenses, grants of easements, franchises or other disposal of Council assets whether permanently or for a fixed period. |
| <u>EU Procurement Rules</u> | The rules on procurement for Supplies above the EU Threshold prescribed by the EU in Directives relating to works, supplies and services- as amended and supplemented by the European Court of Justice. |
| <u>EU Threshold/ (*)</u> | <p>The financial threshold from time to time at which the EU Procurement Rules are applicable to a Supply (currently works £3,611,319, supplies and services £144,371).</p> <p>In the text a * means the value will track the EU lower threshold; the value will be the EU lower threshold rounded to the nearest £10,000 below.</p> |
| <u>FPRs</u> | The Financial Procedure Rules. |
| <u>Grant</u> | A payment to a third party which is linked to outputs and outcomes which the council believes will be beneficial, but is not a contract for works, goods or services entered into by the council. |
| <u>Head of Service</u> | A person responsible for the proper compliance with these procedures whose name is included on schedule approved by the Chief Executive. |
| <u>Official Council Order</u> | A standard Corporate Order form for a supply for a value of less than £50,000 . |
| <u>Assistant Director Partnership & Procurement</u> | The officer of the Council with overall responsibility for the Council’s procurement function. |

| | |
|-----------------------------|---|
| <u>Preferred Partner</u> | A Supplier (or group of Suppliers) with which the Council has agreed (following a competitive exercise) a framework of agreed standards and prices (Contract Procedure Rule 6). |
| <u>Procurement Strategy</u> | The Council's Corporate Procurement Strategy, and an any associated Purchasing Policy and Codes of Practice |
| <u>Quotation:</u> | A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information. |
| <u>SCMS</u> | The on line Supplier and Contract Management System used by the Council to operate E tenders and for the online management of suppliers and contracts and to advertise contracts . |
| <u>Service</u> | Any department, directorate or section responsible for delivering part of the Council's functions, including any subsidiary or semi independent organisation which will expect the Council to contract on its behalf. |
| <u>Specification:</u> | A written document detailing the manner of provision of the Supply, (for example type, quantity, quality, time, location, occasions), and the risks and obligations placed on the Supplier. |
| <u>Special Purpose</u> | Companies (limited by shares, or otherwise) or any other |
| <u>Vehicle</u> | legal entity, established by or in which the Council participates whether alone or with others to provide specific Supplies to the Council. |
| <u>Standing List</u> | A list of Suppliers prepared in accordance with Contract Procedure Rules 4.4 to 4.8. |
| <u>Supply:</u> | The purchase, lease, hire or other procurement of any works, goods, or services, provided, or proposed to be provided, to the Council. |
| <u>Supplier:</u> | Any person, partnership, company, or other organisation, which provides or offers to provide any Supply to the Council. |

“*”

See “EU threshold”

CONTRACT PROCEDURE RULES

1. Compliance and Conduct of Officers and Members
2. Pre Contract Process Requirements
3. Value of Supplies
4. Quotation Process - Supplier Selection
5. Quotation Process - Receipt and Evaluation
6. Preferred Partner Suppliers
7. Exceptions
8. Use of supply consortia, internal suppliers and compulsory use of other suppliers
9. Negotiated Contracts
10. E-Commerce
11. Reporting
12. Contracts for Disposal
13. Contracts and Orders
14. Special Purpose Vehicles

CONTRACT PROCEDURE RULES (CPRs)

INTRODUCTION

These Contract Procedure Rules aim to promote the highest standard of probity, integrity, and impartiality in making a clear, understandable and fair selection of suppliers to the Council. Equally important is the delivery of Best Value through competitive procedures, and the avoidance of practices which may restrict, prevent or distort competition.

These processes cover the procurement of all Supplies (goods, works and services) and Disposal of Assets.

In implementing them, the overriding objectives are supported by the detailed rules, but these must be viewed with a degree of proportionality, recognising the value of and risk associated with the proposed action.

Procurement and disposals must be made within the approved policies of the Council, and align with the duty of best value and the Council's Procurement Strategy.

They must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for particular Supplies.

EU Procurement Rules, which are often more onerous also apply to the procurement of all works, goods and many services exceeding the EU Threshold, and where there is a conflict between these Contract Procedure Rules and the European Directives, the European Directives prevail.

The Council's Financial Procedure Rules must also be complied with.

[1] COMPLIANCE AND CONDUCT OF OFFICERS AND MEMBERS

- 1.1 All Council employees, and any person or organisation working on behalf of the Council in arranging or managing a Supply, must comply with these CPRs, unless there is a specific decision of the Council or Cabinet, following consideration of a detailed written report setting out why these standard processes are inappropriate.
- 1.2 Each Head of Service must ensure
 - (a) compliance with these CPRs, using training, instruction and internal control processes;
 - (b) that records be kept to justify all decisions taken;
 - (c) appropriate supervision and performance management to ensure that decisions taken are subject to authorisation and quality control procedures.
- 1.3 Each Head of Service may delegate actions to other officers, and should set a financial (or other) limit on the authority vested in individual officers to procure Supplies, and keep appropriate records.
- 1.4 A contract may only be awarded where the Head of Service has sufficient approved budget to meet the costs. For revenue contracts for services, only, the Head of Service must be satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost.
- 1.5 Subject to compliance with these CPR's and FPRs, (and having appropriate delegated authority) a Head of Service has authority to commence any procurement, except where the Capital Project Review Group have indicated that projects may progress only when they are satisfied with business needs, arrangements for procurement and value for money.
- 1.6 A more prescriptive procurement regime must be followed where this is required by:
 - EU Procurement Rules
 - UK domestic legislation
 - A grant funding organisation
- 1.7 Except where the Director of Finance agrees otherwise, these CPRs apply in respect of any Supply obtained by another organisation, where the Council is making a grant contribution of £50,000 or more.
- 1.8 Any officer, or member of the Council, and any person or organisation, when acting on the Council's behalf in relation to any contractual matter, directly or indirectly concerning the Council, must conduct themselves, such that the independence and integrity of these processes are maintained and seen to be maintained and there is compliance with the relevant officer or member Code of Conduct.
- 1.9 Failure to comply with these CPRs may result in disciplinary action against the officers concerned.

- 1.10 The Assistant Director Partnerships & Procurement, Solicitor to the Council and Director of Finance may issue Guidance Notes to aid the interpretation of these CPRs. Any dispute concerning interpretation of these CPRs must be referred to the Director of Finance who, in consultation with the Solicitor to the Council, may provide clarification and determination.

[2] PRE CONTRACT PROCESS REQUIREMENTS

- 2.1 The Head of Service must ensure:-

- * the procurement is justified by a business case and aligns with the Procurement Strategy.
- * the procurement is likely to be within budgetary provision.
- * the process can be adequately resourced.
- * a procurement risk assessment has been carried out.

- 2.2 Before commencing any process to obtain any Supply having an estimated cost exceeding £50,000, the Head of Service must consult with;

- i) the Director of Finance and Solicitor to the Council, unless the Supply is to be obtained using an approved standard form of contract or process already agreed.
- ii) the Assistant Director Partnerships & Procurement in respect of any purchase of goods.

- 2.3 The Head of Service must provide to the Assistant Director Partnerships & Procurement information necessary to enable the Council to comply with EU Procurement Rules.

- 2.4 The Head of Service must ensure that:-

- (1) each Supplier is technically competent.
- (2) the Director of Finance is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding £ 140,000*.
- (3) there is compliance with any requirements regarding the use of in-house service suppliers, consortia and other suppliers whose usage is compulsory. (CPR 8)
- (4) a schedule of evaluation criteria, appropriately prioritised is prepared, including as appropriate **initial cost, operating and end of life costs**, technical merit, quality, environmental impact, equality, and any other relevant consideration. (These criteria must not include non commercial considerations).
- (5) all procurement activity must comply with, as applicable, the Council's "Project Management Handbook" and "Framework for Successful Projects" and the processes determined by the Capital Projects Review Group

- (6) Supplies of a similar type are procured together, and that orders are not split or aggregated for the purpose of avoiding the requirements of these Procedure Rules, EU Procurement Rules or any domestic legislation.
- 2.5 The Head of Service must ensure the preparation of appropriate, Specification **costs/**pricing and other contract documentation. For all contracts exceeding £50,000 the Head of Service must consult with the Solicitor to the Council on appropriate contract documentation, except where standard documentation approved by the Solicitor to the Council is to be used.
- 2.6 The Head of Service must ensure that an estimate of the **full** cost of the Supply is prepared. The value should be estimated by reference to the gross value of the contract (including **installation and supplier maintenance**, and any income gained by all Suppliers involved in the agreement). Where the contract is for more than one year the contract value is determined by multiplying the expected annual value by the initial contract term (including any option period). If a term is not specified, 4 years must be used. Any grant funding must be included in calculating the contract value. VAT is excluded.
- 2.7 These CPRs apply equally to the outright purchase, contract hire, lease, rental or any other form of procurement. Contract hire, lease and rental agreements require the specific advance approval of the Director of Finance.
- 2.8 Pre tender consultation with Suppliers must not prejudice any potential Supplier, and no technical advice may be sought or accepted from any Supplier in relation to the preparation of any Specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers..

[3] VALUE OF SUPPLIES

- 3.1 For Supplies involving an estimated value of below £200 any method of selection of a Supplier is permitted.
- 3.2 For Supplies involving an estimated value of between £200 and **£15,000** the Head of Service may use any reasonable means to select the Supplier and must be able to account for the decision taken.
- 3.3 For Supplies involving an estimated value above £15,000 one of the following processes will apply.
- ◆ Quotations - Supplier Selection (CPR 4)
- Receipt and Evaluation (CPR 5)
 - ◆ Preferred Partners (CPR 6)
 - ◆ Exemptions (CPR 7)
 - ◆ Internal, Consortia & Compulsory (CPR 8)

◆ Negotiated Contracts (CPR 9)

- 3.4 The Cabinet will determine the procedures leading to the award of any contract which the Head of Service believes cannot be satisfactorily placed in accordance with the processes described in these CPRs.
- 3.5 These CPRs also apply to the selection of any nominated or named sub contractor, product or manufacturer whose use by a Supplier is a requirement of a contract specification.

[4] QUOTATIONS: SUPPLIER SELECTION

- 4.1 Quotations can be obtained:-
- a) By inviting Quotations from selected potential Suppliers (4.2 to 4.11)
 - b) By open Quotation (4.9 & 4.10 (a))
- 4.2 Unless otherwise agreed with the Director of Finance in consultation with the Solicitor to the Council, a Head of Service must invite at least the following number of Suppliers to submit a written Quotation:

| Estimated Value of Contract | Minimum Number |
|--|----------------|
| £15,000 to £50,000 | 3 |
| £50,000 up to EU Threshold or £140,000* | 4 |
| Above EU Threshold or £140,000* (whichever is lower) | 5 |

The Suppliers must have indicated that they are willing to submit a Quotation. The selection of any potential Supplier to submit a Quotation must be on the basis of a consistent, fair, justifiable and rational method, approved by the Assistant Director Partnerships & Procurement.

If it is not possible to identify the number of willing prospective suppliers indicated above, the Head of Service must retain a record of the efforts made and reasons why (if known) an appropriate number of suppliers could not be identified.

- 4.3 The selected potential Suppliers will be chosen to submit quotations as follows.

| Estimated Value of Contract | Standing List Exists | Selection of Supplier to Quote | |
|--------------------------------------|----------------------|---|-------------|
| Above EU Threshold | All cases | Advertise on SCMS and OJEU- and in other media if appropriate | |
| Up to EU Threshold | Yes | From Standing List | 4.4 to 4.8 |
| Works above £350,000 | No | Advertise on SCMS & other selection | 4.9 to 4.10 |
| Goods & Services £15,000 to £140,000 | No | Advertise on SCMS & other selection | 4.9 to 4.10 |
| All other cases | No | Database or advertisement | 4.9 to 4.10 |

Standing Lists: Creation and Usage

- 4.4 The Assistant Director Partnerships & Procurement will determine for which types of Supply Council-wide Standing Lists will be kept. A Head of Service nominated by the Assistant Director Partnerships & Procurement will be responsible for creation and maintenance of lists which will be used Council-wide by any Head of Service requiring Supplies of that type. A Head of Service may also decide to maintain a Standing List of Suppliers for Supplies purchased for use in that Service only.
- 4.5 Standing Lists will be created by the selection of Suppliers to be included from those responding to advertisements placed on at least the SCMS web site and one appropriate printed newspaper or journal. Standing Lists will remain valid for five years from creation. During that period the list will remain open to the addition of further Suppliers meeting the appropriate admission requirements. Lists must be renewed every 5 years, with a further advertisement inviting new applicants.
- 4.6 Admission to the list should be on the basis of a rational, justifiable evaluation, of information submitted by prospective Suppliers relating to technical, financial and another relevant matters determined by the Head of Service. A written record of the evaluation of each prospective Supplier should be kept.
- 4.7 A Head of Service (in consultation with the Solicitor to the Council) may delete a Supplier from a Standing List only where there is appropriate written evidence justifying the action.

4.8 If there are insufficient Suppliers on a Standing List, or too few are willing to submit Quotations, (i.e. less than the numbers set out in 4.2) prospective suppliers for contracts exceeding £140,000* must be selected in accordance with 4.9 to 4.10.

4.9 If an open Standing List is not maintained and the estimated value exceeds £15,000 the Head of Service must advertise for suppliers on the SCMS system and either

(a) if the estimated value exceeds £140,000* advertise for Suppliers in at least one newspaper or journal, or select Suppliers using a database approved by the Director of Finance.

(b) if the estimated value is between £15,000 and £140,000* a Head of Service may also use any reasonable means to identify other appropriate suppliers.

4.10 Considering both the identified and SCMS notified suppliers, the Head of Service will decide, if:

a) all respondents are to be invited to submit a Quotation, or

b) all respondents be subject to an equal systems of evaluation to select the most appropriate suppliers to submit quotations.(per 4.6)

[5] QUOTATIONS: RECEIPT AND EVALUATION

5.1 A written Specification detailing the Council's expectations and requirements, and the contract conditions must be prepared. The documentation must include a clear pricing document and details of what other information is to be returned as part of the Quotation. It must set out the criteria which the Council will use to evaluate the Quotations.

Invitations must state clearly the place, date and time of return. Quotations must be returned to:-

| Estimated Value | Returned to |
|------------------------|----------------------------|
| £15,000 to £49,999 | Head of Service |
| £50,000 and above | Head of Democratic Support |

5.2 Quotations must be returned either in a sealed envelope inscribed with the words. "Quotation for" and contain no other wording or marking to identify the sender or these may be returned using approved electronic means

Reference should also be made to CPR 10 (E-Commerce) where appropriate.

Receipt and Opening of Quotations

5.3 All of the written Quotations must be kept securely, unopened. If any Quotation bears any name or identifying mark of the Supplier, this should be removed or obliterated. All those received by the appointed time will be opened at one time by:

| <u>Returned to</u> | Representative (at least) |
|------------------------------|---|
| Head of Service | Two persons nominated by the Head of Service who are independent of the process |
| Decision Support Unit | Independent persons nominated by the Head of Policy & Governance and Director of Finance |

5.4 All Quotations must be opened at the same time, (including any submitted to any website) and the Head of Service or Head of Democratic Support Service (as appropriate) responsible will maintain a written record of the:-

1. nature of the Supply
2. name of each Supplier submitting a Quotation and the date/time of receipt
3. name of Suppliers failing to submit prices/proposal
4. prices from each Supplier
5. names of the persons present at the opening
6. date and time of opening of Quotations
7. any reason for rejecting any Quotation

and each person present at the opening will initial each Quotation document, alongside the submitted price.

Where the Head of Service is responsible for recording such Quotations, all of those in respect of one Service must be recorded in one place, except where otherwise agreed by the Director of Finance.

Electronic quotations must be opened and recorded in accordance with the procedures established by the Assistant Director of Purchasing and Procurement, and the Director of Finance. E mail quotations are not permitted , except where approved by the Assistant Director of Purchasing and Procurement,

Late Quotations

5.5 Where there is evidence of reasonable efforts to submit a Quotation on time, it may be accepted when it is late, provided that the other Quotations have not been opened at the time of its delivery and the Supplier has gained no advantage as a consequence of the late submission. Any decision to accept a late quotation will be made by the Head of Service following approval by the Director of Finance. Special arrangements apply to late electronic quotations as agreed between the **Assistant Director of Purchasing and Procurement and the Director of Finance**

Qualified Quotations

- 5.6 Suppliers must always be required to submit a compliant Quotation. Any variant Quotations which seek to change the Specification or other Contract documentation may be accepted by the Head of Service, only after approval by the Director of Finance.

Evaluation

- 5.7 The Head of Service will carry out an evaluation of the Quotations received against the pre-set evaluation criteria (CPR 5.1) and keep a written record of the analysis and outcome and will consider the overall financial (and service delivery) impacts on the Council as a whole.

Award

- 5.8 If the amount of the Quotation proposed for acceptance is below £50,000, the Head of Service may accept any Quotation even if it is not the lowest **cost** and issue an official Council Order (and or other appropriate documentation) to the chosen Supplier. The order documentation to be used must be agreed by the Solicitor to the Council and Director of Finance. The Head of Service must clearly justify (in writing) the reasons for selection of a Supplier who has not submitted the lowest **cost** Quotation.
- 5.9 For Quotations of £50,000 or above;
- a) If after evaluation it is proposed to select the lowest **cost** Supplier the Head of Service will instruct the Solicitor to the Council to accept the Quotation and issue a contract.
 - b) If the proposal is to select a Supplier other than the one submitting the lowest **cost** Quotation, the Head of Service must advise the Director of Finance of the recommended Quotation, and the reasons for choice. When the Director of Finance indicates satisfaction with the proposal to accept this Quotation, the Head of Service may instruct the Solicitor to the Council to accept the Quotation and issue a contract.

[6] PREFERRED PARTNER SUPPLIERS

- 6.1 The Assistant Director Partnerships & Procurement may determine that Supplies of a particular type are to be obtained from a Preferred Partner Supplier, and the standards to be achieved by the Preferred Partner. One or more Preferred Partner may be selected for any type of Supply.
- 6.2 Preferred Partner will be chosen by a competitive process in accordance with these rules, and be subject to advice from the Director of Finance and the Solicitor to the Council and Assistant Director Partnerships & Procurement.
- 6.3 All accepted Quotations will be in the form of a framework contract allowing the Council to order from each Preferred Partner such Supplies as it may see fit during the duration of the contract, but will be under no obligation to order any Supplies of any type from a Supplier.

- 6.4 When a type of Supply is subject to a Preferred Partner agreement, the Head of Service may procure the Supply from a Preferred Partner, subject to the Head of Service being satisfied that the arrangement will provide value for money.
- 6.5 The Assistant Director Partnerships & Procurement will maintain a list of all Preferred Partner arrangements.

[7] EXCEPTIONS

<There are substantial restrictions on the use of exceptions to competition where EU Procurement Rules apply>

- 7.1 The following are exempted from the competitive requirements:
- a) Named products needed to be compatible with an existing installation, and available from only one Supplier.
 - b) Education or social care to meet an individual client need, requiring specialist provision, or necessary to accord with the Council's statutory obligations.
 - c) Grants awarded by the Council in accordance with an approved scheme.
 - d) The commissioning, or purchase of a work of art or similar.
 - e) Unique or specialist Supplies available from only one Supplier.(this exception does not automatically justify the purchase of branded suppliers).
 - f) Items purchased or sold by public auction (in accordance with arrangements agreed by the Director of Finance).
 - g) The selection of a Supplier whose usage is a condition of a grant funding approval.
 - h) Where the Assistant Director Partnerships & Procurement and the Director of Finance have agreed that for the purposes of standardisation, or otherwise, the Council will obtain particular Supplies from named Suppliers, selected following a process compliant with these CPRs.
 - i) Where the Head of Service does not believe that genuine competition can be obtained.
 - j) Counsel, provided that the Solicitor to the Council takes steps to ensure that value for money is being obtained.
 - k) A Supply required so urgently, [not due to any action, or inaction of the Council,] as to prevent the compliance with these CPRs, with the prior agreement of the Director of Finance.
 - l) The selection of a Supplier on the instruction of a third party, providing the whole of the funding is met by the third party.

m) Use of Office of Government Commerce and the other local authority framework contracts with prior agreement of the Director of Finance.

7.2 The Head of Service must make a written record of the justification for the selection of the Supplier. The Head of Service must **obtain the approval** of the Assistant Director Partnerships & Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £50,000.

[8] USE OF SUPPLY CONSORTIA, INTERNAL SUPPLIERS AND COMPULSORY USE OF OTHER SUPPLIERS

8.1 Supplies may be obtained without competition from a consortium of which the Council is a member. A Director may authorise membership of a **UK** government sponsored consortium or the use of another local authority as a supplier without competition (although subject to EU procurement rules). Membership of all other consortia requires the approval of Cabinet. The consortium must have followed clear written procurement policies and practices (e.g. its own contract procedure rules, or those of a named local authority), **be compliant with relevant EU rules** and these processes must be subject to an internal review process.

8.2 In respect of defined categories of goods, works and services the Assistant Director Partnerships & Procurement may determine (following a competitive process) that the use of one (or more) Suppliers is compulsory.

8.3 Supplies must be obtained from other Council Services (which are capable of supplying them directly) without competition except where the Council has determined that Supplies of a particular kind will be subject to a competitive process.

8.4 The Assistant Director Partnerships & Procurement will maintain a list of approved, consortia and Council "trading services".

8.5 Any decision to outsource an activity currently delivered by a Council Service exceeding £100,000 in value must be approved by Cabinet. This does not apply to services provided in schools or to individual construction or design tasks awarded on an ad hoc basis where the continued employment of existing staff is not affected.

[9] NEGOTIATED CONTRACTS

< There are substantial restrictions on the use of negotiated contracts where EU Procurement Rules apply >

Occasions for Use

9.1 There may be occasions where

- (1) the Head of Service, Director of Finance and Solicitor to the Council agree that the usual arrangements for Supply are inappropriate and a Supply may be negotiated with a particular Supplier.
- (2) following receipt of Quotations for the Supply the Head of Service and the Director of Finance agree that it is appropriate to seek to **reduce the overall cost, or change** other terms of the Supply by negotiation with one or more Suppliers which have submitted Quotations.
- (3) it is appropriate for the Head of Service and Director of Finance to agree to the negotiation of a repeat, continuation or serial contract with an existing Supplier, by reference to the original Quotation for the Supply.

Process

- 9.2 Negotiations must be undertaken by at least two Council Officers at least one of whom must be independent of the process and included on a list of approved negotiators kept by the Assistant Director Partnerships & Procurement.

Legal Issues

- 9.3 The Solicitor to the Council must be consulted in advance of any negotiation in respect of any contract estimated to exceed £50,000.

Award

- 9.4 When the terms for a negotiated Supply have been provisionally agreed the Head of Service may accept it if the value is below £50,000 and issue an Official Council Order and or appropriate documentation to the Supplier. Above this amount, the Head of Service must advise the Director of Finance of the proposed terms of the negotiated Supply including its cost and the reason for choice. When the Director of Finance indicates that he is satisfied with the arrangement, the Head of Service may then instruct the Solicitor to the Council to accept the arrangement and issue a contract.

Recording

- 9.5 The Head of Service must keep a written record of the reasons for using a negotiated procedure, the methodology and outcomes of the negotiation.

[10] E-COMMERCE

- 10.1 The internet may be used as a means of obtaining comparative pricing for all Supplies with an estimated value **below £15,000.**
- 10.2 Quotation documentation may be distributed to any prospective Supplier by electronic means (e.g. E-mail or disc). However any Supplier so wishing will be entitled to receive a paper copy of all Quotation documentation.
- 10.3 **When the Assistant Director Partnership & Procurement Service determines, in consultation with the Head of Service, that the council will accept E Quotations in respect of a supply, all E Quotations in excess of**

£15,000 must be submitted formally through the SCMS system, and these will be managed and opened in accordance with the recorded processes and systems of the website. Quotations so received will be recorded in accordance with CPR 5.4. Records of electronic tenders will be recorded (additionally) on a write once only disc, which will be signed and dated by those present at the opening of the quotations and retained by the Director of Finance.

- 10.4 Any Supplier is entitled to submit all Quotations and other documentation on paper-based media in accordance with the process declared at CPR 5.1 to 5.4 .
- 10.5 The use of or participation in internet auctions is permitted, with the written agreement of the Director of Finance, and subject to supervision by the Assistant Director Partnership and Procurement.

[11] REPORTING

- 11.1 **Heads of Service must** keep detailed written records of all stages and all actions taken in reaching conclusions leading to the selection of a particular Supplier or Disposal of an Asset.
- 11.2 Each Head of Service must provide details of all Supplies procured, individually or of a similar nature obtained from one Supplier, and all disposal of asset exceeding £50,000, on a six monthly basis (in accordance with a timetable determined by the Assistant Director Partnerships & Procurement in consultation with the Director of Finance) to the Partnerships and Procurement Manager.
- 11.3 The Assistant Director Partnerships & Procurement will produce for each six monthly period, a, for consideration by Executive Management Group, Cabinet and the Council's Scrutiny Committee which will contain;
- (a) details of all contracts awarded for Supplies of £50,000 or above following a competitive process including the name of the Supplier, and amount of the Quotation and the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.
 - (b) details of all contracts awarded for Supplies of £50,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.
 - (c) details of all Supplies (specifically for items of £50,000 or above and in total) obtained from Preferred Partners, but excluding those obtained from in-house organisations.
 - (d) analysis of all contracts exceeding £140,000 which are completed, detailing project performance, Supplier performance and overall cost compared to budget.
 - (e) details of all contracts awarded for supplies of £15,000 or above which a Head of Service considered to be exempt from the competitive requirements by virtue of CPR 7.1, including the reason for the exemption.

- (f) details of all contracts awarded exceeding £15,000 outside of the approved procedures.
- 11.4 The Assistant Director Partnerships & Procurement and Director of Finance will produce an annual report, summarising all of the transactions described in CPR 11, including information about all Suppliers which have been paid in excess of £500,000 in the previous year.
- 11.5 The Assistant Director partnership & Procurement, in consultation with the Director of Finance, is authorised to agree different reporting arrangements for particular Service areas within the spirit and intention of CPRs 11.2, 11.3 and 11.4.

[12] CONTRACTS FOR DISPOSAL

- 12.1 The procedure for the Disposal of Assets (other than those set out in 12.2) is;
 - a) Assets valued at below £200 may be disposed of by any means.
 - b) Assets valued at between £200 and up to £15,000 must be disposed of by a method chosen by the Head of Service and a written justification of the choice retained.
 - c) Assets valued between £15,000 and up to £50,000 must involve either a Quotation process involving at least 3 prospective purchasers or public auction.
 - d) Assets valued at £50,000 or above must be disposed of only following public advertisement by either Quotation or public auction.

In respect of (c) and (d) above the availability should also be advertised the SCMS.

- 12.2 Notwithstanding 12.1;
 - a) The Head of Design & Property Service (and other Heads of Service authorised so to do) will arrange the sale of interests in land and property erected on it (including leases, licences and easements) by other means set out in delegated authority from the Council as amended from time to time.
 - b) Where land and any property erected on it, is sold by Quotation or at a public auction, the Head of Design & Property Services must submit a sealed minimum valuation prepared on a professional basis for consideration alongside the Quotations or bids submitted. The Head of Service is not empowered to accept the Quotations or bids if the amounts concerned are less than the amount contained in the sealed valuation.

- 12.3 Heads of Service must ensure compliance with corporate asset disposal arrangements approved by the Assistant Director Partnerships & Procurement, including the offering of surplus assets for use by other Services.
- 12.4 Leased assets (excluding land and property) must be disposed of only in accordance with the instruction of the lessor.
- 12.5 Written records must be maintained of all actions taken regarding the Disposal of Assets.

[13] CONTRACTS & ORDERS

13.1 The procurement of all supplies up to £50,000 can be made the Head of Service or officers authorized by the Head of Service either :-

- (a) by the issue of an official electronic Council order; or
- (b) by the issue under signature of a written Council order; or
- (c) in accordance with other procurement arrangements agreed with the Director of Finance; or
- (d) by a contract approved by the Solicitor to the Council.

If the Head of Service and Solicitor to the Council agree that it is appropriate for the contract to be sealed (or if it is required by law), the contract will be executed by the Solicitor to the Council.

13.2 The procurement of all supplies of £50,000 and above must be made by a contract, in writing, issued by the Solicitor to the Council.

Every contract must be either:-

- a) made under the common seal of the council, attested by one officer.
- or b) signed by two officers

who are;

- the Solicitor to the Council, or
- a Principal Legal Officer, or
- Senior Legal Officers nominated by the Solicitor to the Council

except where clause 13.4 below applies.

13.3 Every contract must set out:

- a) details of the Supply to be made or Asset to be disposed of;
- b) the price or prices to be paid or received and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deductions;
- c) the time(s) within which the contract is to be performed; and

- d) such other matters as the Solicitor to the Council considers to be necessary.
- 13.4 The Solicitor to the Council (or his nominee) may authorise other Heads of Service and other nominated officers to sign specific or specialist contracts for Supplies of £50,000 or above. Two authorised officers must sign each such contract.
- 13.5 In respect of any contract valued at less than £50,000 where a Head of Service believes that an official Council Order may be inappropriate they must consult the Solicitor to the Council.
- 13.6 Supplier standard Contracts must not be signed by a Head of Service other than as agreed by the Solicitor to the Council.
- 13.7 All contracts in excess of £250,000 will be bonded in the sum of 10% of the Quotation value, except where the Solicitor to the Council and Director of Finance agree either:
- a) no bond is necessary; or
 - b) a different value (or percentage) is appropriate; and or
 - c) a parent company guarantee or other form of surety can be accepted instead.
- 13.8 The Solicitor to the Council may release any bond held by the Council., on request from the Head of Service.
- 13.9 A Head of Service, in consultation with the relevant Director and Executive Member, and the Solicitor to the Council, has the power to terminate any contract in the event of any breach of contract justifying termination, where in the opinion of these officers no other remedy is appropriate. The reason for termination and any consequences must be reported to the next meeting of the Cabinet.
- 13.10 The Solicitor to the Council is entitled to sign any other contract –not covered otherwise by these CPRs, or another delegation agreement- to procure or sell any item, subject to this being approved by the Council.

[14] SPECIAL PURPOSE VEHICLES

- 14.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the Solicitor to the Council and Director of Finance. This does not apply to any purchase of shares or similar for the purpose of investment.

Report of the

**Kirklees MC
Members' Allowances
Independent Review Panel**

Friday 30 March 2007

held at
Kirklees MC
Civic Centre III, Huddersfield

The Membership of the Panel is as follows:

Andrew Taylor (Chair)

Ian Brown

Christopher Dicks OBE

Nasir Hussain

Stephen Thornton

The following officers attended the Panel meeting:

Philip Hume, Head of Policy and Governance

Julie Fothergill, Corporate Development Officer

Dahalia Hendrickson, Members' Services Manager

Vanda White, Members' Allowances Administrator

John Quarmby, Decision Support Officer

The Members' Allowances Independent Review Panel met on Friday 30 March 2007 to give further consideration to issues identified and discussed at its meeting held on 16 June 2006 and to review the allowances recommended by the panel in November 2005. These recommendations had been considered by the council on 18 January 2006 but had not been implemented in full.

1. **Presentations by councillors**

Councillor Andrew Cooper, Leader of the Green Group attended the meeting and discussed with the panel the provision of car park permits issued to councillors and special responsibility allowances available to small groups.

Councillor Cooper suggested that the car park permit which could be used at official council car parks throughout Kirklees was the equivalent to a financial allowance and that as such a deduction could be made from the basic (ward) allowance. For councillors who did not drive then an alternative to the car park permit could be offered - possibly a Metro Card.

Councillor Cooper then advised that he was aware of proposal by the three main political groups of the council to propose a reduction to the number of special responsibility allowances for small groups by removal of the allowance for the group business manager. He advised of the role of the business manager for the Green group and other work which they were expected to undertake in this role ie, responsibility for group training, membership of the Business Managers Sub-Committee, attendance at the all-party briefing session with the Mayor and Deputy Mayor prior to each council meeting and attendance at the 'star chamber' pre budget discussions. The general workload of a business manager of a small group did not change from that of a business manager of a large group.

The Chair thanked Councillor Cooper for attending the meeting.

The panel then discussed the issues raised by Councillor Cooper.

Councillor Mehboob Khan, Leader of the Labour Group, Councillor Andrew Palfreeman, Conservative Group, Cabinet Member for Policy Development and Councillor John Smithson, Deputy Leader of the Liberal Democrat Group attended the meeting.

These councillors raised the following issues with the panel:

- The introduction of a special responsibility allowance for 'Shadow' Cabinet Members from the two major opposition groups and Deputy Cabinet Members from the group forming the administration of the council based on four councillors per group. This would enable the two major opposition groups to undertake 'succession planning' so that in the event of their group forming the administration a number of councillors would be better prepared and informed to take Cabinet positions. They would have responsibility to shadow the work of the Local Public Service Boards in general and the Cabinet Member who chaired each board in particular. This arrangement would also apply to the Deputy Cabinet Members. Councillor Smithson indicated that he

would prefer to see a similar number of Shadow Cabinet Members appointed as that of the actual Cabinet which would make it easier for a group taking over the administration to take effective control. The Shadow Cabinet Members would be expected to attend all Cabinet meetings and meetings of the relevant Overview and Scrutiny Panels as part of their duties. Difficult issues facing the authority would be jointly discussed between Cabinet Members, Deputy Cabinet Members and Shadow Cabinet Members. It was suggested that Shadow Cabinet Members would only be appointed where a group had 15 or more Members.

- to reconsider the banding recommended for the chairs of Planning sub-committees and the chair of Appeals panel (Band B1) and the Chair of Licensing and Safety Committee (Band C1). There was a consensus among the three major groups that workload and levels of responsibility skills and knowledge required for these positions were less than that originally considered by the panel and that as such the special responsibility allowances should be decreased.
- to reconsider the special responsibility allowance recommended for payment to the smaller groups which currently entitled a small group to a leaders' allowance and a group business manager allowance, in those cases where a group consisted of two to nine Members. The councillors put forward the opinion that a small group should only get a special responsibility allowance for a leader and that where a group had 10% of the total number of councillors a special responsibility allowance for a group business manager.
- the councillors confirmed that there was agreement to the panel's recommendation for a special responsibility allowance for deputy group leaders.

The Chair thanked the councillors for attending the meeting.

The panel then discussed the issues raised by the three councillors.

The panel support the proposal put forward by Councillor Cooper that the council offer a 'Metro Card' to councillors as an alternative to the free car park permit. This is a matter for the council to determine.

The panel's deliberations and recommendations on the remaining issues in this section can be found at Appendix A of this report.

Recommendation:

The Panel recommend as follows:

The introduction of a 'Metro Card' as an alternative to the free car park permit.

2. Councillor development

The panel considered a report which outlined progress made in respect of councillor development since the previous meeting of the panel. The report advised that:

- the council had achieved the Charter for Member Development from LGYH and IDeA and that the award recognised work in the areas of commitment to councillor development, strategic approach to councillor development, councillor learning and development plan in place, learning and development being effective in building capacity and elected member development to promote work life balance and citizenship.
- 52 out of 69 councillors had undertaken personal development reviews as follows:
 - Conservatives - 18
 - Labour - 18
 - Liberal Democrat - 11
 - Green - 3
 - Independent - 2
 - BNP - 0
- there had been 21 development sessions between June 2006 and February 2007 specifically for councillors with attendance by 125 Councillors which included a small number from other authorities.
- guides for councillors were now available on the following topics:
 - Procurement in Kirklees Council
 - Corporate Complaints Procedure
 - Supporting Citizenship in Schools
 - Role of a Corporate Parent
 - Research and Consultation
 - 21st Century Workforce
 - Community Call for Action
 - Data Protection Act
 - Freedom of Information Act
- nine councillors had enrolled on the post graduate certification in Public Sector Modernisation and that the course comprised of two modules delivered between June 2006 and February 2007. Officers were currently in discussion about next year's course together with the possibility of developing a short course programme for councillors in the Yorkshire and Humber region and
- at its Budget Meeting held on 28 February 2007, the council had agreed funding for the post of Councillor Development Officer in the proposed new structure for the Policy and Governance Service.

Recommendation:

The panel:

- 1. Noted the report and thanked the Councillor Development Officer for the work undertaken in achieving the various improvements in councillor development.**
- 2. Continues to support personal development reviews for Councillors and recommend that all groups ensure that their members undertake such a review, as the panel was disappointed that 17 councillors had not participated.**

3. Pension for councillors

The panel at its meeting held on 30 November 2005 had recommended that the council should offer pension scheme membership on basic and special responsibility allowance payments from April 2006 which had been agreed by the council. The panel received an update report which informed them that out of 69 Councillors, 27 had joined the Local Government Pension Scheme.

Recommendation:

The panel noted the report.

4. Payment for Education Appeal panel members (who are not elected members of the council)

At the meeting held on 30 November 2005 the panel recommended that the council should pay an allowance of £110.81 for a full day meeting and £63.36 for meetings less than four hours to members of Education Appeals Panels. The recommendation had been agreed by council with effect from 1 April 2006. The panel considered a report which advised that from the period 1 April 2006 to 31 March 2007 the projected costs of allowances paid plus national insurance employers contributions would amount to £18,485.

Recommendation:

The panel noted the update report and the projected expenditure on allowances and asked for a further report at its next meeting when it will review the allowance payment.

5. Basic allowance

The panel considered a report which provided background information on the introduction of the basic allowance proposed by the panel in October 1999 and referred to percentage increases to that allowance which the panel had

proposed at subsequent meetings. The report went on to list issues raised by individual councillors during recent consultations with them about the basic allowance. The panel noted proposals outlined in the Government White Paper 'Vibrant Local Leadership' on proposals for councillors to become leaders of their localities and the champion of local people.

Recommendation:

That the basic allowance should be increased by 2% from £11,741.70 to £11,976 per year with effect from 1 April 2007.

6. Chair of Standards Committee

The panel considered several reports considered previously by Standards Committee and Council Business Committee which reviewed the role and structure of the Standards Committee consequent upon legislation which required the recruitment of external members and an external Chair to the Committee. Council Business Committee had authorised the council's Monitoring Officer to take all necessary steps to facilitate the process leading to implementation of the new proposals by the Annual Council Meeting in May 2007. The council requests the panel to determine a Co-optees Allowance for the external Chair of the Standards Committee. The panel considered the relevant section of the Local Authorities (Members Allowances) (England) Regulations 2003 which made provision for the payment of the Co-optees Allowance together with the relevant role profile for the Chair of Standards Committee.

Recommendation:

That the council approve a Co-optees Allowance of £2,454 per year for the external chair of Standards Committee (who is not an elected member of the council) with effect from the date of appointment (the council's annual meeting of the council scheduled for 23 May 2007).

(The panel agreed to review this allowance at its next meeting scheduled for September 2007 when more information will be known as to the actual workload rather than anticipated workload)

7. Payment of subsistence for single party events within Kirklees

The panel considered a report in respect of the above mentioned matter. The report reminded the panel that when the basic allowance was set by the panel in 1999, it included an element for travel and subsistence and that as a result councillors did not receive additional payment for travel and subsistence for duties carried out within the Kirklees district. This proposal was approved by council. Subsequent to the decision the panel had identified, recognised and supported the importance of training and development for councillors which matter had been taken on board by the groups as a whole and by councillors individually.

An anomaly had arisen around the payment of subsistence allowances for councillors when a group was holding its development event within the Kirklees district. As an example, a group might book an event at a hotel in Bradford and the council would pay for travel and related subsistence costs. However if a group booked an event at a hotel based in Kirklees, the council would not pay any expenses at the moment. A specific exception to the rule of not paying subsistence costs within the Kirklees district would overcome this anomaly.

Recommendations:

The panel supports the payment of subsistence for single party development events (and certain other events approved by Head of Policy and Governance Service) within the Kirklees District subject to the following criteria:

What the council will pay for:

- * **If the development is a one day event, the council will pay for lunch and incidental subsistence such as tea and coffee**
- * **Where the need for an overnight stay is justified as part of the development opportunity, the council will pay for lunch, tea, coffee, evening meal and overnight accommodation**
- * **The Head of Policy and Governance to confirm any development programme lasting for more than one day**
- * **Individual group training budgets to stand the cost of any training/conference rooms, trainer/facilitators fees and expenses.**

What the council will not pay for:

- * **The council will not pay for any alcoholic refreshments**
- * **The council will not pay for any expenses incurred by partners of training event attendees.**

8. Review of roles and responsibilities recommended in November 2005

At its meeting held on 30 November 2005, the panel recommended significant changes to individual special responsibility allowances to reflect the removal of the time element and changing role of councillors and the future needs of the council and local government. The panel also recommended an increase of 2.95% on the basic allowance, allowances for Cabinet members, daily meetings allowance for Chairs of Overview and Scrutiny ad-hoc panels and Licensing panels in line with the pay award to local government employees. The council did not approve the panel's recommendations in respect of special responsibility allowances. Subsequently the council approved an allowances scheme for 2006/07 based on an increase of 2.95% on the basic and existing special responsibility allowances, including daily meetings

allowances for the chairs of Overview and Scrutiny ad-hoc panels and Licensing panel members.

The panel was asked to review its earlier decision regarding special responsibility allowances and to reconsider its recommendation on specific allowances based on certain role profiles being amended. The panel was reminded that the role profiles have three main purposes:

- ✓ To provide clarity for both councillors and officers about what is expected of each role
- ✓ To provide guidance to the panel for the Members' Allowances Scheme
- ✓ To support councillors in their development by providing a check list to identify their development needs both for the roles they are currently undertaking and for future roles to support successive planning.
- The Chair of the Panel requested that the role and allowance of the Chairs of Area Committees be reconsidered, as the Council proposals to reconstitute the seven Area Committees had not been confirmed at the Annual Council meeting in May 2006. Instead the former 12 Area Committees had been reintroduced which included a number of single Ward Area Committees.
- The panel had been asked to consider the introduction of a special responsibility allowance for deputy and shadow Cabinet members. After considering the views of the three main groups, the panel does not support the principal of a special responsibility allowance being attached to the positions of shadow cabinet members and deputy cabinet members. The panel has in the past made reference in its reports to proposals that opposition groups should consider arrangements for succession planning in view of the political balance of the council which may continue for some time. The panel view this as an issue for the individual groups to determine. The appointment of deputy cabinet members on a formal or informal basis is an issue of workload and responsibility of Cabinet Members. How the Cabinet wish to resolve those matters is for them to decide.
- Having listened to the views put forward by the three Councillors representing the larger groups and the counter argument put forward by Councillor Cooper, the panel is minded to support the proposals put forward that in order to receive a special responsibility allowance for a group business manager a group must have a membership equivalent to 10% of the total number of councillors.
- Having reviewed the workload, responsibilities, skills and knowledge required, the panel supports the proposals that the chairs of Planning sub-committees and the chair of Appeals panel be placed in Band C1 instead of Band B1, and that the chair of Licensing and Safety Committee be placed in Band D instead of Band C.

- Following a review of the role profiles for members of Overview and Scrutiny Management Committee, the panel reconsidered the special responsibility allowances for this roles and Overview and Scrutiny panel lead members
- The Panel undertook a further review of the remaining special responsibility allowances, taking into account the role profiles and the expectations attached. The individual special responsibility allowances proposed by the panel are based on the levels of responsibility, workload, skills and knowledge required for each particular role and take into account the observations of the three members of the larger groups who attended the meeting and referred to at Item 1 of this report.

The panel wish to advise the council that at its next meeting it intends to undertake a further review of the Leader of the Council's role which appears to be undervalued in the light of allowances paid to the leaders of other councils in West Yorkshire. The panel is however content at this stage to leave the special responsibility allowance for this position at the current figure of £24,066 plus 2% increase.

A copy of the proposed special responsibility allowances for 2007/08 is attached at Appendix A of this report.

Recommendations:

Chairs of area committees with multiple wards receive a special responsibility allowance of Band E

Chairs of area committees with a single ward receive a special responsibility allowance of Band E1

The panel does not support the principle of a special responsibility allowance for shadow and deputy cabinet members

A special responsibility allowance at Band D1 be payable to the leader of a group with two to six councillors

Group business manager (group membership) amended from 2-9 to 7-19 members

Opposition leader (group membership) amended from 10-29 to 7-29

Opposition leader (group membership) amended from 2-9 to 2-6

Deputy group leaders (group membership) amended from 10+ to 12+

That the Chairs of Planning Sub-Committees and the Chair of the Appeals Panel should receive a special responsibility allowance of Band C1

Chair of Licensing and Safety Committee receive a special responsibility allowance of Band D

Members of Overview and Scrutiny Management Committee should receive a special responsibility allowance of Band E

That special responsibility allowance bandings, recommended by the panel in November 2005, should increase by 2%

That the council be recommended to approve the suggested special responsibility allowances with effect from 1 April 2007.

9. **Terms of reference of the panel**

The panel considered a report which advised that the Business Managers Sub-Committee at a meeting held on 1 March 2006 had confirmed the terms of reference of the panel as follows:

- (a) To advise council on what would be the appropriate level of remuneration for councillors having regard to the:
 - (i) role councillors as expected to fulfil
 - (ii) varying role of different councillors and
 - (iii) practice elsewhere in other Local Authorities.
- (b) To consider schemes of Members' Allowances for Town and Parish Councils as and when required.
- (c) To make recommendations and provide advice to the council on any other issues referred to the panel by regulation or by the council.
- (d) The council retains its power to remove a discredited panel member.
- (e) The sub-committee agreed that the panel could appoint its own chair from amongst its members and had agreed the terms of office of panel members.

Recommendation:

The panel noted the content of the report.

10. **Development and training for members of the panel**

The panel received details on various development events undertaken by panel members throughout the year. The panel went on to discuss the possibility of a further half-day session to discuss the role of councillors as

outlined in the White Paper 'Vibrant Local Leadership', to discuss the role of the leader of the council and further discussions on the role profiles of individual councillor positions as considered at the November 2005 meeting and at today's meeting.

Recommendation:

The panel requested officers to arrange a development session, later in the year, on the White Paper and its implications on the roles of the leadership and councillors.

11. Date of Next Meeting

28 September 2007.

Andrew Taylor
Chair
Members' Allowances Independent Review Panel

Appendix A

Proposed Special Responsibility Allowances

| | £ per year |
|---|------------|
| Leader | 24,547 |
| Deputy leader | 18,410 |
| Band A | |
| Cabinet member | 12,274 |
| Band A1 | |
| Chair of Overview and Scrutiny | 11,047 |
| Opposition leader (30+ councillors) | 11,047 |
| Band B | |
| Opposition leader (7-29 councillors) | 9,820 |
| Group business manager (30+ councillors) | 9,820 |
| Band B1 | 8,592 |
| Band C | |
| Group business manager (20-29 councillors) | 7,365 |
| Band C1 | |
| Chairs of Planning sub committees | 6,138 |
| Chair of Appeals panel | 6,138 |
| Leader members of Overview and Scrutiny panels | 6,138 |
| Band D | |
| Group business manager (7-19 councillors) | 4,911 |
| Chair of Licensing and Safety committee | 4,911 |
| Band D1 | |
| Opposition leaders (2-6 councillors) | 3,684 |
| Deputy group leaders (12+ councillors) | 3,684 |
| Band E | |
| Overview and Scrutiny management group | 2,454 |
| Chairs of Area committees (multiple-ward) | 2,454 |
| Band E1 | |
| Chair of Council Business committee | 1,227 |
| Chairs of Area committees (single-ward) | 1,227 |

Chairs of ad-hoc overview and scrutiny panels will receive an allowance of £38.37 per day - the number of days being determined by the Overview and Scrutiny Management Group.

Kirklees Metropolitan Council

Amended Members' Allowances Scheme 2007/2008

This amended Members' Allowances Scheme is made under the Local Authorities (Members' Allowances) (England) Regulations 2003, and the Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003. In making this scheme the Council had regard to the recommendations of its Members' Allowances Independent Review Panel, which met on 30 March 2007.

1. The amended Members' Allowances Scheme will apply from 23 May 2007 to 31 March 2008.

2. Basic allowances for ward duties

2.1 The amount allocated per annum to each elected councillor for ward duties is £11,976.

2.2 The basic allowance recognises the time devoted (on average 80 hours a month of which the first 20 are reflected as voluntary) and expenses incurred in dealing with their constituents, political group and cross party discussions on a ward basis.

No additional payment will therefore be made for travel and subsistence costs for duties within the Kirklees district or the costs of telephone and mobile phone line rental and calls. However, the council will provide mobile telephones for certain councillors of the council, such as leader, deputy leader, group leaders and group business managers for special responsibility role business only.

The council will pay subsistence for single-party development events (and certain other events approved by the Head of Policy and Governance Service) within the Kirklees district, subject to the criteria at appendix 3.

2.3 Basic allowances will be paid calendar monthly in arrears to each elected councillor in equal monthly instalments.

2.4 Where the term of office of a councillor begins or ends otherwise than on the 1 April 2007 or 31 March 2008 his/her entitlement to the allowance will be pro-rata.

3. Special responsibility allowances

3.1 The amounts allocated per annum to councillors of specific duties, which are additional to the basic allowance are:-

| | £ per year |
|---------------|-------------------|
| Leader | 24,547 |
| Deputy leader | 18,410 |

| | |
|--|--------|
| Band A | |
| Cabinet member | 12,274 |
| Band A1 | |
| Chair of Overview and Scrutiny | 11,047 |
| Opposition leader (30+ councillors) | 11,047 |
| Band B | |
| Opposition leader (7-29 councillors) | 9,820 |
| Business manager (30+ councillors) | 9,820 |
| Band B1 | 8,592 |
| Band C | |
| Business manager (20-29 councillors) | 7,365 |
| Band C1 | |
| Chairs of Planning sub-committees | 6,138 |
| Chair of Appeals panel | 6,138 |
| Lead members of Overview and Scrutiny panels | 6,138 |
| Band D | |
| Business manager (7-19 councillors) | 4,911 |
| Chair of Licensing and Safety committee | 4,911 |
| Band D1 | |
| Opposition leaders (2-6 councillors) | 3,684 |
| Deputy group leaders (12+ councillors) | 3,684 |
| Band E | |
| Overview and Scrutiny management group | 2,454 |
| Chair of Area committees (multiple-ward) | 2,454 |
| Band E1 | |
| Chair of Council Business committee | 1,227 |
| Chairs of Area committees (single-ward) | 1,227 |

Chairs of overview and scrutiny ad-hoc panels will receive £38.37 day split into half day sessions (2 x 4 hours) to commence at the start of formal meetings to their conclusion. The overview and scrutiny management group will place a time allocation on the work of the ad-hoc panel.

- 3.2 The special responsibility allowance recognises the additional time and expenses incurred by those councillors effectively performing additional special responsibilities.
- 3.3 Special responsibility allowances will be paid calendar monthly in arrears to the appropriate councillor in equal monthly instalments.
- 3.4 Where the term of office entitling a councillor to a special responsibility allowance begins or ends otherwise than on the 1 April 2007 or 31 March 2008 his/her entitlement to the allowance will be pro-rata.
- 3.5 No councillor shall receive more than one special responsibility allowance.

4. Renunciation of allowances

- 4.1 A councillor may, by giving notice in writing to the Head of Policy and Governance Service, elect to forego any part of his/her entitlement to an allowance payable under this scheme.

5. Travel and subsistence outside the district

- 5.1 Travel and subsistence allowances for approved duties outside the district can be paid only:

- * Approved duty are those as described in paragraph 8 of the Local Authorities (Members' Allowances) (England) Regulations 2003.
- * any other duty approved by the body, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the body, or of any of its committees or sub-committees
- * for approved duties previously authorised by the appropriate body (Cabinet or Business Managers' Sub-Committee). The approval must precede the performance of the duty and not be given retrospectively.

Claims for expenses must be made and received by the Members' Services Manager within two months of the expense being incurred.

- 5.2 Attendance at conferences: The Head of Policy and Governance Service, in conjunction with the leader of the council, has delegated powers to determine councillor attendance at conferences etc, in those cases where it is not possible for approval to be sought from Cabinet due to time limits for booking arrangements. The Cabinet will be informed of any action taken under this delegation.

- 5.4 Attendance at training and development events: The council will reimburse a councillor for travel and subsistence costs, at the approved rates, for training and development events. The appropriate group business manager will approve councillor attendance.

- 5.4 The authority will pay car mileage and daytime subsistence allowances at the same rates determined for officers by the National Joint Council for Local Government Officers. An increase in the rates is expected on 1 April 2007. The allowances for 2006-7 are given on Appendix 1.

- 5.5 The rate of travel by public transport shall not exceed the amount of an ordinary fare or any available cheap fare and wherever possible should be arranged through Members' Services to maximise available discounts and concessions.

Tickets or receipts must always accompany travel and subsistence claims for over £8.

- 5.6 Councillors' use of private motor vehicles should demonstrate either a substantial saving of the councillors' time, or being in the best interests of the council.
- 5.7 The rate of travel by taxicab will not normally exceed the fare for travel by appropriate public transport. In cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity will be reimbursed. Taxi receipts must accompany the claim.
- 5.8 Travel by any other hired vehicle is limited to the rate applicable had the vehicle belonged to the member who hired it unless prior approval to the actual cost of hiring by the Cabinet or Business Managers' Sub-Committee.
- 5.9 The rate for travel by air should not exceed the rate applicable to travel by any appropriate alternative means of transport together with the equivalent saving in subsistence allowance.

Where the saving in time is so substantial as to justify payment of the fare for air travel the amount paid will not exceed:-

- (i) the ordinary fare or any cheap fare, or
- (ii) where no such service is available or in case of urgency the fare actually paid by the councillor.

6. Pensions

Councillors may join the Local Government Pension Scheme on a contributory basis, based on the basic and special responsibility allowances.

7. Dependants' carers' allowance

Councillors who need to engage carers to look after dependants whilst undertaking duties specified in regulation 7 of the Local Authorities (Members Allowances) (England) Regulations 2003 may receive a carers' allowance. The criteria are given in the Appendix 2.

8. Support for a councillor with a disability

Even though local councillors are not explicitly covered by the Disability Discrimination Act Part II (employment provisions), it is an expectation on councils that they will make every reasonable effort to meet the individual needs of disabled councillors. The council will provide support for disabled councillors, where appropriate, by actively discussing an individual's needs and putting in place the necessary support mechanisms wherever practicable.

9. Information technology

Each councillor is offered a computer to be used in their homes through a broadband link to assist them in the discharge of their functions as a councillor.

10. **Publicity**

10.1 The regulations place certain duties on local authorities in connection with publicising the recommendations made by their independent remuneration panel, their scheme of allowances and the actual allowances paid to councillors in any given year:

- The regulations require, as soon as reasonably practicable after the end of a year to which the scheme relates, that local authorities must make arrangements for the publication in their area of the total sum paid by it to each recipient, in respect of each of the following:

- Basic allowance
- Special responsibility allowance
- Dependant's carers' allowance
- Travelling and subsistence allowance
- Co-optees allowance.

11. **Sickness and holiday**

The scheme recognises the right of councillors to holiday and entitlement to sickness absence.

An entitlement is made for 28 days of holiday, in accordance with the Local Authority Conditions for staff.

During periods of sickness a councillor is not expected to make up any hours lost as a result of that illness.

12. **Suspension of councillors**

Where a councillor is suspended or partially suspended from his or her responsibilities or duties as a councillor of the authority, in accordance with Part III of The Local Government Act 2000 (Conduct of Members), or regulations made under that part, the part of any allowance payable to him/her in respect of the period for which he or she is suspended may be withheld by the authority.

This provision relates to basic, special responsibility and travel and subsistence allowances.

13. **Co-optees' allowance**

The external chair of Standards committee (who is not an elected member of the council) will receive an annual allowance of £2,454. The Co-optees' allowance will be paid calendar monthly, in arrears, in equal monthly instalments. The Co-optees' allowance includes all travel and subsistence expenses within the Kirklees district. For approved duties outside the Kirklees district, the council will pay the rates determined for elected councillors.

Where the term of office of a chair of Standards committee begins or ends otherwise than on the 1 April 2007 or 31 March 2008 his/her entitlement to the allowance will be pro-rata.

14. Co-opted members

The council will reimburse necessary expenses incurred by co-opted members of Standards Committee, Overview and Scrutiny panels and Area committees, who are not elected councillors. The council will pay the rates determined for elected councillors.

15. Education appeals panel members

Members of education appeals panels, who are not elected councillors, will receive an allowance of £110.81 for a full day meeting and £63.36 for meetings less than four hours.

23 May 2007

1. **Motor mileage rates** (for round journeys of over 200 miles, the full allowance is payable and the balance at half the appropriate rate)
Bicycle or other non-motorised forms of transport 14p per mile
Motor cycle (for journeys less than 1500 miles per year):
- | | | | |
|-------------------|---------------------------------------|-----------|----------------|
| Moped up to 50 cc | 12.4p per mile | 50–125cc | 18.8p per mile |
| 126-500cc | 27p per mile | 251-500cc | 35.5p per mile |
| Car | Not exceeding 999 cc | | 40.5p per mile |
| | Over 999 cc but not exceeding 1199 cc | | 44.2p per mile |
| | Over 1199 cc | | 55.8p per mile |

Passenger supplements: The supplement remains unchanged; an increase in the above rates by 1p per person per mile not exceeding four passengers.

2. **Day subsistence**
- | | |
|--|--------|
| Breakfast allowance | £6.06 |
| (more than 3 hours away from normal place of residence before 11.00 a.m.) | |
| Lunch allowance | £8.37 |
| (more than 3 hours away from normal place of residence to include the period 12.00 noon - 2.00 p.m.) | |
| Tea allowance | £3.29 |
| (more than 3 hours away from normal place of residence to include the period 3.00 p.m. - 6.00 p.m.) | |
| Evening meal allowance | £10.35 |
| (more than 3 hours away from normal place of residence ending after 7.00 p.m.) | |
3. **Overnight subsistence**
The overnight rates remain unchanged at:
- | | |
|--|---------|
| Overnight | £89.15 |
| Overnight (London/LGA annual conference) | £101.68 |
4. The rates shown in paragraph 3 above will cover a continuous period of absence of 24 hours.
5. The rates shown above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.
6. **Meals on trains**
Where **main meals (i.e. breakfast, lunch or dinner) are taken on trains** during a period for which there is an entitlement for a day subsistence allowance, the reasonable cost of meals (including VAT) may be reimbursed in full. This reimbursement would replace the entitlement to the day subsistence allowance for the appropriate meal period. Councillors are asked to submit receipts for meals when claiming.

Kirklees Metropolitan Council

MEMBERS' ALLOWANCES

Criteria for dependants' carers' allowance

1. Councillors who care for children or dependants can claim a carer's allowance of up to £5 per hour per dependant. Councillors who care for dependant relatives may receive payment equivalent to that paid by Adult Services in similar circumstances.
2. Payment is claimable in respect of children aged 14 years or under. In respect of dependant relatives, subject to written medical or social work evidence.
3. The Business Managers' Sub-Committee will consider special circumstances presented by any member. The Business Managers' Sub-Committee will receive information about any action taken under this delegation.
4. The carer must not be a member of the same household.
5. Councillors should submit their claims, using a claim form and supported by receipts and, if applicable, declare any other care payment received from another agency, to the Members' Allowances section each calendar month in arrears.
6. Councillors can only claim for the carers' allowance in respect of expenses of arranging for care of their children or dependants necessarily incurred for attendance at meetings and performance of duties specified in the regulations, and any other duties approved by the Council. **Approved duties do not include meetings with officers and constituents and attendance at political group meetings.**
7. The council's Standards Committee will consider any allegations of abuse of the scheme.
8. The dependants' carers' allowance is subject to annual review.

Kirklees Metropolitan Council

Members' Allowances

Criteria for single-party development events within the Kirklees district

• **What the council will pay for:**

- ✓ If the development is a one-day event, the council will pay for lunch and incidental subsistence such as tea and coffee
- ✓ Where the need for an overnight stay is justified as part of the development opportunity, the council will pay for lunch, tea, coffee, evening meal and overnight accommodation
- ✓ The Head of Policy and Governance Service will confirm any development programme lasting for more than one day, including the justification of any overnight stay
- ✓ Individual group training budgets will stand the cost of any training/conference rooms, trainers/facilitators fees and expenses

• **What the council will not pay for:**

The council will not pay for any alcoholic drinks

The council will not pay for any expenses incurred by partners of training event attendees