

KIRKLEES COUNCIL

BOARD/FORUM/COMMITTEE: COUNCIL BUSINESS COMMITTEE ANNUAL MEETING OF THE COUNCIL
DATE: 12 MAY 2008
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: <p>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 foregoing. 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.</p> <p>Additional issues and detail will be submitted prior to the meeting following further consideration.</p> <p>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.</p>

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 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 Services 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..

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BACKGROUND PAPERS

File of correspondence held by the Head of Legal Services

ISSUES / AMENDMENTS TO THE CONSTITUTION 2008

A. Issues for Consideration

1. Standards Committee.

The Local Government and Public Involvement in Health Act 2007 made changes to the way in which complaints of a breach of the member code of conduct will be dealt with.

Regulations have recently been issued with a start date for the new regime of 8 May 2008.

There are three stages to the new system once a complaint has been formally made to the Standards Committee:

Stage 1: Assessment of the complaint and a decision on whether an investigation should be held.

Stage 2: Review – Requested by the complainant if the Stage 1 decision is not to proceed to investigation

Stage 3 : A hearing following an investigation.

Each stage must be heard by a sub-committee. To avoid the perception of unfairness and bias, it is recommended that no member may sit on more than one stage of the process on a specific complaint. Each sub-committee must be chaired by an independent member.

To accommodate these changes it is recommended that the membership of the Committee be increased as follows:

Kirklees Council members	5 (increased from 4)
External members	4 (increased from 3)
Parish Council representatives	3 (increased from 2)

The existing chair has resigned. A selection process is currently underway and recommendations on new members including a new chair will be made at the Committee.

Article 9 of the Constitution must be amended to take into account the changes.

Regulations require that at least two members from Kirklees Council and one external

member be present at any meeting of the Committee. There are also specific requirements regarding membership of sub committees – all must be chaired by an external member and any complaint about a parish council member will require a parish council representative to sit on a sub-committee.

The role and function of the Standards Committee needs to be altered to reflect the new arrangements, and details are set out in Annex 1 to this report.

2. 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 are both amended to take into account changes since last year, in particular to reflect:

- The new post of Director of HR and Organisational Development
- The new post of head of HR
- The deletion of the post of Head of Building Control, Markets and Licensing
- The deletion of the post of Solicitor to the Council

Article 12.1 of the Constitution is amended to make clear the allocation of the statutory posts

Annex 2 sets out those changes. In particular it is recommended that the statutory post of Director of Adult Services be moved from the Head of Adult Services to the Director of Adult and Community Services with effect from 1 October 2008, the anticipated start date of the new Director.

3. Delegations to Officers

There have been a number of amendments to delegations during the year and Annex 2 to this report sets those out. In addition, there are a number of amendments recommended for approval by Council Business Committee and Council and these are set out in more detail later in the report:

- Changes to delegations given to the Head of Policy & Governance to reflect the proposed abolition of the Council Business Committee

- To give authority to enter into grant agreements to officers

4. Grant Agreements

The authority to enter into grant agreements is currently held by the Cabinet. These are agreements where the Council is being awarded grants from, for example Yorkshire Forward, which are often large in sum and contain specific conditions as to how the sums are used. There can be practical difficulties in getting Cabinet approval as the grants are sometimes given with very tight timescales for acceptance. It is considered appropriate that the authority to enter into such agreements be delegated to the Director of Finance in consultation with the Head of Legal Services and the appropriate Director or Head of Service. It is expected that the Director of Finance would also consult with the appropriate Cabinet member. Annex 3 sets out the details.

Annex 2 is a summary of the changes to date

Annex 3 contains the proposed revisions

Annex 4 sets out a structure diagram of current management arrangements

5. Council Business Committee

Although this committee has a range of functions, the business conducted at its meetings is focussed in the main on agreeing the agenda for Council meetings. This is clearly not a good use of members' time.

A review of its other functions has been undertaken and it is considered that the Committee can be abolished and its functions split:

- Organising the business of the Council meeting to be the responsibility of the Chief Executive in consultation with the Group Leaders, through informal meetings if required.
- A number of functions are considered operational eg giving consent to reproduce armorial designs, the co-ordination of elected member training and matters relating to the civic office, ceremonial and hospitality, and these should be the responsibility of the Head of Policy & Governance
- Other functions are largely operational but require some member input eg responsibility for all aspects of historic civic insignia and these are made the responsibility of the Head of Policy & Governance in consultation with the appropriate portfolio holder.

- Those functions which are of a governance nature are more aligned with the existing audit committee and it is proposed that a new Corporate Governance and Audit Committee be established which would take on these functions.

Annex 5 is a list of the existing Council Business Committee functions and where they are proposed to be re-allocated.

Proposed terms of reference for the Corporate Governance and Audit Committee are set out in Annex 6.

6. Community Governance Reviews

A new power is contained in the 2007 Act to initiate or consider a petition for a community governance review. This is designated as a Council function, but Council can delegate it, and it is recommended that the power along with agreeing terms of reference for such reviews and determining the outcome, is given to the Corporate Governance and Audit Committee. (See Annex 6)

7. Local Area Agreement

The functions relating to local area agreements set out in sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 are a local choice function and the committee must consider and recommend to Council whether they should be a Council or an Executive function. These functions are broadly:

- the duty to prepare and submit a draft of a local area agreement (section 106)
- the revision and addition of targets (section 110)
- designated targets : revision proposals (section 111)
- duty to publish information about the local area agreement (section 113)

The Committee needs to make a recommendation to Council as to whether responsibility for these functions should lay with the Council or the Cabinet. It is recommended that it be a Council function, with authority for agreeing any minor amendments to be given to the Cabinet to avoid the need for drafts to be repeatedly brought back to full Council causing unnecessary delay.

8. Youth Council

A Youth Council is in the process of being established and its proposed terms of reference and membership are set out in Annex 7.

9. Council Procedure Rules

A review of procedure at Council has been undertaken with a member reference group considering a number of options. Proposals for their revision will be circulated prior to the meeting, but essentially the changes will be:

- (i) Council to meet ten times per year, 5:00pm to 9:00pm
- (ii) Two types of Council meeting to be held – one focusing on holding the Executive to account, one focusing on reports from Scrutiny and discussion of significant issues
- (iii) Consolidation of the opportunity to ask questions to streamline the process
- (iv) All meetings to have core items: petitions/deputations/public questions; issues from Cabinet requiring decision; written questions to members; and motions
- (v) Agendas to be set by informal meeting of the Chief Executive and Group Leaders
- (vi) Cabinet members to set out their plan at the start of the year and report back on progress at least once during the year

Full Procedure Rules attached (at end of document)

10. Area Committee Grants (delegated from Cabinet)

The Cabinet may delegate functions to an Area Committee. In August 2004 the Cabinet agreed to create a discretionary grant process to be administered by the Area Committees. That decision was not integrated into the Constitution and now needs to be regularised.

An Area Committee may choose to allocate part of their budget for a grant scheme within which they may also have arrangements for discretionary grants for small amounts below £500 and delegate the decision making for such discretionary grants to the Head of Policy

and Governance in consultation with the Area Committee Chair where an application is time sensitive. Cabinet will be asked to approve this arrangement.

In February 2008 Cabinet approved a further delegation in relation to Area Committee budgets which delegated to officers authority to agree expenditure up to £1,000 for service delivery.

Annex 8 sets out the revised terms of reference for Area Committees under Article 10 of the Constitution.

11. Articles of the Constitution

Article 15.2 of the Constitution requires any changes to the articles of the Constitution to be considered by the Council Business Committee who will recommend changes to the Full Council.

Annex 8 sets out the revised Articles which pick up changes reflected in this report and other minor changes of a drafting nature or which reflect statutory change.

12. Area Committee Advisory Committee

It is no longer necessary for this to meet as a Committee to exercise the functions that it currently has. It may be more appropriate for an Area Committee Chairs reference group to be established to share good practice which would meet as and when required. It is recommended that it is no longer constituted as a Committee.

13. Consequential Amendments

Some amendments to the drafting of the Constitution will be required to reflect changes which have already taken place or are proposed or included in this report. Approval to the proposals carries with it approval to make any necessary consequential amendments for consistency.

14. Overview and Scrutiny Management Committee

To make the Committee more effective, it is recommended that it's membership be reduced to four members, with one member from each of the largest four groups on the Council.

15. Financial Procedure Rules and Contract Procedure Rules

Proposed alterations to these are the subject of a separate report.

Recommendation

The Committee is asked to consider the issues set out in this report, together with any supplementary information put before it and to make recommendations to Council.

ANNEX 1

REVISED TERMS OF REFERENCE OF 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:-

- five councillors not including the Leader or more than one member of the Cabinet but including, so far as possible, representatives from at least four political groups on the Council;
- four persons who are not councillors or officers of the Council or any other body having a Standards Committee (external members);
- three persons who are members of a parish or town council wholly or mainly in the Council's area (parish members), but who are not also members of Kirklees Council.

b. An independent member of a standards committee of a different relevant authority may be appointed to the Standards Committee in relation to a particular allegation, or set of allegations against a member, co-opted member, former member or former co-opted member, and the Standards Committee shall fix the term of office of that independent member accordingly. For the period of membership that independent member shall have the same rights and obligations as a permanent member of the Standards Committee.

c. External members and parish members, as well as councillors, will be entitled to vote at meetings;

d. At least one external member and two members from Kirklees Council must be present at any meeting of the committee.

e. At least 1 parish member must be present when any matter relating to parish councils or their members is being considered;

f. 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) Establish sub-committees to consider, review, request an investigation into and determine any written allegation may to it under Section 57A of the Local Government Act 2007, that a member or co-opted member (or former member or former co-opted member) of that Authority has failed or may have failed to comply with the Authority's code of conduct.
- To make arrangements for publicity of the member complaints system in such manner as it considers appropriate to comply with statute, regulation and Standards Board for England guidance
 - To agree, review periodically and make publicly available criteria against which complaints will be assessed
 - To agree criteria by which the assessment sub-committee will consider requests for confidentiality
 - To agree and publish a statement setting out how anonymous complaints will be dealt with
- (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; within the framework permissible by Regulations issued to give effect to the Local Government & Public Involvement in Health Act 2007;

(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 an 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 Corporate Governance and Audit Committee relating to the monitoring of the performance of councillors.

9.4 Sub-Committees

9.4.1 There shall be three sub-committees as follows:

- A local assessment sub-committee to consider complaints made in respect of potential breaches of the member code of conduct to determine whether an investigation should be undertaken
- A review sub-committee to consider requests for reviews of a decision not to proceed to investigate a complaint
- A hearings sub-committee to consider and determine complaints following investigation and report

9.4.2 Any member of the Committee may be a member of any sub-committee and the membership of each shall not be fixed, but shall be determined on each occasion it is required to sit except that

- 9.4.2.1** Each sub-committee shall be chaired by an external member
- 9.4.2.2** If the complaint under consideration involves a parish council member, then a parish council committee member must be on each sub-committee considering that complaint
- 9.4.2.3** If the complaint under consideration involves a Kirklees council member, then a Kirklees council committee member must be on each sub-committee considering that complaint
- 9.4.2.4** Each sub-committee shall have 3 members with preferably one external member (who must be the Chair), one Kirklees member and one parish member. The quorum for a sub-committee shall be three members and if it is not possible to continue with the sub-committee because a member becomes unavailable then a fresh committee must be established to consider the complaint.
- 9.4.2.5** No member may sit on more than one sub-committee considering a particular complaint.

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 2

NEW DELEGATIONS - SUMMARY

Licensing & Safety Committee

New delegation - All of the Council's functions relating to smoke free legislation under the Health act 2006 and associated regulations

Officers

New delegation - Powers under the legislation relating to enforcement of the Smoke Free provisions to be delegated to the following officers of Environmental Services and Licensing:

- Assistant Director (Environment)
- Environmental Health Managers
- Head of Planning and Building Control Services

New delegation - Director of Children & Young People -

Authority to approve:

- Allowances for Foster Care, Residence Order, Special Guardianship, Adoption Support
- Charges to other local authorities in respect of Kirklees children's residential and respite care units

New delegation - Powers under the legislation relating to enforcement of the Animal welfare Act, including the appointment of inspectors, to be delegated to the following officers of Environmental Services:

- Assistant Director
- Environmental Health Managers

(The following went to Council 5 Dec 2007)

New delegation

Assistant Director (Environment) in consultation with the Cabinet Portfolio holder –

- Authority to introduce electronic payment systems to relevant areas within Environmental Services

(The following went to Council 19 Mar 2008)

New delegation - Powers under Part 6 of the Traffic Management Act 2004 relating to the approval of officers authorised to consider representations and cancel penalty notices.

- Assistant Director (Highways and Transportation)

ANNEX 3

PROPOSED CHANGES TO DELEGATIONS

Head of Policy and Governance

The following shall be delegated to the Head of Policy & Governance.

- In consultation with the relevant group business managers to determine member attendance at conferences in the U.K. Member attendance at conferences abroad shall continue to be authorised by the Cabinet
- To determine in consultation with Group Business Managers nominations to outside bodies provided that the Council has agreed in principle to nominate representatives, and the political ratios. Area Committees will continue to nominate to charitable trusts. The Head of Policy & Governance will report to the Corporate Governance and Audit Committee such nominations.
- To co-ordinate elected member training in consultation with Group Business Managers.
- Matters relating to the civic office, ceremonial and hospitality.
- In consultation with the relevant portfolio holder, responsibility for all aspects of historic civic insignia, particularly those set out below:
 - Civic insignia and silver etc in current or proposed use
 - The offer of all future gifts of civic insignia and silver etc as well as any proposal for purchase
 - The disposal by sale or otherwise of any item of civic insignia etc in the possession of the Authority
 - Consent to reproduce armorial designs and all questions of heraldry

ANNEX 4

COUNCIL DEPARTMENT STRUCTURE CHART

STRUCTURE HEREWITH (at end of full document)

ANNEX 5

COUNCIL BUSINESS COMMITTEE – PROPOSED SPLIT OF FUNCTIONS

	Current Function	Proposed Function
1	To be responsible for the co-ordination of the business management of the Council	There shall be an informal briefing meeting with the Mayor and Deputy Mayor, Leaders or their nominated group business manager plus the Chair of the Overview & Scrutiny Management Committee to agree the agenda for Council meetings. The Chief Executive and officers from the Policy and Governance Service will provide advice and assistance as appropriate.
2	To plan and determine Council agendas and make recommendations to the Council for any necessary amendments to the relevant procedures and order of business	Combine with (1) above.
3	To keep under review portfolios of the Cabinet and the terms of reference and delegations of Council functions to committees and formally appointed bodies and officers	Corporate Governance and Audit Committee
4	To be responsible for: 4.1 monitoring the operation of the Council's constitution and keeping its terms under review, including all procedure rules and other standing orders	Corporate Governance and Audit Committee

	Current Function	Proposed Function
	4.2 making recommendations to the Council for any change or additions to the constitution, procedure rules or executive arrangements	
5	To determine all matters relating to the adoption and operation of the Members' Allowance Scheme, including recommendation to the Council of the adoption of or amendment to any such scheme	Corporate Governance and Audit Committee
6	Other issues relating to elected members, eg allocation/condition of rooms for elected member use	Head of Policy & Governance
7	Co-ordination of elected member training	Head of Policy & Governance
8	Matters relating to the civic office, ceremonial and hospitality	Head of Policy & Governance
9	<p>Responsibility for all aspects of historic civic insignia, particularly those set out below:</p> <p>9.1 Civic insignia and silver, etc in current or proposed use</p> <p>9.2 The offer of all future gifts of civic insignia and silver etc, as well as any proposal for purchase</p> <p>9.3 The disposal by sale or otherwise of any item of civic insignia etc in the possession of the Authority</p>	Head of Policy & Governance in consultation with the Corporate Portfolio holder

	Current Function	Proposed Function
10	Consent to reproduce armorial designs and all questions of heraldry	Head of Policy & Governance in consultation with the Head of Legal Services
11	To determine the Council's representation on outside bodies	Council will agree the principle of representation including ratios and the Group Business Managers will make the nominations. Area Committees will continue to nominate to charitable trusts.
12	Charities and charitable trusts (so far as not the responsibility of the Cabinet)	Corporate Governance and Audit Committee
13	Duty to designate the Head of Paid Service, the Monitoring Officer and all statutory "proper officers"	Corporate Governance and Audit Committee
14	Duty to make arrangements for proper administration of the financial affairs of the Authority	Corporate Governance and Audit Committee
15	Duty to approve the Authority's statement of accounts, income and expenditure and balance sheet or record of payments and receipts as the case may be	Corporate Governance and Audit Committee
16	Power to approve payments or provide other benefits in cases of maladministration	Corporate Governance and Audit Committee
17	Functions relating to elections and parishes set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (or any	Corporate Governance and Audit Committee

	Current Function	Proposed Function
	replacement or amendment of it)	

ANNEX 6

PROPOSED TERMS OF REFERENCE FOR CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Membership

Four members, one from each of the largest four groups on the Council.

Two ex-officio members with rights to speak but not vote:

- The member of the Cabinet who has responsibility for Corporate Governance
- The Chair of the Overview & Scrutiny Management Committee

No leaders of any group shall be a member of the Committee

Terms of Reference

Delegated authority in respect of all powers and duties set out below and all other Council functions not required to be determined by the full Council and not delegated to any other committee:

1. To be responsible for:
 - 1.1. Monitoring the operation of the Council's Constitution and keeping its terms under review, including all procedure rules
 - 1.2. Making recommendations to the Council for any change or additions to the procedure rules or Articles of the Constitution or executive arrangements
2. To determine all matters relating to the adoption and operation of the Members' Allowances Scheme including recommendation to the Council of the adoption of or amendment to any such Scheme
3. To keep under review the portfolios of the Cabinet and the terms of reference and delegations of Council functions to committees and formally appointed bodies and officers
4. To consider the Council's arrangement relating to accounts including

- (a) the approval of the statement of accounts and any material amendments of the accounts recommended by the auditors
 - (b) to keep under review the Council's financial and management accounts and financial information as it sees fit
- 5. To consider the Council's arrangements relating to the external audit requirements including:
 - (a) the receipt of the external audit reports so as to;
 - (i) inform the operation of the Council's current or future audit arrangements
 - (ii) provide a basis for gaining the necessary assurance regarding governance prior to the approval of the Council's accounts
- 6. To consider the Council's arrangements relating to internal audit requirements including:
 - (a) considering the Annual Internal Audit report, reviewing and making recommendations on issues contained therein
 - (b) monitoring the performance of internal audit
 - (c) agreeing and reviewing the nature and scope of the Annual Audit Plan
- 7. To review the adequacy of the Council's Corporate Governance arrangements (including matters such as internal control and risk management) and including to review and approve the annual statement of Corporate Governance
- 8. To agree and update regularly the Council's Code of Corporate Governance, monitoring its operation and compliance with it, and using it as a benchmark against performance for the annual Statement of Corporate Governance
- 9. To designate the Head of Paid Service, the Monitoring Officer and all statutory "proper officers"
- 10. To approve payments or provide other benefits in cases of maladministration as required and make recommendations arising from any review of a report of the Local Government Ombudsman
- 11. To initiate or consider a petition for community governance review under sections 79 –

86 of the Local Government and Public Involvement in Health Act 2007 and to agree the Terms of Reference for such a review, and decide the outcome following the review.

12. Functions relating to elections and parishes set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (or any replacement or amendment of it)
13. Charities and charitable trusts (so far as not the responsibility of Cabinet)

ANNEX 7

KIRKLEES YOUTH COUNCIL

(a) Terms of Reference

To have responsibility for:

- undertaking projects/activities to tackle issues
- having some input into budget setting for Children and Young People Services
- advising Councillors on young people's views
- linking up with locality based youth groups
- referring issues for consideration by Cabinet and Scrutiny, as appropriate
- considering issues referred from Cabinet and Scrutiny, as appropriate.

(b) Membership

To comprise up to 32 young people aged 11-18:

Up to 27 young people will be chosen by their peers through an election process. Elections will be held in such a way to ensure that there are representatives from each of the seven locality areas, young people with disabilities and young people aged 16-18.

Up to 5 young people will be co-opted to ensure diversity.

ANNEX 8

REVISED ARTICLES OF CONSTITUTION

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, with all its appendices, is the Constitution of Kirklees Metropolitan Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (i) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations, working together to achieve common objectives;
- (ii) provide a means of improving the delivery of services which meet the needs of local people;
- (iii) support the active involvement of citizens in the process of local authority decision making;
- (iv) help councillors represent their constituents more effectively;
- (v) promote equality, recognise diversity and make Kirklees a borough of opportunity for all;
- (vi) enable decisions to be taken efficiently and effectively;
- (vii) create a powerful and effective means of holding decision makers to public account;
- (viii) ensure that no-one will review or scrutinise a decision in which they were directly involved;
- (ix) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (x) ensure that the people who work for the Council are treated fairly and that opportunities are provided to enhance their effectiveness;
- (xi) promote effective communication in all the Council's activities.

1.4 Review of the Constitution

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

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and Eligibility

(a) Composition

The Council comprises 69 members, otherwise called councillors. Three councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State. The Local Government Commission may from time to time carry out a review of these arrangements.

(b) Eligibility

Only registered voters of the district or those who during the year prior to nomination have been living or working or owning and occupying land or buildings there are eligible to hold the office of councillor. No-one who is under 18 years of age is eligible.

2.2 Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May every four years beginning in 2003, except that in 2005 and every fourth year thereafter there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. These arrangements may change as the result of any review by the Local Government Commission.

2.3 Roles and functions of all Councillors

(a) Key Roles

The key roles of councillors are set out below:-

Leadership at Ward Level

- To lead and champion the interests of the local community and effectively represent the interests of the ward and its constituents.
- To meet and liaise regularly with local interested parties and involve and consult them on key council decisions.
- To support and promote citizenship locally and empower the community to participate in the governance of the area.
- To undertake case work for constituents and act as an advocate in resolving concerns or grievances.
- To communicate with local people and answer enquiries:
 - about decisions that affect them

- about opportunities in the community
- regarding the rights of constituents within Kirklees
- as to why decisions are taken

Localism and Local Area Committees

- To participate constructively in the good governance of the area.
- To use influence as an elected representative to develop links between groups and communities in the Ward and local area.
- To be constructively involved in the work of the local area committee.
- To lead on the delivery of priority theme/s within the area committee community action plan.
- To forge local partnerships to ensure resources are used to meet the needs of the area.

Representation

- To inform the debate at council meetings and contribute to the effectiveness of the council meeting as the focus of visible leadership.
- To contribute to the formation and scrutiny of the authority's policies, budget, strategies and service delivery.
- To contribute to the scrutiny of decision making and review of the policies and services of the council.
- To represent the authority to the community and the community to the council.
- To develop and maintain a knowledge of the council and develop working relationships with its officers.
- To participate in the activities of any political group of which the councillor is a member.
- To represent the council on outside bodies and to participate effectively in the appointed role and, where appropriate, to represent those bodies within Kirklees.

Other

- To fulfil the legal (in accordance with the council's Code of Conduct for Councillors) and local requirements placed on an elected member.
- To prepare an annual report to be published every June.
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

(b) **Rights and Duties**

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

2.4 Conduct

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member / Officer Relations set out in Part 5 of this Constitution and any other protocol on conduct which may be approved by the Council on the recommendation of the Standards Committee.

2.5 Allowances

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

ARTICLE 3 - CITIZENS AND THE COUNCIL

3.1 Citizens' Rights

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

a. Voting and Petitions

Citizens on the electoral roll for the area have the right to vote and (subject to the statutory requirement of a 5 year period between referendums) to sign a petition to request a referendum for an elected mayor form of constitution

b. Information

Citizens have the right to:

- Attend the meetings of the Council and its committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- Attend meetings of the Cabinet when key decisions are being considered;
- Attend other meetings of the Cabinet which have been agreed to be open to the public;
- Find out from the forward plan what key decisions will be taken by the Cabinet and when;
- See reports and background papers and any records of decisions made by the Council and the Cabinet;
- At the time of the external audit of the Council's accounts, inspect the Council's accounts and make their views known to the external auditor.

c. Participation

Citizens have the right to:

- Ask questions or take part in a deputation at Council meetings;
- Take part in debates at Council meetings which are specifically identified for that purpose;
- Ask questions at committee meetings or public meetings of the Cabinet or contribute to such meetings at the discretion of the Chair;
- Contribute to investigations by the Overview and Scrutiny Management Committee or panels

Citizens are encouraged, before participating in any such meeting, to indicate what personal interest, if any, they have in the matter under discussion.

d. **Complaints**

Citizens have the right to complain to:

- The Council itself under its complaints scheme;
- The Local Government Ombudsman after using the Council's own complaints scheme;
- The Standards Committee of the Council about a breach of the councillors' code of conduct.

Complaints may also be raised with individual councillors.

e. **Treatment**

Citizens have the right to:

- Be treated equally with understanding and respect;
- Have equal opportunity with other citizens in accordance with the Council's policies;
- Receive good quality services provided to best value principles.

3.2 Citizens' Responsibilities

Citizens are required to treat Council members, employees, contractors and volunteers providing services with respect and must not be violent, abusive or threatening to them. In particular, if they are racially abused, the Council has the responsibility to take appropriate action to stop this from happening again. No-one should wilfully harm things owned by the Council, councillors or employees etc. The Council asks that people remain polite and patient and use the complaints procedure if upset or aggrieved.

ARTICLE 4 - THE FULL COUNCIL

4.1 Meanings:

a. **Policy Framework** – The policy framework means the following plans and strategies:

- Best Value Performance Plan
- Children and Young People's Plan
- Community Safety Plan
- Sustainable Community Strategy
- Education Development Plan
- Local Transport Plan
- Plans and strategies which together comprise the Development Plan
- Youth Justice Plan [included in the Children and Young People's Plan as above]
- The Council's Corporate Plan [currently incorporated in the Best Value Performance Plan above]
- Customer Service Strategy
- Environment Vision 2025
- Municipal Waste Management Strategy
- Perspective for Investment [Regeneration Strategy]
- Statement of Licensing Policy under the Licensing Act 2003
- Three year Licensing Policy under the Gambling Act 2005

b. **Budget** – The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement. It also includes the Council's capital plan, the control of its capital expenditure and investments, and the setting of virement limits.

c. **Housing Land Transfer** – Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 50 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Council

Only the Council will exercise the following functions:-

- a. Adopting and changing the Constitution.
- b. Approving or adopting the policy framework, the budget (including the capital plan) and any application to the Secretary of State in respect of any housing land transfer.
- c. Subject to the urgency procedure contained in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a

manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.

- d. Appointing the Leader and members of the Cabinet and determining their individual portfolios.
- e. Agreeing or amending the terms of reference for committees, deciding on their composition and making appointments to them.
- f. Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council.
- g. Adopting an allowances scheme under Article 2.5.
- h. Changing the name of the area, conferring the title of honorary alderman or the freedom of the borough.
- i. Confirming the appointment of the Head of Paid Service.
- j. Making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal bills.
- k. All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive and which it has not delegated to a committee.
- l. Receive reports and recommendations from the Overview and Scrutiny Management Committee and scrutiny panels and commissions in connection with the discharge of functions.
- m. Resolution under s.166 of the Gambling Act 2005 not to issue casino premises licences.
- n. All other matters which, by law, must be reserved to the Council.

4.3 Council Meetings

There are three types of Council meeting:

- The annual meeting
- Ordinary meetings
- Extraordinary (additional) meetings

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

4.4 Responsibility for Functions

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

ARTICLE 5 - ROLE OF THE MAYOR

5.1 Role and Function

The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor and in his/her absence the Deputy Mayor will have the roles and functions set out in the following paragraphs.

5.2 Chairing the Council meeting

The Mayor will have the following responsibilities:-

- (a) To uphold and promote the purposes of the Constitution and to interpret the Constitution, where necessary;
- (b) To preside over meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
- (d) To promote public involvement in the Council's activities.

5.3 First Citizen

The Mayor shall take precedence and shall be the first citizen of the Metropolitan Borough of Kirklees.

5.4 Promotion of the Council

The Mayor will, together with the Leader and the Cabinet and other members of the Council, promote Kirklees as a whole and will act as a focal point for the community.

The Mayor will attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.5 Ceremonial Role

The role of the Mayor is a symbol of authority, a symbol of an open society and an expression of social cohesion.

5.6 Urgent Decisions

The Mayor will act in accordance with the procedure for taking urgent decisions, in accordance with the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.

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 three 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 Overview and 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 organisations relating to the Regeneration portfolio (including Culture and Leisure and Housing spatial policy) and all matters considered by the Regenerations and Sustainable Development

	Local Public Service Board
Safer Stronger Communities (including Environment, Housing and Transportation)	As above in relation to the Safer Stronger Communities portfolio (including Environment, Housing Management and Transportation) and all matters considered by the Safer Stronger Communities Local Public Service Board
Adults and Healthier Communities (including Health)	As above in relation to the Adults and Healthier Communities portfolio (including Health) and all matters considered by the Adult and Healthier Communities Local Public Service Board
Children and Young People	As above in relation to the Children and Young People Portfolio and all matters considered by the Children & Young People Local Public Service Board
Corporate Affairs	As above in relation to Corporate Affairs
Health Inequalities	As above in relation to any matters relevant to the issue of health inequalities

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.

Councillor Call for Action and Scrutiny Panels

6.3.4 The Overview and Scrutiny Management Committee will appoint members to any Councillor Call for Action Scrutiny Panels, 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 Committee/Panel/Management Committee 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 Committee/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.

ARTICLE 7 – THE EXECUTIVE (CABINET)

7.1 Title and Role

- 7.1.1 The Executive will be known as the Cabinet and will carry out all of the authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution;

7.2 Form and Composition

- 7.2.1 The Cabinet will consist of the Leader of the Council, together with at least two, but no more than nine councillors appointed to the Cabinet by the Council.
- 7.2.2 Each Cabinet member will be appointed by the Council to be responsible for a specific portfolio of functions. The Leader may make adjustments to the detail of those portfolios or add additional responsibilities as he/she considers appropriate in the light of operational need. Any such changes shall be reported to the next meeting of the Council. Only the Council may make any other changes to those portfolios.

7.3 Leader

- 7.3.1 The Leader will be a councillor elected to the position of leader by the Council.
- 7.3.2 The Council will designate one of the other Cabinet members to be the Deputy Leader. The Deputy Leader will take on the role and functions of the Leader in the Leader's absence.

7.4 Other Cabinet Members

- 7.4.1 Only councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Mayor nor Deputy Mayor may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of the Overview and Scrutiny Management Committee, or its panels.

7.5 Terms of Office

- 7.5.1 The Leader and each other Cabinet member shall hold office until, (either collectively or individually):-
- (a) They resign from office; or
 - (b) They are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of any such period or suspension); or
 - (c) They are no longer councillors; or
 - (d) The next annual meeting of the Council, when they will be eligible for re-appointment; or

- (e) They are removed from office by resolution of the Council in accordance with the requirements of article 7.6

7.6 Removal from Office

7.6.1 The Leader or any other member of the Cabinet may be removed from office by resolution of the Council between annual Council meetings only by the election of a new Leader or Cabinet member. This may occur only in the following circumstances:-

- (a) In the event of a change in political control of the Council; or
- (b) In the case of the leader if he/she is the leader of a political group on the Council at the time of his/her election to the office of Leader, if he/she ceases to be the leader of that political group; or
- (c) Following a resolution of the Council that it has no confidence in the Leader or the relevant Cabinet member, but only where those voting in favour of that resolution of no confidence have constituted at least two thirds of those members present when the vote was taken.

7.7 Proceedings of the Cabinet

7.7.1 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this constitution. The Access to Information Procedure Rules also contain requirements for Cabinet procedures.

7.8 Responsibility for Functions

7.8.1 The Leader will ensure that a list is maintained Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, area committees, officers or joint or other arrangements are responsible for the exercise of particular executive functions. That list and any such delegation of functions must be approved by the Cabinet.

7.8.2 The Cabinet may also appoint sub-groups of Cabinet members to consider particular issues and advise the Cabinet on them. Such sub-groups may also include other councillors and will not be formal committees of the Cabinet.

7.8.3 The Cabinet or its individual members may also make such other arrangements as it thinks fit for consulting or being advised by any other members of the Council, including those responsible for Scrutiny, on policy issues and any other matters.

7.9 Executive Arrangements in the event of no Leader being elected

7.9.1 If a situation arises where the Council is unable to elect a leader, the following arrangements will apply:-

- (a) subject to (b) below, any function or activity, including executive decision-making which would normally be undertaken by the Leader or the Cabinet will, until the next Council meeting, be undertaken by the Chief Executive who will act in consultation with the leaders of all the political parties.
- (b) where, by statute or otherwise, any such function or activity is required to be undertaken by the Leader or another member of the Cabinet or the Council, it will be undertaken by any one of the leaders of the political parties, to be specified in each case by the Chief Executive.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

- 8.1 The Council will appoint the Committees referred to in Section 2 of Part 3 of this Constitution to discharge the Council functions described.
- 8.2 The Council may from time to time appoint such other committees as it thinks fit to carry out appropriate functions which are reserved to the Council (and not the Cabinet)
- 8.3 A member of the Cabinet may serve on a regulatory or other committee if otherwise eligible to do so as a councillor.

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:-
 - five councillors not including the Leader or more than one member of the Cabinet but including, so far as possible, representatives from at least four political groups on the Council;
 - four persons who are not councillors or officers of the Council or any other body having a Standards Committee (external members);
 - three persons who are members of a parish or town council wholly or mainly in the Council's area (parish members), but who are not also members of Kirklees Council.
- b. An independent member of a standards committee of a different relevant authority may be appointed to the Standards Committee in relation to a particular allegation, or set of allegations against a member, co-opted member, former member or former co-opted member, and the Standards Committee shall fix the term of office of that independent member accordingly. For the period of membership that independent member shall have the same rights and obligations as a permanent member of the Standards Committee.
- c. External members and parish members, as well as councillors, will be entitled to vote at meetings;
- d. At least one external member and two members from Kirklees Council must be present at any meeting of the committee.
- e. At least 1 parish member must be present when any matter relating to parish councils or their members is being considered;
- f. 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) Establish sub-committees to consider, review, request an investigation into and determine any written allegation may to it under Section 57A of the Local

Government Act 2007, that a member or co-opted member (or former member or former co-opted member) of that Authority has failed or may have failed to comply with the Authority's code of conduct.

- To make arrangements for publicity of the member complaints system in such manner as it considers appropriate to comply with statute, regulation and Standards Board for England guidance
 - To agree, review periodically and make publicly available criteria against which complaints will be assessed
 - To agree criteria by which the assessment sub-committee will consider requests for confidentiality
 - To agree and publish a statement setting out how anonymous complaints will be dealt with
- (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; within the framework permissible by Regulations issued to give effect to the Local Government & Public Involvement in Health Act 2007;
- (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 an 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 Corporate Governance and Audit Committee relating to the monitoring of the performance of councillors.

9.4 Sub-Committees

9.4.1 There shall be three sub-committees as follows:

- A local assessment sub-committee to consider complaints made in respect of potential breaches of the member code of conduct to determine whether an investigation should be undertaken
- A review sub-committee to consider requests for reviews of a decision not to proceed to investigate a complaint
- A hearings sub-committee to consider and determine complaints following investigation and report

9.4.2 Any member of the Committee may be a member of any sub-committee and the membership of each shall not be fixed, but shall be determined on each occasion it is required to sit except that

9.4.2.1 Each sub-committee shall be chaired by an external member

9.4.2.2 If the complaint under consideration involves a parish council member, then a parish council committee member must be on each sub-committee considering that complaint

9.4.2.3 If the complaint under consideration involves a Kirklees council member, then a Kirklees council committee member must be on each sub-committee considering that complaint

9.4.2.4 Each sub-committee shall have 3 members with preferably one external member (who must be the Chair), one Kirklees member and one parish member. The quorum for a sub-committee shall be three members and if it is not possible to continue with the sub-committee because a member becomes unavailable then a fresh committee must be established to consider the complaint.

9.4.2.5 No member may sit on more than one sub-committee considering a particular complaint.

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.

ARTICLE 10 – AREA COMMITTEES

10.1 Appointment

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value; more efficient, transparent and accountable decision making; and improved ways of identifying and meeting the needs of local people.

10.2 Form, composition and function

The Council may appoint the area committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

The Cabinet or the Council (in respect of their different functions) may allocate delegated powers to area committees, subject to their being satisfied that the relevant committee is maintaining satisfactory standards of community engagement and action planning. They may also provide small budgets to area committees at any time for spending on locally determined projects.

Name of Area Committee and Wards covered	Composition	Terms of Reference
<p>Batley Area Committee (Batley East and Batley West.)</p> <p>Birstall and Birkenshaw Area Committee (Birstall and Birkenshaw.)</p> <p>Colne Valley Area Committee (Colne Valley and Golcar.)</p> <p>Dewsbury Area Committee (Dewsbury East, Dewsbury South and Dewsbury West.)</p> <p>Huddersfield North Area Committee (Ashbrow, Greenhead and Lindley)</p> <p>Huddersfield South Area Committee (Almondbury, Crosland Moor and Netherton, Dalton and Newsome)</p> <p>Mirfield Area Committee (Mirfield.)</p>	<p>All elected members from the relevant wards, together with co-optees as approved from time to time by the Council</p>	<p>To consider and report and make appropriate recommendations to the Council and the Cabinet on:-</p> <p>(i) Within the context of the Kirklees community strategy and with partner organisations to develop a strategic direction and community plan for the township/area. The whole approach needs to be informed by community action plans which should be the basis for devolution and elements of funding.</p> <p>(ii) To be consulted on Kirklees wide strategic issues, budget setting and service plans.</p> <p>(iii) To contribute to service reviews and scrutiny processes. Also, for area committees maintaining the required standards as specified in Article 10.2 above, to propose scrutiny activities and the Overview & Scrutiny Management Committee may decide to draw the membership of ad hoc scrutiny panels wholly from the membership of the relevant</p>

Name of Area Committee and Wards covered	Composition	Terms of Reference
<p>Spenn Valley Area Committee (Cleckheaton, Heckmondwike and Liversedge & Gomersal.)</p>		<p>area committee, where considered appropriate.</p>
<p>Denby Dale Area Committee (Denby Dale.)</p>	<p>All elected members from the relevant Ward together with:-</p>	<p>(iv) To work closely with other public, private and voluntary agencies in the area.</p>
	<ul style="list-style-type: none"> • 6 Parish Councillors nominated by Denby Dale Parish Council. • Other co-optees as approved from time to time by the Council. 	<p>(v) To oversee the development of community action plans for areas within the township / neighbourhood and monitor their implementation.</p> <p>(vi) To be a focus for community involvement and consultation.</p>
<p>Holme Valley North Area Committee (Holme Valley North.)</p>	<p>All elected members from the relevant Ward together with:-</p>	<p>(vii) To carry out such delegated functions as may be determined by the Council and the Cabinet and set out in Part 3 of this Constitution.</p>
	<ul style="list-style-type: none"> • 3 Town Councillors nominated by Meltham Town Council. • 3 Parish Councillors nominated by Holme Valley Parish Council from its Wards falling within the KMC Holme Valley North Ward. • Other co-optees as approved from time to time by the Council. 	<p>(viii) To contribute, on the basis of local community engagement, to the work of the Kirklees Partnership (viii)</p>
<p>Holme Valley South Area Committee (Holme Valley South.)</p>	<p>All elected members for the relevant Ward together with:-</p>	
	<ul style="list-style-type: none"> • 6 Parish Councillors nominated by the Holme Valley Parish Council from its Wards falling within the KMC Holme Valley South Ward. 	

Name of Area Committee and Wards covered	Composition	Terms of Reference
Kirkburton Ward Committee (Kirkburton.)	<ul style="list-style-type: none"> • Other co-optees as approved from time to time by the Council. <p>All elected members for the relevant Ward together with:-</p> <ul style="list-style-type: none"> • 6 Parish Councillors nominated by the Kirkburton Parish Council • Other co-optees as approved from time to time by the Council. <p>For each of the above four Area Committees, two parish/town council nominees may have voting rights only in respect of decisions on matters lawfully delegated to those committees as joint committees with the relevant parish/town council. The method of determining which nominees have such rights will be determined before any such delegations take place.</p>	

The Council and the Cabinet will include details of the delegations to area committees in Part 3 of this Constitution, including the functions delegated and any limitations on delegation.

10.3 Conflicts of Interest - Membership of area committees and Overview and Scrutiny Management Committee and panels.

Conflict of interest – If the Overview and Scrutiny Management Committee or a scrutiny panel is scrutinising specific decisions or proposals in relation to the business of an area committee of which the councillor concerned is a member, then the councillor must withdraw from the Overview and Scrutiny Management Committee or scrutiny panel meeting unless the member is attending for the purpose of answering questions or otherwise giving evidence.

10.4 Area Committees– access to information

Area committees and housing management committees will comply with the Access to Information Rules in Part 4 of this Constitution. Agendas and notices for area committees which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.5 Cabinet members on area committees

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

10.6 Area Committees as joint committees in parished areas

In parished areas the Council may establish area committees as joint committees with the relevant parish or town council(s) in respect of any functions which may, in accordance with the law, be the subject of joint arrangements between the Council and a parish council.

10.7 Joint meetings of area committees

Some services and some outside organisations have working structures around the seven locality areas established in Kirklees. On occasion it may be good governance for issues to be addressed in a joint meeting of the area committees within each of the seven localities.

ARTICLE 11 – JOINT ARRANGEMENTS AND JOINT COMMITTEES

11.1 Arrangements to Promote Well Being

The Council or the Cabinet, in order to promote the economic, social or environmental wellbeing of its area, may:

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

In particular, the Cabinet may enter into a **Local Strategic Partnership** with other persons and bodies within Kirklees for the purposes of bringing together the public, private, business, community and voluntary sectors so that different initiatives and services support each other and work together. As at May 2008 this consists of the **Kirklees Partnership Board** and four **Local Public Service Boards** covering Safer Stronger Communities; Children and Young People; Adults and Healthier Communities; and Regeneration and Sustainable Development. Subject to the oversight of and decision making by the Cabinet they also work together on and monitor progress on the Local Area Agreement for Kirklees.

Cabinet may vary these arrangements at any time in agreement with the partners concerned.

11.2 Joint Committees

- a. The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions, or to advise the Council on such functions. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- b. The Council may also establish such arrangements in respect of a mixture of executive and non-executive functions, but will require the agreement of the Cabinet before doing so. Where the Council appoints more than one member to such a joint committee, at least one of those members must be a member of the Cabinet.
- c. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those other local authorities.
- d. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

- e. The Cabinet may appoint members to a joint committee from outside the Cabinet where:-
 - (i) The joint committee relates to five or more local authorities;
 - (ii) The function concerned is required by statute to be exercised by a joint committee; or
 - (iii) the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

The political balance requirements do not apply to such appointments. The Cabinet may not appoint to joint committees anyone who is not a member of the Council.

- f. Details of any joint such arrangements, including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.3 Access to Information

- a. The Access to Information Rules in Part 4 of this Constitution apply.
- b. If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executives by or under the Local Government Act 2000.
- c. If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

- a. The Council may delegate non-executive functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- b. The Cabinet may delegate executive functions to another local authority or the executive of another local authority.
- c. The decision whether or not to accept such a delegation from another local authority to this local authority (but not to the Cabinet) shall be reserved to the Council meeting unless otherwise specified in Part 3 of this Constitution.

11.5 Contracting out

The Council, for functions which are not executive functions, and the Cabinet, for executive functions, may contract out to another body or organisation functions which

may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

11.6 General

The Council or the Cabinet may enter into any other joint arrangements for any purpose for which they may lawfully do so.

ARTICLE 12 – OFFICERS

12.1 Management Structure

- a. **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Appointments will be made in accordance with the Officer Employment Procedure Rules in Part 4 of this Constitution.
- b. **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officers. They will have the responsibilities specified, but will also have the management responsibilities set out in the management structures contained in Part 7 of this Constitution. N.B. the following list of functions and responsibilities is still under consideration in the light of recent changes and may be subject to variations. The details of responsibilities of individual officers may be amended at any time by the Chief Executive.

Post	Functions and areas of responsibility
Chief Executive	<p>Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all officers)</p> <p>Provision of professional advice to all parties in the decision making process</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions</p> <p>Corporate Improvement Priorities</p> <p>Developing and pursuing shared priorities with local, regional and national parties</p> <p>Member/Officer relations</p> <p>The Chief Executive is also the Returning Officer for local elections and the Council's Electoral Registration Officer though these arrangements may be changed by the Council Business Committee</p>
Director of Finance	<p>Strategic financial support to the Cabinet and Scrutiny, including advice on budgets and issues of probity and financial accounting</p> <p>Coordination of audit activity</p> <p>Risk assessment</p> <p>Budget and service planning policies</p>

Director for Corporate Services	<p>Policy support to Cabinet and Scrutiny and all political parties</p> <p>Decision making processes</p> <p>Democratic services to members</p> <p>Best Value</p> <p>Performance management</p> <p>Information technology and information management</p> <p>Local area agreements and public service agreements</p> <p>Kirklees local strategic partnership</p> <p>Internal and external communications</p> <p>Community leadership</p> <p>Vision and community strategies</p> <p>Equality in service delivery and employment</p> <p>Legal Services</p>
Director for Children and Young People	<p>Implementation and management of children's services</p> <p>Schools, development of children's centres and extended schools</p> <p>Safeguarding of children</p> <p>Partnerships for children</p> <p>Work within her portfolio on local area agreements</p> <p>The postholder is the Council's statutory Director of Children's Services, carrying all the responsibilities which that entails</p>
Director for Adults and Communities	<p>Implementation and management of strategies for adults and older people</p> <p>Housing</p> <p>The Council's approach to asylum seekers</p> <p>Neighbourhood renewal</p>

Community engagement

Community cohesion

Community safety

Devolution and local area structures

Community and voluntary organisations

Local area agreements – work on healthier communities and older people and safer, stronger communities

The postholder is the Council's Director of Adult Social Services, carrying all the responsibilities which that entails

Director for Environment
Transportation and Property

Environment

Health and Safety

Emergency Planning

Highways and Transportation

Bereavement Services

Customer Services Strategy

Building Services

Design and Property Services

Catering and Cleaning Services

Asset management

21st century working

Local transport plan

Transport strategies

Capital project review group

Director for Regeneration

Coordinated sustainable investment strategies

Regeneration strategies

Local development framework and land use planning

Town centre management

	Rural strategies
	Service delivery partnerships
	Procurement policies [including work on Gershon and efficiencies and savings]
	Cultural and leisure strategies
	Work within his portfolio on Local Area Agreements
Director for Organisation and Development	Workforce development
	Leadership and management development
	Leadership academy
	Change management and organisational development
	Learning and development
	Preparations for comprehensive performance assessments
Head of Human Resources	Overall responsibility for human resources and industrial relations
	Strategic direction, policy and procedure in HR issues
Director of Public Health (employed by the Kirklees Primary Care Trust, but professionally and managerially responsible to both the PCT and the local authority)	Overall responsibility for working with the PCT, the local authority and their agencies to monitor and improve:- <ul style="list-style-type: none"> • health improvement • health protection • health service quality and to address health inequalities issues

c. Head of paid service, monitoring officer and chief finance officer.

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of paid service
Director for Adult & Communities	Director of Adult & Communities
Director of Finance	Chief finance officer

Head of Legal Services Monitoring officer

Director of Children's Service Director of Children's Service

- d. **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.2 Functions of the head of paid service

- a. **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b. **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

12.3 Functions of the monitoring officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- b. **Supporting the Standards Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- c. **Receiving reports.** The monitoring officer will receive and act on decisions and reports made by the Standards Committee in respect of complaints made to it regarding a breach of the member code of conduct and by ethical standards officers and decisions of case tribunals in respect of matters referred to the Standards Board for England.
- d. **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by a sub-committee of the Standards Committee or by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- e. **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

- f. **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer, with other officers, as appropriate, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g. **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors.
- h. **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- i. **Access to meetings & papers.** For these purposes the Monitoring Officer is entitled to have access to all meetings at which Council business is carried out and to all papers relating to such business.
- j. **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

12.4 Functions of the chief finance officer

- a. **Ensuring lawfulness of expenditure.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b. **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the Council.
- c. **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors and will support and advise councillors and officers in their respective roles.
- e. **Give financial information.** The chief finance officer will provide financial information, as appropriate, or as required by law to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the monitoring officer and chief finance officer

The Council will provide the monitoring officer and chief finance officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution

ARTICLE 13 – DECISION MAKING

13.1 Responsibility for decision making

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

13.2 Principles of decision making

The following principles apply to decision-making:-

- a. due regard to all relevant considerations and disregard of all irrelevant factors;
- b. proportionality (i.e. the action must be proportionate to the desired outcome);
- c. lawfulness and financial propriety and prudence;
- d. all due consultation;
- e. the taking of professional advice from officers;
- f. respect for human rights and application of the Human Rights Act 1998;
- g. a presumption in favour of openness;
- h. clarity of aims and desired outcomes;
- i. the ability to explain the options considered and the reasons for decisions.

13.3 Types of decision

- a. **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 2.4.2 will be made by the full Council and not delegated.
- b. **Key decisions**, which means an executive decision which is likely:
 - to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
 - to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

In accordance with Section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State. The meaning for the purposes of this Council’s functions is set out in rule 12 of the Access to Information Rules in Part 4 of this Constitution.

A decision maker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules and the Cabinet Procedure Rules in Part 4 of this Constitution.

13.4 Decision making by the full Council

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.5 Decision making by the Cabinet

Subject to Article 13.8, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.6 Decision making by the Overview and Scrutiny Committees and scrutiny panels and commissions

The Overview and Scrutiny Committee and scrutiny panels and commissions will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.7 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution which apply to them.

13.8 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

13.9 Access to Information

The Access to Information Procedure Rules set out in Part 4 of this Constitution apply to all decision-making processes as specified in those Rules.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

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

14.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

14.3 Legal proceedings

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings and in consultation with relevant officers and/or members to withdraw or settle such proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

14.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it made with statutory or delegated authority, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by:-

- the Head of Legal Services
- a Principal Legal Officer; or
- a Senior Legal Officer nominated by the Head of Legal Services

The common seal may be affixed without further authority from the Council:

- a. to any mortgage, bond or other security for money advanced to the Council;
- b. to any transfer of stock or bonds purchased or sold on behalf of the Council;

- c. to any release or re-assignment of any mortgage or other security given to the Council for any advance made by the Council on repayment of the whole of the money thereby secured;
- d. to any proxy forms or transfer of any investment of funds of the Council;
- e. to any grants of exclusive rights of burial and grants of exclusive rights of depositing ashes or cremated bodies in graves.

ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the Constitution

The Corporate Governance and Audit Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. A formal review will take place annually in time to allow any amendments to be considered by the Council and adopted at the annual Council meeting.

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the monitoring officer may either personally or through arrangement with other officers:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.2 Changes to the Constitution

a. Approval.

Changes to the articles of the Constitution or the Procedure Rules will be approved by the full Council only after consideration of the proposals by the Corporate Governance and Audit Committee. This requirement will not apply to changes which are the necessary consequence of any other lawful decision of the Council, its committees or the Cabinet.

b. Change from a leader and cabinet to a mayoral form of executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change to a mayoral form of executive and must hold a binding referendum before deciding whether to do so. No such referendum may be held within 5 years of a previous referendum.

ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

a. Limit to suspension.

The Articles of this Constitution may not be suspended. Any of the Rules set out in Part 4 of this Constitution may be suspended in the manner and to the extent permitted within those Rules and the law.

b. Procedure to suspend.

A motion to suspend any rules will not be moved without notice at a meeting of the full Council unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

16.2 Interpretation

The ruling of the Mayor, after consultation with the Chief Executive, as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council.

16.3 Publication

- a. The Head of Policy and Governance will ensure that copies of this Constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- b. The Head of Policy and Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary

Officer Structures within the Council
9 May 2008

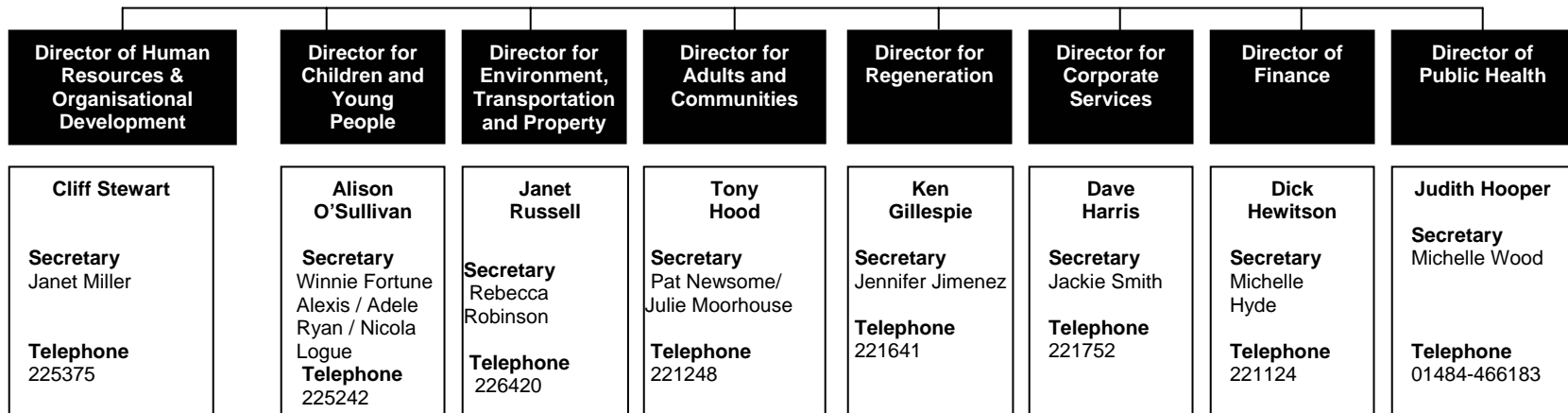
CHIEF EXECUTIVE

Rob Vincent

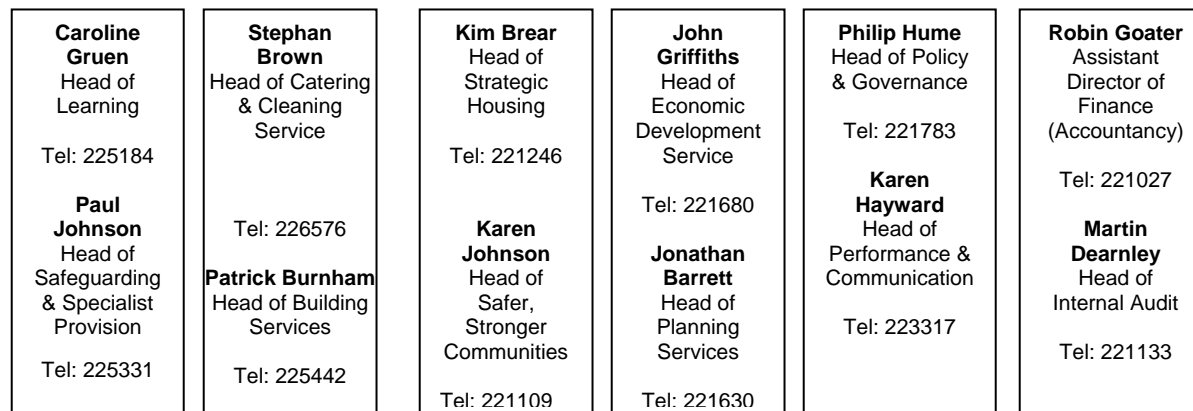
Personal Assistant
 Paddy Hines
Telephone 221731
Secretaries
 Sylvia Withey / Amanda Kitchen
Telephone 221732 / 416497

Performance Management Responsibilities

(Officers within the Executive Management Group and other key officers)



These Officers are responsible for the management of:



<p>Karen Worrall Head of Localities Tel: 225163</p> <p>Mark Ayres Head of Resources & Support Tel: 225241</p> <p>Andrew Pennington Planning, Performance & Commissioning Tel: 225284</p>	<p>Joanne Bartholomew Assistant Director Design & Property Service Tel: 226052</p> <p>Steve Noble Assistant Director Environmental Services Tel: 226403</p> <p>Philip Webber Head of Environment Unit Tel: 223575</p> <p>Terry Brown Assistant Director Strategic Asset Management Tel: 226199</p> <p>Jacqui Gedman Assistant Director Highways and Transportation Tel: 225626</p> <p>Jan Paley Corporate Safety Adviser Tel: 226471</p> <p>Sean Westerby Emergency Planning Team Manager Tel: 226414</p>	<p>Vacancy Head of Community Support Service Tel: 221109</p> <p>Anne Douglas Neighbourhood Renewal Manager Tel: 225422</p> <p>Vacancy Safer Communities Manager Tel: 226920</p> <p>Mark Greaves Head of Adult Services Tel: 225079</p> <p>Keith Smith Head of Commissioning and Planning (Adult Services) Tel: 225321</p> <p>Sally McIvor Head of Operations (Adult Services) Tel: 225145</p> <p>John Doyle Head of Group Services Tel: 225363</p>	<p>Greg Jennings Assistant Director – Regeneration Development Service Tel: 224863</p> <p>Kimiyo Rickett Head of Culture & Leisure Tel: 224002</p>	<p>Lynda Auty Human Resource Manager CRG Tel: 225020</p> <p>Susan Betteridge Head of Legal Services Tel: 221720</p> <p>Laura Rawnsley Head of E-Government and ICT Tel: 225910</p>	<p>Helen Potter Payments & Common Services Manager Tel: 221027</p> <p>Jane Brady Head of Revenues and Benefits Service Tel: 221193</p>
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COUNCIL PROCEDURE RULES

(A) Meetings of the Council

1. Annual Meeting of the Council

(1) Timing and Business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May. Within those limits the date, time and venue may be proposed by the Corporate Governance and Audit Committee and will be determined by the Council.

At the Annual Meeting the agenda will be as follows:

CIVIC AND PROCEDURAL

- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) elect the Mayor;
- (c) appoint the Deputy Mayor;
- (d) approve as a correct record the Minutes of the previous meeting of the Council;
- (e) receive any announcements from the Mayor and the Chief Executive
- (f) following a local election (other than a bye-election) receive the report of the Chief Executive upon:
 - a) The result of the elections of Councillors to the Wards of the Council
 - b) The acceptance of office of Councillors elected

ELECTION OF THE EXECUTIVE

- (g) elect the Leader of the Council;
- (h) agree the number of Members to be appointed to the Cabinet, appoint those Members, determine their portfolios and appoint one Member to be Deputy Leader;

CONSTITUTIONAL BUSINESS

- (i) appoint, in accordance with paragraph (2) of this Rule the Overview and Scrutiny Management Committee, the Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, of this Constitution);
- (j) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);

- (k) approve a programme of ordinary meetings of the Council for the year; and
- (l) consider any business set out in the notice convening the meeting.

(2) Selection of Councillors on Committees

At the Annual Meeting, the Council will:

- (i) decide the size and terms of reference for those Committees to be established for the municipal year;
- (ii) decide, when relevant, the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iii) receive nominations from Group Business Managers of Councillors to serve on each Committee
- (iv) to determine representation on outside bodies and where appropriate political ratios
- (v) elect Chairs and appoint Deputy Chairs (where appropriate) of the Council's Committees for the ensuing municipal year. If the Council does not make these appointments, Committees may appoint their own Chair and Deputy Chair (where appropriate) subject to confirmation at the next meeting of the Council
- (vi) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

2. Time and Place of Ordinary and Additional Meetings and Notice of and Summons to Meetings

Dates of Council Meetings

- (1) All meetings of the council, with the exception of any called as Extraordinary Meetings, shall be held on dates fixed by the Council at the annual meeting on the recommendation of the Corporate Governance and Audit Committee

Extraordinary Meetings

- (2) Those listed below may request the Head of Policy and Governance to call Council meetings in addition to ordinary meetings:
 - (a) the Council by resolution;
 - (b) the Mayor, following consultation with the Chief Executive or following a written requisition signed by five Members of the Council;

- (c) the Chief Executive, the monitoring officer and section 151 officer;
- (d) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition; or

Venue and Start Time

- (3) All ordinary meetings of the Council will be held at 5.00 p.m. in the Town Hall, Huddersfield, or at such other times and places as may be agreed in respect of particular meetings by the Mayor and the Leader of the Council or on the recommendation of the Corporate Governance and Audit Committee.

Council Summons

- (4) The date, time and venue for each Council meeting will be shown in the summons for the meeting which will be issued by the Head of Policy and Governance at least 5 clear days before a meeting. The summons will specify the business to be transacted and will be accompanied by reports where appropriate.

Chair of Meeting

- (5) Any power or duty of the Mayor in relation to the conduct of a meeting shall be exercised by the Deputy Mayor or in their absence the person elected to preside at the meeting.

3. Budget Meeting

The Council may specify that one meeting will solely be the Council's budget meeting. At that meeting the only items will be to agree the budget, the capital programme and the level of Council tax for the following financial year, together with any issues connected with the budget and anything else which the Mayor in consultation with the Chief Executive considers appropriate for inclusion.

4. Quorum of Council

- (1) The quorum for a Council meeting shall be one quarter of the total number of the Members of the Council.
- (2) If there is not a quorum at a meeting, then consideration of any items of business not dealt with shall be adjourned to a date and time to be chosen by the Mayor at the time when the meeting is adjourned **or** to the next meeting of the Council.

5. Order of Business

- (1) There shall be two types of ordinary meeting of the Council, one which focuses on **Holding the Executive to Account** and one which focuses on Key Discussions. The designation of each Council meeting shall be set (and published) at the start of the municipal year by the Chief Executive in consultation with the Group Leaders, but may be changed during the course of the year by the Chief Executive in consultation with the Group Leaders if it is considered necessary for the efficient operation of the Council, provided that no less than four ordinary meetings are designated as Holding the Executive to Account. The content and running order of the business to be transacted at each ordinary meeting of Council may be altered in advance by the Chief Executive in consultation with the Mayor and Group Leaders if it is considered necessary or appropriate for the efficient operation of the Council.

The following items shall be included in all ordinary meetings of the Council in the order shown:

PROCEDURAL

- a) To choose a person to preside if the Mayor and Deputy Mayor are absent
- b) Announcements by the Mayor or the Chief Executive
- c) To receive apologies
- d) To approve as a correct record and sign the Minutes of the previous meeting of the Council
- e) To receive declarations of interest

PUBLIC

- f) To receive depositions (if any) and petitions (if any) pursuant to Rules 9 and 10
- g) To answer questions by members of the public (if any) asked under Rule 11

DECISION MAKING

- h) To deal with any matters expressly referred by Cabinet or a Committee to Council for approval

CABINET AND COMMITTEE

- i) To deal with written questions by members to Cabinet members under Rule 12

- (2) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Holding the Executive to Account** meetings (provided that there is sufficient such business at any one meeting), and such business shall follow on from that set out in (1) of this Rule as follows:

CABINET AND COMMITTEES

- j) To deal with written questions by Members to the following under Rule 12:
- Chairs of Committees
 - Spokespersons of Joint Authorities (as defined at Rule 13)
- k) To hear reports from Cabinet members in accordance with Rule 13
- l) To deal with questions to Cabinet members generally, or in relation to minutes of Cabinet put to Council for information or to hear statements from Cabinet members in accordance with Rule 13

MEMBER MOTIONS

- m) To consider five minute motions issued under Rule 14 (5), if any, in the order which they have been received by the Head of Policy and Governance

GENERAL

- n) Other matters for consideration by Council including reports back on Resolutions from previous Council meetings and action regarding any deputations or petitions received by Council
- o) To deal with any business expressly required by statute to be dealt with by the Council
- (3) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Key Discussion Meetings** (provided that there is sufficient such business at any one meeting) and such business shall follow on from that set out in (1) of this Rule as follows:

KEY ISSUES

- j) To receive presentations and/or reports on key issues and debate the same in accordance with Rule 22 (23).

OVERVIEW & SCRUTINY

- k) To receive reports from Overview & Scrutiny Management Committee and its panels and to hold a debate in accordance

with Rule (18 (22))

MEMBER MOTIONS

- l) To consider motions issued under Rule 14 but note Rule 14 (5), if any, in the order which they have been received by the Head of Policy & Governance

GENERAL

- m) Other matters for consideration by Council including reports back on Resolutions from previous Council meetings and action regarding any deputations or petitions received by Council.
 - n) To deal with any business expressly required by statute to be dealt with by the Council
- (4) The order of items (f) to (n) or (o) (as appropriate) may be changed or any of the items omitted at any one meeting:
- (i) by the meeting by means of a motion passed without discussion;
 - (ii) by the Chief Executive in consultation with the Mayor
- (5) Any discussion falling within (j) above shall begin at 6:00 pm irrespective of whether the business before it on the agenda has concluded, that other business shall resume once the key discussion issue is complete.

6. Limitation of Business

The items of business for consideration at the Council meeting will be limited to those set out in the agenda for the meeting, with the exception of:-

- (a) items of business required by these Rules to be dealt with at the meeting or
- (b) items of business for which the Mayor and Chief Executive shall have prior notice and which the Mayor in consultation with the Chief Executive considers appropriate for discussion at the meeting.

7. Minutes

Correct Record

- (1) The Mayor shall put the motion "that the Minutes of the previous meeting or meetings be approved and signed as a correct record."

Accuracy

- (2) No discussion shall take place on those Minutes except on their accuracy, and any questions on their accuracy shall be raised by motion. After any questions on the Minutes have been dealt with the

Mayor shall sign the Minutes.

Submission to Council

- (3) The Minutes of each Council meeting (including extraordinary Council meetings convened in accordance with paragraph 3 of Schedule 12 to the Local Government Act 1972) shall be presented to the next scheduled Council meeting for approval.

8. Announcements by the Mayor, Leader of the Council, Cabinet Members and Chief Executive

- (1) No discussion shall take place on any announcement made by the Mayor or Chief Executive.
- (2) Any Member may propose that the subject matter of any announcement be referred to Cabinet or an appropriate Committee, Sub-Committee, or Panel and such a motion, on being seconded, shall be put to the vote immediately.

9. Deputations

Receiving of Deputations

- (1) Deputations on issues on which the Council has powers or duties or which affect the area of Kirklees may be received at any meeting of the Council (except the Annual Meeting or the Budget Meeting) or at any meeting of an appropriate Committee, or Sub-Committee. The Mayor/Chair in consultation with the Chief Executive shall have discretion to decide whether or not to hear the deputation.
- (2) Those wishing to make a deputation to the Council should give notice 24 hours prior to the start of the meeting to the Head of Policy & Governance indicating their intention to make the deputation and an outline of the substance of it.
- (3) The Mayor shall have the discretion to hear a deputation for which the appropriate notice has not been given.

Size of Deputation and Speech

- (2) The deputation shall not exceed five persons. Only one person shall speak, and the speech shall not exceed five minutes.
- (3) When a deputation is received at a Council meeting, no discussion shall take place on the item but the relevant Cabinet Member shall respond to the deputation.

Referral of Subject Matter

- (4) The Mayor may direct that the subject matter of a deputation be referred to an appropriate Head of Service for investigation and report

to Cabinet or an appropriate Committee.

10. Presentation of Petitions by Members of the Council

Presentation of Petitions

- (1) Petitions on issues on which the Council has powers or duties or which affect the area of Kirklees may be presented by a Member to any meeting of the Council (except the Annual Council meeting) or an appropriate Committee, Sub-Committee or Panel meeting.
- (2) When a petition is received at a Council meeting no discussion shall take place on the item.

Referral of Subject Matter

- (3) The Mayor may direct that the subject matter of a petition be referred to an appropriate Head of Service for investigation and report to Cabinet or an appropriate Committee.

11. Questions by Members of the Public at Council, Committee, Sub-Committee and Panel meetings

Who Can Ask A Question?

- (1) At a Council meeting any Member of the public resident in Kirklees may subject to the provisions of this Rule ask the Mayor, the Leader, any Members of Cabinet, any Chairs of a Committee or any joint authority spokesperson a question on any issue which comes within that individual's area of responsibility and which affects the area of Kirklees. At any committee, sub-committee or panel meeting, any such Member of the public may similarly ask the Chair of that body a question on any issue over which that body has any powers or duties.

When Questions Cannot Be Asked

- (2) Questions may not be asked:-
 - (a) At the Annual Council Meeting
 - (b) At the Budget Meeting
 - (c) During the period from the announcement of a General Election to polling day (inclusive) and
 - (d) During the period from the publication of the notice of ordinary elections for the Council to polling day (inclusive).

Questions Which Will Not Be Answered

- (3) Questions will not be answered if the Chief Executive considers that they include references to the following:-

- (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.
- (b) Questions relating to complaints made under statutory provisions which have not been finally dealt with.
- (c) Questions about the merit of applications or other matters currently before the Council, Cabinet or a Committee, Sub-Committee, Panel or Officers for determination in respect of which the Council is under a duty to act quasi judicially.
- (d) Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious.

Questions To Be Within Terms of Reference

- (4) The Mayor/Chair or Leader may decline to answer a proposed question if in his or her opinion it is not within the terms of reference of the Cabinet, Committee, Sub-Committee or Panel concerned or is not relevant to the functions of the Cabinet, Committee, Sub-Committee or Panel concerned.

Time Allowed for Questions

- (5) The period allowed for the asking and answering of questions at any one meeting shall not exceed 15 minutes. Any Member of the Council may move an extension of this period should there be questions unanswered. Such a motion shall be moved and seconded and be put without discussion. At any one meeting no person may ask more than two questions and no more than two questions may be asked on behalf of one organisation. A questioner may also put one supplementary question to the Member. Any question which cannot be dealt with during public question time will be dealt with by a written answer.

Answers to Questions

- (6) The Member to whom the question has been put may nominate another Member to answer (if that Member agrees).

The Member to whom the question has been put may not refuse to answer the question.

An answer may take the form of:

- (a) a direct oral answer; or
- (b) a reference to a publication, where the desired information is contained in a publication of the Council, the Cabinet or a Committee, Sub-Committee or Panel
- (c) a written answer where the reply to the question cannot conveniently be given orally.

Recording in Minutes

- (7) The Head of Policy and Governance shall record in the Minutes of the meeting the question(s) and the name of the respondent.

Questions Ruled Out of Order

- (8) If the Mayor is of the opinion that the question is of a personal nature, or that in the interests of the Council it is undesirable or is otherwise out of order, he or she shall not allow the question to be put. This right of refusal also applies to the Chair at a Committee, Sub-Committee or Panel meeting.

Referral of Subject Matter

- (9) In the case of questions presented to Council meetings there shall be no discussion on the question or the answer but a Member may propose that the subject matter of the question be placed on the Agenda for the next ordinary meeting of Cabinet or an appropriate Committee, Sub-Committee or Panel. Such a motion shall be moved and seconded and put without discussion.

12. Written Questions by Members

(for procedure see Rule 5(1) (i)) and 5(2) (j))

The following provisions shall apply to written questions by Members which must be received by the Head of Policy and Governance by 10.00 a.m. on the working day before the Council meeting.

- (1) Any member of Council may put a written question to the Leader of the Council, a member of the Cabinet, Chair of a Committee or a spokesperson of a Joint Committee or external body, as defined at Rule 13 (4).
- (2) The Mayor in consultation with the Chief Executive may determine that a question shall not be put where the question is substantially the same as a question put at a meeting of the Council within the preceding six months or the question appears defamatory, vexatious or requires the disclosure of confidential or exempt information.
- (3) Priority will be given to questions submitted previously to Cabinet or any Cabinet Committee which have not been answered at the relevant meeting due to time constraints.
- (4) Following consideration of any questions arising from (1) above, questions will be timetabled in the order which they are received by the Governance Team.
- (5) The Member to whom the question has been put shall give an oral answer at the Council meeting or may nominate another Member to

answer if that Member agrees.

- (6) An answer may take the form of:
 - (a) a direct oral answer; or
 - (b) a reference to a publication of the Council which contains the desired information; or
 - (c) a written answer circulated to all Members within 7 days of the Council meeting.
- (7) The period allowed for written questions at any one meeting shall not exceed 30 minutes.
- (8) Where written questions are not addressed within the above timescale, then the question will be referred to the next relevant Cabinet/Committee meeting for reply. Written questions to spokespersons of Joint Authorities not dealt with within the above timescale will be answered by means of a written reply within 7 days of the meeting and be circulated to all Members of the Council.
- (9) When an answer to a written question has been given, the Member who asked it may ask one supplementary question relating to the same topic. Such a supplementary question must follow straight on from the Member's answer to the original question.
- (10) A written question must be relevant to the Terms of Reference or powers or duties of Cabinet or the Committee or which affects the area of Kirklees.
- (11) The Head of Policy and Governance shall record in the Minutes of the meeting the question(s) and the name of the respondent. This will not include any supplementary question and the answer thereto. Supplementary questions and answers will be taped and the tape held by the Head of Policy and Governance until the time of the next Council meeting and make available for any Member who wishes to make a written record of a particular supplementary question and answer.

13. Procedure at Council Meetings in Relation to Reports and/or Minutes of Cabinet and Committees

- (1) *Minutes for Information / Reports which require approval*
 - (i) Any matter expressly referred to Council by Cabinet or a Committee for determination shall be dealt with first.
 - (ii) Minutes of meetings of Cabinet and Committees shall be presented to Council meetings for information as a basis for questioning and comment. There shall be no need for any motion or vote to receive them.
- (2) *Questions on Cabinet Minutes*

- (i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those Cabinet Committees in alphabetical order.
- (ii) Prior to the start of questions to Cabinet Members, a Portfolio Holder may make a report setting out his/her Portfolio Plan for the municipal year, or on progress against that Plan. All Cabinet Members will be required to make Council aware of their Portfolio Plan at the start of the municipal year either verbally or in writing circulated to all Members and to report on progress against that Plan at least once in the municipal year.
- (iii) Questions may be asked by any Member of any Cabinet Members whether on a specific matter contained within the minutes or any matter generally which is in the portfolio of the Cabinet Member.
- (iv) Any member may comment on any item within the Cabinet minutes presented to the meeting.
- (v) The portfolios will appear in alphabetical order on the Agenda and questions will be addressed to the Cabinet Member whose portfolio is at the top of the list. Once questions to that Cabinet Member have been completed, his or her portfolio will fall to the bottom of the list and questions will be addressed to the second, third etc., until the allotted time is completed whereupon the portfolio of the Cabinet Member being questioned will fall to the bottom of the list. At the next meeting the list will begin where it ended at the previous meeting. During this item Members will have the opportunity to question Cabinet Members (and other Members appearing on the schedule) on meetings/discussions with external organisation. Any such question will be answered immediately in the manner provided for in Rule 13(4).

(3) *Questions on Committee Minutes*

- (i) The Minutes of other Committees submitted to Ordinary meetings of the Council shall be set out in alphabetical order.
- (ii) Any member may comment on any item within the Committee minutes presented to the meeting
- (iii) Any Member may ask the chair of the relevant Committee a question upon any item within that Committee's Terms of Reference or the spokesperson for any of the Joint Committees or external bodies identified in Rule 13(4)
- (iv) The Chair of Cabinet, a Cabinet Committee or Cabinet Member or the Chair of a Committee may make a statement at the time that the report/Minutes is considered on any matter within the Terms of Reference or which is relevant to the function of Cabinet or that Committee, or which is a matter of importance.

- (v) Subject to 5 (i) of this Rule, Cabinet members will have a right of reply before questions are put to the Cabinet member next in alphabetical order.
- (4) *Questions to Spokespersons of Joint Committees and External Bodies*
 - (i) For the purpose of this Rule, questions may be asked of spokespersons or representatives of the following:
 - (a) Kirklees Neighbourhood Housing
 - (b) Kirklees Active Leisure
 - (c) West Yorkshire Passenger Transport Authority
 - (d) West Yorkshire Fire Authority
 - (e) West Yorkshire Police Authority
 - (f) Joint Services Committee
 - (g) Leeds City Region Leaders Board
- (5) *Time Permitted*
 - (i) The time permitted for consideration of comments and questions on Minutes to Cabinet members shall be a maximum of 60 minutes and for comments and questions to Chairs of Committees and representatives on outside bodies shall be a maximum of 30 minutes, provided that there is provision under Rule 5 for consideration of issues under Rule 13 at that meeting.

14. Notices of Motion

Submission of Motions

- (1) Every notice of motion (with the exception of those proposed in accordance with Rules 14 and 18) shall be submitted in writing and delivered to the Head of Policy and Governance by 10.00 a.m. on the sixth working day before the date of the Council meeting. Each motion must be signed by not less than two Members of the Council.

Recording of Motions

- (2) The Head of Policy and Governance will record the date and time of receipt of each motion in a register. This register shall be open to inspection to every Member of the Council.

Motions Which Have Revenue Effects

- (3) No Motion may have the effect of increasing the expenditure or reducing the revenue of the Council other than in the form of a reference to Cabinet or the appropriate Committee for consideration. (This provision does not apply for the setting of the Council Tax).

Relevance

- (4) Every motion shall be relevant to some matter in relation to which the

Council has powers or duties or which affects the area of Kirklees.

Five Minute Motions

- (5) Motions may be submitted which shall be dealt with as “Five Minute Motions” at the appropriate Council meeting. All the requirements of this Rule shall apply BUT at the meeting they will be considered as follows:
- (i) The mover of the motion may speak for a maximum of three minutes
 - (ii) The relevant Cabinet member or representative of a body identified in Rule 13(4) may speak in response for a maximum of two minutes
 - (iii) Amendments are permitted but the mover and seconder shall not be permitted to speak to them
 - (iv) Before the motion is put to the vote, any Member may move that the motion be referred for further discussion at the next Council meeting. If the proposer agrees, it shall be put to a vote, and if the majority of members agree it will be considered as a priority at the next Council meeting where motions are considered.
 - (v) Following (i) and (ii) the Mayor will put the motion and any amendments to a vote without any discussion or debate

A maximum of 30 minutes will be permitted at any meeting (subject to Rule 5) for consideration of Five Minute Motions.

Motions Not Accepted

- (6) If notice is given of any motion which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper, the Chief Executive in consultation with the Mayor shall determine whether to accept its inclusion on the agenda. If a motion is not deemed acceptable the Chief Executive shall inform the Members who gave notice of the item.

Withdrawal

- (7) A Member who has given notice of motion may subsequently withdraw by writing to the Head of Policy and Governance.

Inclusion on Council Agenda

- (8) The Head of Policy and Governance shall set out in the agenda for each Council meeting the motions received and accepted in the order they were received. A Member may, at the time when a motion is delivered to the Head of Policy and Governance, also give written notice of a request for the motion to be considered as a later item on the Council agenda.

Moving of Motions

- (9) If a motion set out in the summons is not moved either by the Member who gave notice or by another Member on their behalf, it shall be treated as withdrawn and shall not be considered again without fresh notice. Alternatively, the Council may consent to postpone consideration of a motion to the next meeting.

Receipt of Amendments

- (10) Any proposed amendment to a motion which has been included in the summons for a meeting, shall be delivered to the Head of Policy and Governance in accordance with the following timescales:-
- (a) by noon on the day of Council if the meeting is to start at 5.00 p.m. or
 - (c) by 3.00 p.m. on the day before a Council meeting which is to start in a morning

Motions on Identical Subjects

- (11) Where motions have been submitted to Council by different groups which relate to the same subject matter, then the movers shall be given the opportunity to agree a composite motion by 2.00 p.m. on the second working day before the date of the Council meeting. Notice of the composite shall be given to the Head of Policy and Governance who will notify the groups or individual Members to allow them to consider the proposals.

Alterations to Motions and Amendments

- (12) Alterations to the wording of any motion or amendment may be made with the agreement of the Members moving and seconding the motion or amendment and with the meeting's consent' provided that when such alterations are agreed copies shall be made available. Only alterations which could be made as an amendment may be made.
- (13) With the exception of those moved under (5) of this Rule, no motion made under this Rule may be voted on unless there has been a debate.

15. Motions and Amendments Which May Be Moved Without Notice

The following motions and amendments may be moved without notice:

- (1) Appointment of a Chair of the meeting at which the motion is moved.
- (2) Questioning the accuracy of the Minutes of the previous meeting of the Council.
- (3) To change the order of business in the Agenda.

- (4) Reference to Cabinet a Committee, Sub-Committee or Panel for further consideration.
- (5) Appointment of Cabinet or a Committee, or Member thereof arising from an item on the Agenda for the meeting.
- (6) That leave be given to withdraw a motion.
- (7) Motions and amendments in respect of urgent business under Rule 6.
- (8) That the Council proceed to the next business.
- (9) Motions under Rule 11(5) and 11(9) as to questions by electors at Council Meetings.
- (10) Amendments to any motion to approve the recommendations of Cabinet or a Committee.
- (11) That the question be now put.
- (12) Amendments to any Motion except amendments to notices of motion pursuant to Rule 14(8) and (9) or where notice is required under Rule 19.
- (13) That the debate be now adjourned.
- (14) That the Council do now adjourn.
- (15) Adoption of reports of Officers and any consequent resolutions.
- (16) Suspending these Rules in accordance with Rule 47.
- (17) Motion to exclude the public.
- (18) That a Member named under Rule 21 be not heard further or leave the meeting.
- (19) Giving consent or leave of the Council where the consent or leave of the Council is required by these Rules.
- (20) That the subject matter of an announcement made by the Mayor, or the Chief Executive under Rule 8 be referred to Cabinet or the appropriate Committee, Sub-Committee or Panel.
- (21) Motions under Rule 16 to continue a Council meeting after 9.00 p.m.
- (22) That the Council do now adjourn for discussion in smaller groups or in some other form.

16. Termination and Adjournment of Meeting

- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time.

- (2) A meeting of the Council (except the Annual Meeting) shall terminate at 9.00 p.m. unless a Member moves a motion that the meeting shall continue until (i) a later time (to be specified in the motion) or (ii) the conclusion of the business of the meeting. If the motion is seconded it shall be put to the meeting without comment.
- (3) If the motion is passed the meeting shall continue until the time specified or until the conclusion of the business of the meeting.
- (4) At 9.00 p.m. or such later time as the Council has agreed, the Mayor shall have discretion to grant an additional period of time to allow the item under consideration at that time to be concluded. Otherwise, the Mayor shall
 - a) allow no further points of order to be raised by any other Member.
 - b) interrupt the discussion of the item being considered by the meeting.
 - c) allow the proposer of the motion then under consideration a maximum of five minutes to reply to the debate unless he/she seeks leave to withdraw the motion.
 - d) put (without discussion) all of the questions necessary to dispose of that motion, unless the motion is withdrawn.
 - e) put (without discussion) all of the questions necessary to complete the consideration of any reports of Cabinet or any Committee, which are on the Agenda for the meeting, unless the Member appointed to preside in any such body (or a person on his/her behalf) indicates a wish to the contrary.
- (5) Any Motion given under Rule 14 not considered due to time constraints shall automatically be rolled over for consideration at the next Ordinary Council meeting unless the motion is subsequently withdrawn by notification to the Head of Policy and Governance by the Member or Group submitting the Motion.
- (6) Where proceedings are in the course of being wound up as above either at 9.00 p.m. or at a later time specifically agreed by the Council in accordance with a motion to that effect, the provisions of Rule 24(3) as to recorded votes shall not apply to any other matter considered by the Council in the course of such process
- (7) Following any processes outlined above, the Mayor shall finally close the meeting

17. Opposition Priority Business

- (1) This Rule applies where there is a majority group of members of the Council.

- (2) A minority group may require that any one item of business placed on the Agenda for any Council meeting be treated as opposition priority business. Such a requirement will only be considered if the Leader of that Group has submitted it in writing to the Chief Executive at least seven days before the Council meeting.
- (3) Where the Chief Executive receives more than one such request for a meeting, he/she shall decide which shall be selected so as to ensure that as far as is possible each minority group's share of opposition priority business reflects the relative size of those groups in the period from the last Annual Meeting of the Council.
- (4) The Head of Policy and Governance shall indicate on the Agenda which item of business (if any) is to be treated as opposition priority business.
- (5) If consideration of an item of opposition priority business has not begun two hours after the start of the meeting it will be brought forward and considered immediately after the conclusion of the item of business then under discussion.

18. Rules of Debate

Motions and Amendments

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded. Unless notice of the motion or amendment has already been submitted in accordance with Rules 14 and 19, the Mayor may also require that it be written out and handed to him/her before it is discussed further or put to the meeting.
- (2) Members when seconding a motion or amendment may, if they then declare their intention to do so, reserve their right to speak until a later period in the debate on the motion or any amendment.

Seconders Speech

- (3) The Member seconding the motion or amendment and reserving the right to speak shall further indicate to the Mayor during the debate when he/she wishes to speak.

List of Names of Those Wishing to Speak

- (4) During the debate Members should indicate their wish to speak by use of their individual voting console. The list of Members will then be displayed on the viewing screens and the Mayor may close the list at any time. The Mayor shall have absolute discretion to alter the order of those wishing to speak. This provision does not apply to:

- the Mayor
- the mover of the original motion

- the seconder of the original motion who has reserved the right to speak
- Members rising on a point of order or to provide a personal explanation
- persons moving motions and amendments under Rule 15

Addressing the Mayor

- (5) Unless the Mayor indicates otherwise, a Member must stand and address the Mayor while speaking. If two or more Members rise, the Mayor shall request one to speak and the other(s) to be seated. While a Member is speaking the other Members shall remain seated and be silent, unless rising on a point of order or in personal explanation.

Content and Length of Speeches

- (6) No speech of a Member of the Council in moving a motion to adopt the report of Cabinet or a Committee, or a motion under Rule 14 (with the exception of Rule 14 (5)) shall exceed 10 minutes and no other speech on any item before Council shall exceed 5 minutes, except:-
- (a) by consent of the Council, or
 - (b) the Leader's annual budget speech on the setting of the amounts of Council Tax.

Additional Time For Speeches

- (7) If the Mayor is of the opinion that the subject matter is of special importance or the Member requests additional time, the Mayor may permit the Member to continue for as long as the he/she allows.

When a Member May Speak Again - Adoption of Reports

- (8) On a motion to adopt the report of Cabinet or a Committee, a Member may speak once in general regarding the report. In addition, he/she may move or second or speak to one amendment only on each item in the report requiring a decision by the Council.

When a Member May Speak Again - Other Motions

- (9) On any other motion a Member shall speak only once whilst the motion is the subject of debate other than to move, second or speak to one amendment. If consideration of an amendment begins before a Member has had the opportunity to speak on the motion he/she may still exercise the right to speak on the motion.

Exceptions to Speaking Only Once

- (10) The requirement that a Member shall only speak once shall not prevent a Member from speaking:

- (i) in exercise of a right to reply,
- (ii) on a point of order,
- (v) by way of personal explanation.

Amendments to Motions

- (11) An amendment shall be relevant to the motion and shall be either:
 - (a) to refer a subject of debate to Cabinet or a Committee, for consideration or reconsideration;
 - (b) to leave out words;
 - (c) to leave out words and insert or add others;
 - (d) to insert or add words;

The omission, insertion or addition of words must not have the effect of blocking the motion which is under consideration by the Council. In addition the amendment must not have the effect of increasing the expenditure or reducing the revenue of the Council other than in the form of a referral to Cabinet or the relevant Committee for consideration. (This provision does not apply for the setting of the Council Tax).

Discussion of Amendments

- (12) Except where the voting procedure in Rule 24(7) applies and for motions made under Rule 14 (5) only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.

Motion as Amended

- (13) If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

Withdrawal of Motion/Amendment

- (14) A motion or an amendment may be withdrawn by the proposer with the consent of the seconder and of the Council (which shall be decided upon without debate). No Member may speak on it after the proposer has been granted permission for its withdrawal.

Right of Reply

- (15) Except as provided in Rule 14 (5) the proposer of a motion shall have the right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the proposer of the original motion shall have also the right to reply at the close of such debate on the amendment, and shall not otherwise speak on the amendment. Such a reply shall be confined to matters raised in the debate on the motion or amendment, as the case may be. The proposer of an amendment shall have no right to reply to the debate on the amendment.

Motions which may be moved during debate

- (16) When a motion is under debate no other motion shall be moved except the following:-
- (a) to amend or withdraw the motion;
 - (b) to adjourn the meeting;
 - (c) to adjourn the debate;
 - (d) to proceed to the next business
 - (e) that the question be now put;
 - (f) that a Member be not further heard on the item of business before the Council;
 - (g) by the Mayor under Rule 21(2);
 - (h) to exclude the public;
 - (i) to withdraw or amend proceedings in accordance with paragraph (14) of this Rule.

Closure Motion

- (17) A Member may move without comment at the conclusion of a speech of another Member "That the question be now put", "That the debate be now adjourned" or "That the Council do now adjourn". If such a motion is seconded, the Mayor shall proceed as follows:-
- (a) On a motion "that the question be now put". The Mayor shall put this motion to the vote, unless he or she is of the opinion that the matter before the meeting has not been discussed sufficiently. If the motion is voted on and carried, the Mayor will allow the proposer of the original motion the right to reply under paragraph (15) above before putting the motion to the vote.
 - (b) On a motion "to adjourn the debate or meeting". The Mayor shall put the motion for an adjournment to the vote without giving the mover of the original motion the right to reply, if he or she is of the opinion that the matter before the meeting has not been sufficiently discussed and cannot reasonably be discussed at that meeting.

Point of Order and Personal Explanation

- (18) A Member may rise on a point of order or in personal explanation, and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of one of these Rules or the law and the Member shall specify the Rule or the law and the way in which it has

been broken. A personal explanation shall be confined to some material part of a speech by the Member in the Council meeting which may appear to have been misunderstood in the present debate. A personal explanation may not be made in any other circumstances and in particular reference in a speech to another Member does not give that Member any right of personal explanation except in circumstances specified above.

- (19) The ruling of the Mayor on a point of order or on the admissibility of a personal explanation will be final.

Relaxation by the Mayor of Rules of Debate

- (20) Before the start of the debate on any item or motion the Mayor may determine, after consultation with the Chief Executive, that any of the requirements of this Rule shall be relaxed or waived during the debate on that item or motion.

Mayors Authority

- (21) Whenever the Mayor rises during a debate, a Member who is standing and speaking shall sit down and the Council shall be silent. Afterwards, a Member may continue his or her speech unless the Mayor determines otherwise.
- (22) The time permitted for consideration of scrutiny reports under Rule 5 (3) (j) shall be a maximum of 60 minutes.
- (23) The time permitted for consideration of key issues shall be a maximum of 60 minutes
- (24) The time permitted under (22) and (23) of this Rule may be extended at the discretion of the Mayor in consultation with the Chief Executive.

19. Motion to Make Statutory Calculations and to set Amounts of Council Tax

Motion referred from Cabinet

- (1) At least 14 days before the date fixed for calculating the amounts required under Sections 32 to 36 of the Local Government Finance Act, 1992, and setting the amounts of Council Tax, the Chief Executive shall distribute to all Members of the Council the motion which has been proposed by the Cabinet for the Council, together with the draft Revenue Budget.

Motion distributed by Chair of Cabinet

- (2) If the Cabinet is not able to recommend a motion for the Council meeting, the Chair of Cabinet shall distribute to all Members of the Council at least 14 days in advance a motion to be presented to the Council meeting together with the draft Revenue Budget. This motion must be presented in the names of the Chair of the Cabinet and be supported by at least two other Members of the Council.

Amendments

- (3) An amendment to a motion proposed under paragraph (1) above, cannot be moved unless at least 7 days notice has been given in writing. Notice for such an amendment must be delivered to the Chief

Executive and must specify the terms of the proposed amendment and the effect which it will have on the draft Revenue Budget.

Amendments to the budget motion cannot be accepted unless the Chief Executive is satisfied, on the advice of the Director of Finance, that the proposed amendment is financially sound and sustainable.

Notification of Amendments

- (4) The Chief Executive shall inform the Leader of the Council and the Leader of each Opposition Group of any amendment received.

Submission of Further Motions and Amendments

- (5) If a motion or an amendment described in paragraph (1), (2) and (3) above is not carried at the Council meeting, further motions and amendments may be moved and seconded without notice for consideration and determination. Copies of these additional motions or amendments must be made available to each Member of the Council by the mover or seconder before any debate begins.

Limitations

- (6) The introduction of a new motion or amendment on the day of the Council meeting by a Political Group represented on the Council will not be permitted unless it gave notice of a motion or an amendment under paragraph (1), (2) and (3) above for inclusion on the summons for the meeting.

20. Motion affecting persons employed by the Council

If a question arises at a meeting of the Council on the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, it shall not be considered until the Council has determined whether or not the public and press shall be excluded.

21. Members Conduct

Member not be heard

- (1) If at a Council meeting any Member of the Council (in the opinion of the Mayor) persistently disregards the ruling of the Mayor or behaves irregularly, improperly, offensively or obstructs the business of the Council, the Mayor or any other Member may move "That the Member

named be not heard further on the item of business before the Council".
If the motion is seconded it shall be determined without discussion.

Member to leave the meeting

- (2) If the named Member continues his or her misconduct after a motion under paragraph (1) above has been carried, the Mayor shall either move "That the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion), or adjourn the meeting for as long as he/she considers necessary.

General Disturbance

- (3) In the event of general disturbance which in the opinion of the Mayor renders the despatch of business impossible, the Mayor may decide to adjourn the meeting of the Council for as long as he/she considers necessary.

Mayor's Power to Adjourn

- (4) The provisions of this Rule do not limit the Mayor's power to adjourn the meeting at any time under Rule 16(1).

22. Disturbance by the Public

If members of the public interrupt the proceedings of any meeting, the Mayor shall warn them regarding their conduct. If they continue the interruption, the Mayor shall order their removal from the room. In case of general disturbance in any part of the room open to the public, the Mayor shall order that part to be cleared.

23. Previous Decisions and Motions

Motion to rescind a previous decision

- (1) No motion to rescind any decision taken within the preceding six months, and no motion or amendment with the same effect as one which has been rejected within the preceding six months, shall be proposed unless notice has been given in accordance with Rule 14 and has been signed by at least 10 Members of the Council. When any such motion or amendment has been disposed of by the Council, no similar motion may be proposed within a further period of six months.

Motion similar to the one previously rejected - exceptions

- (2) This Rule shall not apply to motions moved on a recommendation of Cabinet or a Committee, or to motions or amendments moved in accordance with Rule 19.

24. Voting

Show of Hands / Voting Equipment

- (1) Voting at Council meetings shall be as directed by the Mayor, either by a show of hands or by use of the electronic voting equipment unless a Ballot is agreed under paragraph (5). Where a recorded vote is taken under paragraphs (3) and (4) below, then the result of the vote shall be recorded by the process under paragraph (4) below.

Casting Vote

- (2) The Mayor, or in his/her absence the Deputy Mayor or the Chair at the time the vote is taken shall have a second or casting vote.

Recorded Vote

- (3) Any Member of the Council may request that a recorded vote be taken on an item to record how each Member present at the meeting intended or decided to vote. This request for a recorded vote will only be acceptable if it is supported by at least five other Members and is made before the Mayor has announced the result of the vote.

Ballots

- (4) The vote will take place by ballot at the request of any Member supported by at least five other Members. The Mayor/Chair will announce the numerical result of the ballot immediately the result is known.

Right to require individual votes to be recorded

- (5) At any meeting of the Council a Member may require that his or her decision in voting for or against or abstaining on an item on the Agenda be recorded in the Minutes of the meeting. This will be effective only if it is proposed by the Member before the Mayor has announced the result of the vote.

Voting on Appointments (including Mayor and Leader)

- (6) If there are more than two persons nominated for any appointment to be filled by the Council (including the election of the Mayor and the Leader) and there is no overall majority vote in favour of one person, the following procedure will apply. The name of the person who has received the least number of votes will be struck off the list of nominations and a fresh vote will be taken. This procedure will continue until a majority vote is given in support of one of the persons nominated.

25. Failure to Attend Meetings

- (1) In accordance with the Local Government Act 1972, if a Councillor attends no meetings of the Authority for six months the Chief Executive will tell the Council (unless the Member has been granted leave of absence by the Council). The Council will consider whether the absence was caused by some reason approved by them. If they are not

satisfied about the cause of the failure, the Member will cease to be a Member of the Council.

- (2) For the purpose of this Rule a meeting of the Authority shall include:-
- * the Council, Cabinet or any Committee, Sub-Committee or Panel; or
 - * any Joint Committee or Joint Board which has Council functions delegated to it;
 - * any other body at which the Member represents the Council.

26. Personal or Prejudicial Interests of Members

- (1) Any Member who has a personal or prejudicial interest as defined by the Council's Code of Conduct in any matter shall comply with the requirements of that Code in respect of that interest. Those requirements may include:
- (a) declaration of the interest at meetings
 - (b) withdrawal from meetings while the issue concerned is under debate
 - (c) giving of written notice in the register kept by the Head of Policy and Governance on behalf of the Monitoring Officer.
- (2) When a Member has declared a prejudicial interest in a matter which is under consideration by the Council as part of a report of Cabinet or a Committee but which is not itself the subject of debate, the Member may, subject to the requirements of the Code of Conduct, remain in a meeting. In such circumstances the Mayor shall take a vote on the item before the Motion to approve the report is put before the Council.
- (3) A Member of the Council may declare in a register kept by the Head of Policy and Governance his/her membership of any organisation which requires details of its aims, duties or membership to be kept secret. This register will be open to public inspection during office hours.

27. Interpretation of these Rules

The ruling of the Mayor, after consultation with the Chief Executive, as to the construction or application of any of these Rules, or as to any proceedings of the Council shall be final.