

**Name of meeting and date: Corporate Governance & Audit Committee  
8 May 2009**

**Title of report: Review of the Council's Constitution**

<b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Is it in the Council's Forward Plan?</b>	<b>N/A</b>
<b>Is it eligible for "call in" by Scrutiny?</b>	<b>No</b>
<b>Cabinet member portfolio</b>	<b>Corporate</b>

**Electoral wards affected and ward councillors consulted: N/A**

**Public or private: Public**

### **1. Purpose of report**

To consider and refer to the Annual Council Meeting proposed amendments to the Constitution.

### **2. Key points**

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. Any changes that are Cabinet decisions will be referred to a Cabinet meeting immediately after the Annual Council Meeting.

Additional issues and detail will be submitted prior to the meeting following further consideration.

### **3. Implications for the Council**

It is a matter of good corporate governance that the Council reviews its Constitution on a regular basis, and looks to make any changes which will improve those governance arrangements.

#### **4. Consultees and their opinions**

The issues contained in this report have been discussed with the Group Leaders.

#### **5. Officer recommendations and reasons**

The Committee is asked to consider the points raised and make recommendations for changes to the Annual Council Meeting.

#### **6. Cabinet portfolio holder recommendation**

N/A

#### **7. Next steps**

Those matters which are approved by this Committee will be referred to the Annual Council Meeting on 20 May 2009 for formal approval.

#### **8. Contact officer and relevant papers**

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## ANNUAL REVIEW OF THE CONSTITUTION – ISSUES TO CONSIDER

### 1. Council meetings and Council Procedure Rules:

The Annual Meeting in May 2008 agreed to change the format and frequency of Council meetings. The procedure rules allow for two types of meeting, firstly “Holding the Executive to Account” meetings and secondly “Key Discussion” meetings. The rules provide that the designation of each Council meeting will be set and published at the start of the municipal year, 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. During the last 12 months it has not been possible to complete all of the business on all of the Council agendas. This has mainly occurred when there have been a large number of deputations on one particular issue. It is therefore difficult to assess whether that will continue to be the case in the future. It is considered prudent to amend the procedure rule to allow for the Chief Executive, in consultation with Group Leaders, to include different types of business (Rule 5(1) refers).

The order of business at Council meetings has also been confusing in the last 12 months. In particular, business around Cabinet members question time, their reports and questions on those, and questions on Cabinet and Committee minutes. The order of business has not flowed easily within the existing procedure rules and so these need to be altered. A suggested revised format is attached for holding the Executive type meetings and Rule 5 of the Procedure Rules is amended accordingly (**Appendix A(i)**).

The procedure rule regarding Cabinet members reports to Council has been altered slightly so that there will be an expectation that they provide written reports at the first meeting following the annual meeting in each year. That replaces the existing requirement for oral reports. The reason for that is that oral reports are time consuming and reduce the amount of time available for questions. By providing written reports to the Council in advance of the meeting, there will be more time at the meeting itself for all members to ask questions of the Cabinet members. Similarly, updates on progress will also be by way of written reports.

There was some confusion at one Council meeting during the current municipal year on the issue of ballots and when they were appropriate and how they should be conducted. The procedure rules have been altered so that ballots will no longer be permitted.

Revised Council procedure Rules are attached at (**Appendix A**).

## 2. **Standards Committee**

The Standards Committee has been operating in its new guise since May 2008. Since that time, the Committee has been responsible for receiving and dealing with any complaints under the Member Code of Conduct. The Chair of the Committee is an independent member and has been so since May 2007. The role of the Chair has become increasingly significant given the relatively new role of the Committee in considering member complaints. The current Chair has spent time meeting with the Chief Executive and senior members as well as attending meetings and committees of the Council to understand as far as possible the governance issues arising which impact on the Standards Committee. The work of the Standards Committee in supporting good governance within the Council is closely aligned with the Corporate Governance & Audit Committee. It is therefore proposed that the Chair of the Standards Committee be an *ex officio* member of the Corporate Governance & Audit Committee. This will help to promote better governance as issues between the two committees are shared and worked on.

Revised terms of reference for the Corporate Governance and Audit Committee are attached at **(Appendix B)**.

## 3. **Appeals Committee**

The current Appeals Committee hears a wide range of officer appeals. This is unusual and certainly not in line with other local authorities. The Corporate Governance and Audit Committee is considering a separate one on this point if accepted. **Appendix C** therefore puts forward a proposal for revised terms of reference for that panel to bring it into line with good practice in other authorities.

## 4. **Delegations**

### 4.1 The existing scheme of delegations is lengthy, detailed and muddled.

In 2006, the scheme of delegations for Highways was revised to make it an "exception scheme". That means that almost every function and power is delegated to officers, with the exception of those items specifically retained by members in various committees. There is a desire by Cabinet members and senior officers to have similar exception schemes for other areas of delegation. The amount of work involved in that is substantial, and has been completed in some, but not all, of the delegation schemes. **Appendix D** of this report therefore sets out proposed delegation schemes for Planning, Building control, Licensing and for Environmental Services for consideration. It is intended that the remaining parts of the delegation scheme will be altered to bring them in line with the exception scheme by the end of December 2009.

#### 4.2 **Determination of representation on outside bodies.**

It is recommended that the existing delegation to the Head of Policy & Governance is altered to:

“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, and to accept nominations for charitable trust put forward by area committees. The Head of Policy & Governance will report to the Corporate Governance and Audit Committee such nominations”.

#### 5. **Overview & Scrutiny**

Article 6 and the Overview and Scrutiny procedure rules (**see Appendix E**) have both been amended to be consistent with each other. Alterations are highlighted in bold.

#### 6. **Change of Political Control**

Article 7.6 has been amended to make clear the circumstances in which there can be a change in control. This is attached at **Appendix F**

### **Appendices**

- Appendix A:** Council Procedure Rules
- Appendix A(i):** Proposed running order for Council meetings
- Appendix B:** Terms of reference for the Corporate Governance and Audit Committee
- Appendix C:** Terms of reference for Appeals Committee
- Appendix D:** Proposed Delegation Schemes (to be presented at the Committee for Planning, Building control & Licensing and Environmental Service)
- Appendix E:** Article 6 (Overview and Scrutiny) and the Overview and Scrutiny Procedure Rules
- Appendix F:** Article 7.6 – Change of political control

**(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;  
or
- (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.

#### *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 Chief Executive in consultation with 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 Mayor and 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. **Notwithstanding the designation of a particular meeting**, 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, **so that items falling within (2)(j) to (m) below may be included on an agenda for a meeting designated as a Key Discussion meeting and items falling within (3)(j) and (k) below may be included on an agenda for a meeting designated as a Holding the Executive to Account meeting.**

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 **note or hear** reports from Cabinet members in accordance with Rule 13
- k) **To note minutes from Cabinet or Committees**
- l) To deal with questions to Cabinet members generally, **or on Cabinet members reports** or in relation to minutes of Cabinet put to Council for information or to hear statements from Cabinet members in accordance with Rule 13
- m) 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)

## ***MEMBER MOTIONS***

- n) 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***

- o) 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
  - p) 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 18 (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 not 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 (p) (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

## **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 on each question to the Member.

#### *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) (m))

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 (3) above,

questions will be timetabled in the order which they are received by Head of Policy & Governance.

- (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) **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**
- (8) **The period allowed for written questions to the Leader and Cabinet members at any one meeting shall not exceed 30 minutes and for questions to spokespersons of joint committees and external bodies shall not exceed 30 minutes provided that there is provision under Rule 5 for consideration of such questions**
- (9) 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.
- (10) 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.
- (11) 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.
- (12) 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. Reports and/or Minutes of Cabinet and Committees, Cabinet member reports and questions to Cabinet Members

#### (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) **At the first Council meeting in a municipal year, the Leader and Cabinet members will set out the Administration's priorities for the forthcoming year. At each subsequent Council meeting, Cabinet members will, by rota (so that all Cabinet members will report once in a municipal year) provide a report (which is expected to be in written format) on progress in their area of responsibility against priorities. Where appropriate, those reports will be issued with the Council agenda for information.**
- (iii) Questions may be asked of any Cabinet member, whether on a specific matter contained within the minutes **or a matter contained with any Cabinet member report issued to the meeting** or any matter generally which is in the portfolio of the Cabinet Member. Any member may comment on any item within the Cabinet minutes presented to the meeting.
- (iv) 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 **except that any Cabinet member who has produced a report for the meeting will be put to the top of the list for the purpose of questions.** 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 **12(6)**.

(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 12.7**
- (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 4(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) *Time Permitted*

- (i) The time permitted for consideration of comments and questions on Minutes to Cabinet members shall be a maximum of **60 minutes**.

## **14. Notices of Motion**

### *Submission of Motions*

- (1) Every notice of motion (with the exception of those proposed in accordance with Rules 15 and 19) 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 12(7) 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 it 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 9(4) (referral of subject matter of deputations), 10(3) (referral of petitions), and 11(9) (referral of subject matter of questions)
- (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(5) and (10) 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 (subject to Rule 5) 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,
  - (iv) 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(6) 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) (k) shall be a maximum of 60 minutes.
- (23) The time permitted for consideration of Key Issues under Rule 5(3)(j) 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. Where a recorded vote is taken under paragraphs (3) and (5) below, then the result of the vote shall be recorded in the minutes of the meeting as appropriate.

### *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.

### *Right to require individual votes to be recorded*

- (4) 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)*

- (5) 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 **so that one person must be appointed.**

## 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.

**(B) Members and Officers Etc.**

**28. Leaders and Business Managers**

- (1) Members of the Council may be chosen by each of the political groups on the Council to act as the Leaders, Deputy Leaders and Business Managers of those groups.
- (2) The names of the Leader, Deputy Leader and Business Manager appointed by a political group represented on the Council shall be notified to the Chief Executive. The powers of a Leader shall also be exercisable by the Deputy Leader in the absence of the Leader.

**29. Inspection of Documents**

- (1) A Member of the Council may, for the purposes of his/her duty as a Councillor, on application to the Head of Policy & Governance, inspect any document which has been considered by the following subject to the provisions of the Local Government (Access to Information) Act 1985 and the Local Government Act 2000 being met in relation to items determined as exempt information:

Council  
a Committee  
a Sub-Committee  
a Panel

For the same purposes a Member may also request that he or she be supplied with a copy of the document. This will be provided if it is practicable.

- (2) Members should not inspect or request a copy of any document relating to a matter in which they have a prejudicial interest as defined in the Council's Code of Conduct. The Head of Policy & Governance may decline an application from a Member to inspect a document which would be protected by privilege arising from the relationship of solicitor and client in the event of legal proceedings.
- (3) Copies of all reports and minutes associated with the following meetings shall be kept by the Head of Policy & Governance in accordance with the requirements of the Local Government (Access to Information) Act 1985 and the Local Government Act 2000.

Council  
a Committee  
a Sub-Committee  
a Panel

These shall be open to inspection by any Member of the Council during office hours subject to the provisions of those Acts being met in relation to items determined as exempt information.



- (4) The Chief Executive or any Officer of the Council may decline a Member's request to inspect a document, if it contains confidential information. The only exceptions to this rule will be if the Member has a legal right to inspect a document or has obtained the consent of the Cabinet (for matters within its remit) or the Corporate Governance & Audit Committee (for all other matters).
- (5) Rights in respect of documents under the control of the Cabinet are set out in Rules 24 and 25 of the Access to Information Procedure Rules.

### **30. Orders Regarding Works; Inspection of Lands, Premises, etc.**

A Member of the Council shall not issue any order regarding any works which are being carried out by or on behalf of the Council. In addition he or she shall not claim, by virtue of being a Member of the Council, any right to inspect or to enter upon any land or premises which the Council has the power or duty to inspect or enter.

### **31. Representation of the Council on Other Bodies**

If any Member of the Council is nominated or appointed by or on behalf of the Council to serve as a Member of another body, the appointment shall stand until the next Annual Meeting of the Council or until the first meeting thereafter of the Cabinet or Committee making the nomination or appointment unless

- (a) the constitution of the other body makes different provisions, or
- (b) the Council (or the Cabinet, in the case of nominations made by it) at any other time resolves otherwise.
- (c) the Member resigns from the outside body by the method required by the body or, if none, by notifying writing to the Head of Policy & Governance.

### **32. Interest of Officers in Contracts**

The Head of Policy and Governance shall keep a register to record the details of any Officer of the Council who has given notice of a pecuniary interest in a contract as described by Section 117 of the Local Government Act 1972. This register shall be open to inspection by any Member of the Council during office hours.

### **33. Membership of Secret Organisations by Employees**

An employee of the Council shall declare in a register to be 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, if he/she is involved.

- in making appointments

- in initiating disciplinary action or taking part in disciplinary proceedings or appeals

- with the grievance and disputes procedure

The register will be open to inspection by any Member or employee of the Council during office hours.

#### **34. Confidentiality of Meetings and Recording of Proceedings**

- (1) The Council's meetings will be held in public unless the Access to Information Procedure Rules permit the public to be excluded. Those Rules also deal with public access to documents.
- (2) Any person attending a meeting may take written notes of the proceedings. Accredited representatives of the media as determined by the Head of Performance & Communications may use sound and visual recording equipment and take still photographs for publication.
- (3) A Member or employee of the Council shall not disclose to any person any document or any matter contained in any document which is marked "Confidential" or "not for publication" except with the permission of the Council, Cabinet, Committee, Sub-Committee, or Panel which considered the item, or if the person concerned has a legal right to inspect the document.

**(C) Relating To Committees, Sub-Committees, Panels Etc.**

**35. Appointment of Committees, Sub-Committees and Panels**

- (1) The Council at its Annual Meeting will establish those Committees which are required by law and such other Committees as are deemed necessary to carry out the work of the Council during the municipal year. The Council may at any other time establish new Committees, which are considered necessary to carry out the work of the Council.
- (2) The Council subject to any statutory provision:-
  - (i) shall not appoint any Member of a Committee so as to hold office later than the next Annual Meeting of the Council;
  - (ii) may at any time dissolve a Committee, or alter its membership.
  - (iii) shall not appoint the Leader, the Deputy Leader of the Council or any Members of the Cabinet as members of the Overview and Scrutiny Committee or its Panels, or the Leader or more than one Member of the Cabinet as a Member of the Standards Committee.

Appointment of Sub-Committees, Panels etc.

- (3) At the first meeting of a Committee in the municipal year, it shall establish such Sub-Committees or Panels as are considered necessary. Committees subject to any statutory provision,
  - (i) shall not appoint any Member of a Sub-Committee or Panel so as to hold office later than the next Annual Meeting of the Council.
  - (ii) may at any time dissolve a Sub-Committee or Panel or alter its membership, and
  - (iii) may delegate to any such Sub-Committee or Panel any power or duty delegated to the Committee by the Council.
- (4) A Committee may establish other Sub-Committees or Panels at any time in the municipal year.

Membership of Committees, Sub-Committees, Panels etc.

- (5) The Members on each Committee, or Sub-Committee or Panel shall (so far as legally required) be selected by each of the Political Groups represented on the Council, on the basis of their proportional representation at the date that the Committee, or Sub-Committee, or Panel is appointed.

Proportional Representation of Political Groups not to apply

- (6) The Council may determine that proportional representation shall not apply to any Committee, and any Committee may make a similar determination with respect to any of its Sub-Committees or Panels subject to compliance with the requirements of Section 17 of the Local Government and Housing Act 1989. In any event proportional representation is not required in respect of the Standards Committee.

#### Substitute Members

- (7) At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members of Committees, and Sub-Committees, (except the Overview and Scrutiny Committee, the Overview and Scrutiny Panels, Area Committees and the Standards Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.

#### Changes to the Substitute Panel and Members of a Committee, Sub-Committee and Panel

- (8) The Business Manager to each Group shall provide the Head of Policy and Governance within nine days of notice of
- (i) any change(s) to the names of those Members included on the panel of substitutes approved by the Annual Council Meeting.
  - (ii) any change(s) to the membership of a Committee or Sub-Committee, which do not involve a member of that substitutes panel.

#### Notice of Substitutes cannot be revoked

- (9) After notice of a substitution has been given for a Committee, Sub-Committee, or Panel meeting it cannot be revoked. Once a Committee or Sub-Committee, or Panel has begun the Member who has been substituted will only be entitled to attend the meeting as an observer. If a Committee or Sub-Committee or Panel meeting is adjourned the change(s) in membership will stand for the purpose of the reconvened meeting.

#### Membership of a Sub-Committee or Panel to include persons who are not Members of the parent Committee

- (10) The membership of a Sub-Committee or Panel may include persons who are not Members of the Committee by which the Sub-Committee or Panel was appointed.
- (11) Except in cases required by law, or permitted by law and agreed by the

appointing body, no co-opted member of any Committee, Sub-Committee or Panel shall be entitled to vote on any matter considered by it.

**36. Observer Attendance by Councillors at Committees, Sub-Committees or Panels**

- (1) A Councillor who is not a Member of a Committee, Sub-Committee, or Panel may attend any meeting as an observer. That Councillor shall have the same speaking rights as any Member of that Committee Sub-Committee or Panel. The Councillor cannot:-
  - (a) speak on any item considered in the private session of the meeting.
  - (b) attend for any item of business if he or she has a prejudicial interest as defined in the Council's Code of Conduct.
  - (c) attend for any item of business on the Committee, Sub-Committee or Panel agenda which personally relates to them as a Councillor or otherwise.
  - (d) remain in a meeting of the Committee, Sub-Committee, or Panel after receiving advice from the Committee Services Manager, that he or she should be excluded from the meeting.
  - (e) retire with a Committee, Sub-Committee, or Panel which is exercising a quasi judicial function when it is considering its decision.
- (2) Any Member attending a meeting of a Committee, Sub-Committee, or Panel shall under the Agenda Item of "Membership of Committees, Sub-Committees etc." identify themselves as an observer.

**37. Attendance by Members of the Public - Permission to Speak**

Any member of the public attending a meeting of the Council (with the exception of the Annual Meeting) a Committee, Sub-Committee, or Panel (or any other meeting open to the public) may, with the permission of the Mayor/Chair, speak at that meeting. That person shall not be permitted to remain in the meeting when consideration is being given to confidential or exempt information.

**38. Appointment of Chairs and Deputy Chairs of Committees, Sub-Committees, and Panels and Appointments to Outside Bodies, etc.**

- (1) At the Annual Meeting of the Council, the Council will -
  - (i) appoint the Chairs and if considered appropriate the Deputy Chairs of Committees. In default of such appointments by the Council, every Committee, shall be empowered to make the appointment subject to confirmation by the Council;
  - (ii) appoint the Members of Outside Bodies, except where

membership is appointable by the Cabinet or a Committee, and

- (iii) agree the dates of meetings of Committees, Sub-Committees, and Panels for the Municipal Year. The alteration of a date may be determined by the respective Chair in consultation with the Head of Policy and Governance provided that 7 days notice of the revised date can be given.
- (2) The Council may at any other time appoint the Chairs and if considered appropriate the Deputy Chairs of Committees, for the remainder of the Municipal Year.
- (3) At the first meeting of each Committee in the Municipal Year the Chair and if considered appropriate Deputy Chair of its Sub-Committees or Panels shall be appointed for that year.
- (4) Any Committee shall when appointing a Sub-Committee, or Panel under Rule 35(4), also appoint a Chair and if considered necessary a Deputy Chair.
- (5) In the absence of the Chair and Deputy Chair from a meeting, a Chair shall be chosen for the duration of that particular meeting or until the official Chair or Deputy (as recognised by Council) arrives. The Chair or Deputy Chair will then assume the Chair when the item under discussion at the time of his or her arrival has been dealt with.
- (6) The Chair and Deputy Chair of every Committee, Sub-Committee, or Panel other than the Standards Committee shall be a Member of the Council.
- (7) A Member of a Committee, Sub-Committee, or Panel may resign membership and the Chair or Deputy Chair of a Committee, Sub-Committee, Sub-Group, or Panel may resign office by giving notice in writing to the Chief Executive. Any such resignation shall take effect on the date of receipt of the notice.
- (8) The removal from office of the Chair or Deputy Chair of a Committee may only be agreed by the Council on the recommendation of the Corporate Governance & Audit Committee. The removal from Office of the Chair of Standards Committee and Overview and Scrutiny Committee may only be agreed by Council on the recommendation of that Committee. Only the Committee which appointed a Sub-Committee or Panel may remove the Chair or Deputy Chair of that Sub-Committee or Panel from office.
- (9) No Member of the Cabinet may be appointed as Chair of an Appeals Panel, the Licensing and Safety Committee, a Planning Area Sub-Committee, the Standards Committee, Overview and Scrutiny Committee, Overview and Scrutiny Management Group or the Overview and Scrutiny Panels.

### **39. Quorum of Committees, Management Boards, Sub-Committees and Panels**

- (1) Except where ordered by the Council, or authorised by statute, business shall not be transacted at a meeting of any Committee, unless at least one third of the number of the body are present.
- (2) Except where ordered by the Council, or authorised by statute or by the Committee which has appointed it, business shall not be transacted at a meeting of any Sub-Committee or Panel unless at least one third of the number of the Sub-Committee or Panel are present.
- (3) If the Chair declares there is not a quorum present then the meeting will adjourn immediately. Remaining business will be considered at a date and time fixed by the Chair. If no such date is fixed the business will be considered at the next meeting.
- (4) Where a Committee or Sub-Committee sits to consider an appeal, only those Members who are eligible to attend shall count for the purpose of a quorum.
- (5) No quorum may be less than two Members.
- (6) Committees, Sub-Committees and Panels shall be entitled to meet and transact business prior to the appointment of Co-opted Members.
- (7) Co-opted Members of a Committee, Sub-Committee or Panel shall only be counted for the purposes of a quorum at a meeting, if the Committee, Sub-Committee or Panel has no delegated powers and can only make recommendations. However the quorum for an Area Committee must include at least 2 Councillors for a single Ward Area Committee and at least one third of the Members for an Area Committee consisting of two or more Wards.
- (8) No meeting of the Standards Committee may proceed unless at least one Kirklees Member, one independent Member and (for Parish business only) at least one Parish Member is present.

#### **40. Meetings of Committees, Sub-Committees and Panels and Agenda Papers**

- (1) Every scheduled meeting of a Committee, Sub-Committee or Panel shall be summoned by the Head of Policy and Governance through the issue of a notice for the meeting where practical at least 7 days prior to the meeting. The items of business for consideration at the meeting will be set out in the Agenda for the meeting. No additional items of business will be allowed unless the Chair for the meeting determines that they are urgent.
- (2) The Leader of each Political Group (or in his/her absence the Deputy Leader of each Group) shall notify the Chief Executive, in writing, not less than 14 days before the date of the intended meeting to which the item should be submitted of any item(s) which he/she wishes to include on the Agenda of any Committee, Sub-Committee or Panel of the Council. The notification shall include such information as is necessary

to enable the Chief Executive to determine whether the subject matter requires consideration by the Committee, Sub-Committee or Panel. The Chief Executive shall determine the appropriate body to which the item shall be referred and notify the Group Leader (Deputy Group Leader) of the date of that meeting which shall be the next available meeting. Any item which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper shall not be accepted and the decision of the Chief Executive shall be final.

- (3) The Chair (or Deputy Chair) of a Committee, Sub-Committee or Panel with the approval of the Leader of the Council, may instruct the Head of Policy & Governance to call a meeting of a Committee, Sub-Committee or Panel at any time.
- (4) An additional meeting of a Committee, Sub-Committee or Panel can be summoned if the Head of Policy and Governance receives a request in writing from at least half of the Members of the Committee, Sub-Committee or Panel to do so. The Head of Policy and Governance in consultation with the Chair may also summon a special meeting upon any emergency. The summons for such meetings shall set out the business for the meeting and no other items of business will be considered.

#### **41. Procedure Rules to apply to Committees, Sub-Committees and Panels**

Procedure Rules 9, 10, 11, 15 and 18 (except those parts which relate to standing and speaking more than once) 20, 21, 22, 25, 26, 27 and 34 shall, with any necessary modifications, apply to meetings of Committees, Sub-Committees and Panels.

#### **42. Voting in Committees, Sub-Committees or Panels**

- (1) Voting at a meeting of a Committee, Sub-Committee or Panel shall be by a show of hands. Alternatively the Committee, Sub-Committee or Panel may require the Head of Policy and Governance to take a vote by ballot on any motion or amendment which is put to the meeting.
- (2) The Chair at a Committee, Sub-Committee or Panel meeting shall have a second or casting vote.
- (3) If there are more than two persons nominated for any appointment to be filled and there is no overall majority in favour of one person the following procedure will apply. The name of the person (or persons, if equal) 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.
- (4) At any meeting of a Committee, Sub-Committee or Panel (including joint bodies etc.) a Member may require that his or her decision in voting for or against a question (or his or her abstention from voting) be recorded in the Minutes of the meeting. Such a requirement must be proposed by the Member immediately after the vote is taken.



#### **43. Working Parties, etc.**

- (1) Any Committee, Sub-Committee or Panel may establish a Working Party or Sub-Group (which may include Officers) to undertake a detailed study of any matter(s). A Working Party or Sub-Group shall not have delegated powers and shall not constitute a formal Sub-Committee.
- (2) The terms of reference for any Working Party or Sub-Group shall state their objectives and dates etc. for reporting on their findings.
- (3) The Chair (and Deputy Chair) of a Committee, Sub-Committee or Panel responsible for establishing a Working Party or Sub-Group if not appointed in their own right, shall be entitled to attend and speak at all meetings.

#### **44. Reports to Council**

- (1) The Chair may request the Head of Policy and Governance to include in the report of a Committee, a reference to any particular matters which were considered in the meeting.
- (2) In accordance with the Agenda for the Council meeting.
  - (a) The Chair of a Committee, (or in their absence any other Member of the Committee) shall propose a motion to seek the Council's approval on any matter expressly referred by the Committee, to Council for determination.
  - (b) The Mayor (or in his/her absence the Deputy Mayor or any other Member of the Council) shall propose a motion to seek the Council's approval to the receipt of any report of a meeting of Cabinet or any Committee.

#### **45. Reports of Sub-Committees and Panels**

A report of the proceedings of a Sub-Committee or Panel meeting shall be presented to the next convenient meeting of the parent Committee or Cabinet.

**(D) Miscellaneous**

**46. Variation and Revocation of Procedure Rules**

- (1) Any motion to add to, vary or revoke these or any other Procedure Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
- (2) Paragraph (1) of this Rule shall not apply to any review of Procedure Rules proposed at the Annual Meeting of the Council or to a specific recommendation by the Cabinet or a Committee to the Council to add to, vary or revoke any Procedure Rules.

**47. Suspension of Procedure Rules**

- (1) At any meeting a motion may be moved to suspend the use of any of the preceding Procedure Rules for any item(s) of business included on the Agenda for that meeting.
- (2) A motion to suspend Procedure Rules shall not be moved without notice unless at least one half of the Members of the Council, Committee, Sub-Committee or Panel are present.

**48. Standards of Conduct in Public when representing the Council.**

Members have an obligation when taking part in Council and Committee meetings etc, held in public to comply with the protocol on standards of conduct in public approved by the Standards Committee and incorporated in Part 5 of the Constitution.

**SUGGESTED RUNNING ORDER FOR  
HOLDING THE EXECUTIVE TO ACCOUNT COUNCIL MEETINGS**

1. Announcement
2. Apologies
3. Approval of minutes
4. Declarations of interest
5. Deputations/petitions
6. Questions by members of the public (15 minutes)
7. Reports from Cabinet requiring approval
8. Written questions to Cabinet members (30 minutes)
9. Cabinet members reports and Cabinet/Committee minutes noted
10. Questions to Cabinet members (60 minutes)
  - on their written reports
  - on Cabinet minutes
  - generally
  - plus member comments on Cabinet minutes
11. Questions to spokespersons (30 minutes)
12. 5-minute motions
13. Report-backs/AOB

## Corporate Governance and Audit Committee

### Membership

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

Three 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,
- The Chair of the Standards 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. Following a decision of Council to undertake a community governance review to agree the terms of reference for and conduct such a review, making recommendations to Council who will determine the outcome of such reviews.
- 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).

## APPENDIX C

### Appeals Panel

#### Membership

Any 3 members of the Council selected by the Head of Policy and Governance from a panel of 15.

#### Terms of Reference

To determine any appeal or application which is at any time to be determined by a Council Committee, but not specifically delegated or referred to any other Committee, including:-

1. Appeals against decisions on education discretionary awards;
2. appeals arising in connection with the allocation of free school transport;
3. appeals against decisions of the Director of Children's Services regarding applications for boarding education, and such other matters as may relate to preferential treatment being accorded to individual children;
4. to review the decision of the Director of Adult Services on the details of any registered complaint, at the request of the complainant, in accordance with the Social Services' complaints procedure;
5. to resolve disagreements, etc. between Social Services and organisations involved in the provision of care services in accordance with the Community Care Disagreement Procedures established as a result of the NHS and Community Care Act 1990;
6. appeals from applicants to the Housing Register in respect of officer decisions on:-
  - (a) access to the Housing Register;
  - (b) determination of homelessness status;
  - (c) elements of housing need taken into account when making assessments;
  - (d) offers of accommodation.

## APPENDIX D

### Environmental Services

The exercise of all functions and powers of the Council in relation to environmental services is delegated to the Assistant Director Environmental Services, Senior Managers or nominated officer from the Cabinet or Regulatory Panel (as appropriate) subject to the exceptions that:

Matters are referred to Cabinet in the following cases:-

- (i) authority to instigate all injunction proceedings except in relation to statutory noise nuisance
- (ii) grants of consent for the erection of public sanitary conveniences
- (iii) policy decisions to provide new caravan sites
- (iv) declarations of smoke control areas
- (v) rejection of proposals and the refusal of grant payments for charities, churches etc under section 26 Clean Air Act 1993
- (vi) designation of noise abatement zones
- (vii) authority to instigate proceedings in the High Court under section 24 Environmental Protection Act 1990
- (viii) setting of charges for copies of register entries under section 78R Environmental Protection Act 1990
- (ix) approval of policy regarding numbers of appliances for the purposes of section 20 Local Government (Miscellaneous Provisions) Act 1976
- (x) determination of application fees for licences for performing animals under the Performing Animals Act 1925
- (xi) determination of charges for licences under section 1 Riding Establishments Act 1964 and provisional licences under section 1 Riding Establishments Act 1970
- (xii) decisions to dispose of and/or change the use of former public convenience sites (including any buildings on the sites) where:-
  - (a) the site area exceeds 0.25 acre or;
  - (b) objections to the proposed disposal and/or change of use have been received from ward members



Matters are referred to Regulatory Panel in the following cases:-

- (i) refusals to grant licences under:
  - (a) section 1 Animal Boarding Establishments Act 1963
  - (b) section 1 Breeding of Dogs Act 1973 as amended by the Breeding and Sale of Dogs (Welfare) Act 1999
  - (c) the Caravan Sites and Control of Development Act 1960 as amended by the Local Government (Miscellaneous Provisions) Act 1982
  - (d) section 1 Dangerous Wild Animals Act 1976
  - (e) the Performing Animals Act 1925
  - (f) section 1 Pet Animals Act 1951
  - (g) section 269 Public Health Act 1936
  - (h) section 1 Riding Establishments Act 1964 and section 1 Riding Establishments Act 1970
  - (i) the Zoo Licensing Act 1981 and the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002
- (ii) refusals to approve arrestment plant for furnaces under section 6 Clean Air Act 1993
- (iii) refusals to approve plant for arresting grit and dust under section 8 Clean Air Act 1993
- (iv) refusals to grant prior approval for noise levels from construction sites under section 61 Control of Pollution Act 1974
- (v) refusals to grant consent to exceed registered levels in noise abatement zones under section 65 Control of Pollution Act 1974
- (vi) refusals of authorisations in respect of prescribed processes under section 6 Environmental Protection Act 1990
- (vii) revocation of authorisation for non-payment of subsistence fee under section 8(8) Environmental Protection Act 1990
- (viii) initial consideration of appeals against the revocation of authorisations under section 8(8) Environmental Protection Act 1990
- (ix) revocation of authorisation where the prescribed process has not been carried on for a period of 12 months under section 12 Environmental Protection Act 1990
- (x) initial consideration of appeals against the revocation of authorisations under section 12 Environmental Protection Act 1990

- (xi) refusals to issue permits under Part II Regulation 10 Pollution Prevention and Control (England and Wales) Regulations 2000
- (xii) accepting the surrender of permits under Part II Regulation 19(8) Pollution Prevention and Control (England and Wales) Regulations 2000
- (xiii) revocation of permits under Part II Regulation 21 Pollution Prevention and Control (England and Wales) Regulations 2000
- (xiv) authority to institute proceedings in the High Court under Part II Regulation 33 Pollution Prevention and Control (England and Wales) Regulations 2000

## **Planning and Building Control Services**

### **(i) Planning matters**

The exercise of all planning functions and powers of the Council as Local Planning Authority (apart from the approval of proposed developments that would be contrary to the development plan) is delegated to the Head of Planning and Building Control Services or nominated officer from the Planning and Highways Committee and Cabinet (as appropriate) subject to the exceptions that:

Matters are referred to the appropriate Committee/Sub-Committee in the following cases:-

- i) planning applications where the area to be developed is in excess of 0.5 hectares;
- ii) planning applications for retail development in excess of 750 sq metres gross floor area which officers are proposing to approve;
- iii) if the delegated officer so decides:-
  - a) with the agreement of the Chair of the relevant Committee or Sub-Committee; or
  - b) due to the significant volume of local opinion;
- iv) where any ward member so requests in relation to any application/ submission within their ward AND the Chair of the relevant Committee or Sub-Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees;  
  
(Ward members are required to specify in writing their reasons for making the request which shall reasonably relate to some aspect of the site or the development. The reasons will be incorporated in full in the Committee/Sub-Committee report)
- v) applications for listed building consent involving the partial or total demolition of Grade I or Grade II\* listed buildings;
- vi) the serving of building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in non-urgent cases;
- vii) planning applications for the disposal of solid waste exceeding 50000m<sup>3</sup> in volume;

- viii) planning applications for the disposal of special hazardous wastes;
- ix) the making of tree preservation orders other than orders to replace existing tree preservation orders containing area notations;
- x) the making of provisional tree preservation orders in non-urgent cases;
- xi) applications to court for an injunction to restrain:-
  - a) any actual or apprehended breach of planning control;
  - b) any actual or apprehended offence under the Hedgerow Regulations 1997;
  - c) any actual or apprehended offence under Sections 210 or 211 of the Town and Country Planning Act 1990;
  - d) any actual or apprehended contravention of Section 9(1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990;

in non-urgent cases where action does not need to be instigated in advance of the next scheduled Sub-Committee.

- xii) the revocation of certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development;
- xiii) all applications submitted by or on behalf of any elected member of the Council (in their personal capacity) or any member of their family;
- xiv) all applications submitted by or on behalf of any member of staff who works for Planning & Building Control Services (in their personal capacity);
- xv) all applications submitted by or on behalf of the Chief Executive, any member of the Executive Management Group or any Head of Service (in their personal capacity)

## **(ii) Building Control matters**

The exercise of all building control and registration functions and powers of the Council including the naming and re-naming of streets and numbering and re-numbering of dwellings, land drainage and safety at sports grounds) is delegated to the Head of Planning and Building Control Services or

nominated officer from Cabinet and the Licensing and Safety Committee (as appropriate) subject to the exceptions that:

Matters are referred to Cabinet or the Licensing and Safety Committee (as appropriate) in the following cases:-

- (i) determinations as to the naming and re-naming of streets in cases of dispute;
- (ii) if the delegated officer so decides with the agreement of the relevant Cabinet member or Chair of the Licensing and Safety Committee;
- (iii) where the relevant Cabinet member or Chair of the Licensing or Safety Committee so requests
- (iv) variations in excess of + or – 10% to the standard scale of building regulation charges set out in the Local Government Association Model scheme
- (v) power to register common land or town or village greens where the power is being exercised solely for the purpose of giving effect to
  - (a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981; or
  - (b) an order under section 147 of the Inclosure Act 1845

**(iii) Licensing matters**

The exercise of all licensing functions and powers of the Council apart from those matters reserved to Full Council is delegated to the Head of Planning and Building Control Services or nominated officer from the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Regulatory Panel in the following cases:

- (i) approvals and refusals of licences for vehicles, drivers and operators in respect of Hackney Carriage and Private Hire Vehicles which are not in accordance with the criteria laid down by the Council

Matters are referred to the Licensing Panel in the circumstances set out in section 10(4) of the Licensing Act 2003 and section 154(4) of the Gambling Act 2005

## 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. **There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year.**

**The Council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a Standing Panel. The Chair of Overview and Scrutiny will be from a different political group from that of the Leader of the Council.**

#### *Membership*

- 6.1.2 The Management Committee shall comprise the Chair of Overview and Scrutiny and three other elected Members. **Any councillor, except a member of Cabinet, may be a member of the Management Committee.** The Management Committee shall appoint the Chairs of the standing Overview and Scrutiny Panels listed below.

#### *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.

<b>Panel</b>	<b>Scope</b>
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. <b>The Panel's role includes the specific responsibilities of the Council for scrutiny of crime and disorder issues.</b>
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. <b>The Panel's role includes the specific responsibilities of the Council for scrutiny of health matters.</b>
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
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.

**Any Ad Hoc Panel or Councillor Call for Action Scrutiny Panel representatives relating to education matters shall also include the above representations with rights to vote on education matters in their membership (if nominated by the relevant body).**

- 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 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). **Any councillor, except a member of the Cabinet, may be a member.** 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 Councillor 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 Management Committee/Panel if so requested.
- m) Question Council Officers in relation to the overview and scrutiny of service performance/delivery and the reports on which Cabinet/Cabinet Committee decisions are based. Such officers are required to attend meetings of the relevant Overview and Scrutiny 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.

# OVERVIEW AND SCRUTINY PROCEDURE RULES

# **Overview and Scrutiny Procedure Rules**

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

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

## **2. Terms of Reference & Functions of Committee & Panels**

### **2.1 The Overview and Scrutiny Management Committee**

- 2.1.1 The Overview and Scrutiny Management Committee will:

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

- (ix) Receive proposals from the overview and scrutiny panels for planned in-depth scrutiny review, investigation and report on issues relating to the Council's functions, and determine the appropriate action.
- (x) Appoint task-orientated, time-limited ('ad-hoc') overview and scrutiny panels to review in depth, investigate and report on a particular topic with such terms of reference and duration as it considers appropriate to that topic.
- (xi) Consider and formally agree the reports of all ah-hoc panels and Councillor call for action Scrutiny Panels, and submit them to Cabinet and or relevant agencies for response and action,
- (xii) Consider and formally agree the reports of all ad-hoc panels and Councillor call for action Scrutiny Panels, and submit them to the Council for consideration.
- (xiii) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, the Local Public Service Boards, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xiv) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xvi) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvii) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xviii) Monitor and review the effect of and consequence of the call-in of decisions of the Cabinet/Cabinet Committee.
- (xix) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xx) Co-ordinate the production of an annual report to Council at the end of each municipal year on the activity of the overview and scrutiny function.
- (xxi) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.
- (xxii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.

- (xxiii) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function
- (xxiv) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.
  
- (xxv) Agree terms of reference and work plans of ad-hoc review panels and Councillor call for action Scrutiny Panels, and monitor their progress.
  
- (xxvi) Advise ad-hoc review panels and Councillor call for action Scrutiny Panels on the contents of reports.
  
- (xxvii) Undertake overview and scrutiny work, in its own right, as deemed appropriate.

## **2.2 Standing Overview and Scrutiny Panels**

### **2.2.1 The Overview and Scrutiny panels will:**

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated decisions of the Cabinet/Cabinet Committee and council services
  
- (ii) Scrutinise, advise and contribute to the Cabinet/Cabinet Committee and any relevant Council Committees in relation to issues arising from its work programme;
  
- (iii) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
  
- (iv) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions taken by or on behalf of the Cabinet /Cabinet Committee as set out in the procedures in the Overview & Scrutiny Rules.
  
- (v) Have an overview of the practice and policy of the relevant service areas;
  
- (vi) Identify areas of service practice and implementation or of policy that cause concern to members of the public and councillors and report these to the Overview & Scrutiny Management Committee to determine what action should be taken;
  
- (vii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;
  
- (viii) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;
  
- (ix) Promote the work of the panels, including through the local media.

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

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

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

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

**NOTE:** The role of the Safer Stronger communities Overview & Scrutiny Panel will, in addition, include the specific responsibilities of the Council for the scrutiny of crime and disorder matters.

## **2.3 Ad-hoc Overview & Scrutiny Panels**

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

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

## **2.4 Councillor call for action Scrutiny Panel**

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

## **2.5 Joint Health Scrutiny Panel**

2.5.1 **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.**

### **3. Membership of Overview and Scrutiny**

- 3.1 Subject to Article 6.1, any Councillor, except a member of the Cabinet, may be a member of the Overview and Scrutiny Management Committee or its panels or ad hocs.
- 3.2 No member, however, may be involved in scrutinising a decision in which he/she has been directly involved. In addition, each member of an Overview and Scrutiny Management Committee/panel is required to consider whether s/he has a personal interest in an issue to be examined by that Committee/Panel and to declare any such interest. If s/he determines that the interest is prejudicial and financial in nature, s/he must not participate in the debate on the issue and must leave the room during that debate. These requirements are set out in detail in paragraphs 11 and 12 of the Council's Code of Conduct for members in Part 5 of the Constitution.
- 3.3 The membership of the Overview and Scrutiny Management Committee will reflect the political composition of the Council, unless the Council decides otherwise in accordance with the appropriate legal procedures.

### **4. Co-optees**

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

### **5. Education representatives**

- 5.1 The Children and Young People's Overview and Scrutiny Panel and any Ad Hoc Panel or Councillor call for action Scrutiny Panel relating to education matters shall include in its membership the following voting representatives (if appointed by the relevant group):
- (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative; and
  - (c) 3 parent governor representatives.
- 5.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

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

- 6.1 The Overview and Scrutiny Management Committee and its Panels will meet as required to conduct the necessary business efficiently and effectively. There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year. The ad-hoc Panels will be time limited and will meet as required to fulfil the task allocated to them.



- 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Management Committee/Panel, by any 3 members of the body or by the Head of Policy and Governance or the Scrutiny Office if he/she considers it necessary or appropriate.

## **7. Quorum**

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

## **8. Chairs of Overview and Scrutiny Management Committee/Panels**

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

## **9. Work programme**

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

## **10. Agenda items**

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

## **11. Policy review and development**

- 11.1 The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, Local Public Service Boards and Council and hence to ensure that these views are taken into account in policy development.
- 11.2 The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the budget and policy framework, recommendation to Council.
- 11.3 The minimum role of Overview and Scrutiny in relation to the development of the Council's budget and policy framework is set out in Rule 2 of the Budget and Policy Framework Procedure Rules and in Rule 11.2 above.
- 11.4 In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

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

## **12. Reports from Overview and Scrutiny Management Committee**

- 12.1 Once an Ad Hoc Panel (or in some instances a Standing Panel) has formed recommendations on proposals for development, a report will be prepared for informal consultation with the Overview and Scrutiny Management Committee.
- 12.2 Once the Overview and Scrutiny Management Committee's comments have been taken into account, the report shall be submitted by the Overview and Scrutiny Office who shall ensure that a draft report is considered informally by the relevant officers/Cabinet Member/Cabinet/Cabinet Committee/Local Public Service Board.
- 12.3 The Cabinet Member/Cabinet/Cabinet Committee/Local Public Service Board /officers shall comment on any issues or factual accuracy which recommendations that they accept and which they cannot accept. For each recommendation that is accepted they shall state when and how it will be implemented. For those that are not accepted the relevant reasons must be set out.
- 12.4 Once those comments have been added, the Overview and Scrutiny Management Committee shall submit the report to Cabinet Member/Cabinet//Cabinet Committee/ Local Public Service Board/Council for information and debate, particularly on issues of difference.
- 12.5 If any recommendations would require a departure from or a change to the agreed Budget and Policy Framework these must be considered by Council.
- 12.6 If a significant minority of a Scrutiny Management Committee/Panel cannot agree on the final recommendations of the report to the Cabinet/Cabinet Committee/ Council as appropriate, then the report will indicate where the major differences lie. Minority reports will not be accepted.
- 12.7 The Cabinet/Cabinet Committee and then Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.

## **13. Making sure that Overview and Scrutiny reports are considered by the Cabinet**

- 13.1 The reports of Overview and Scrutiny referred to the relevant Cabinet Member shall be given consideration as soon as practicable following the completion of the report/recommendations.
- 13.2 If the Cabinet Member/Cabinet/Cabinet Committee does not consider the report and respond within one month the Overview and Scrutiny Management Committee will have the right to refer the report direct to Council without following the procedure set out in 11 above.

## **14. Rights of Overview and Scrutiny Management Committee & Panel members to documents**

- 14.1 In addition to their rights as councillors, members of Overview and Scrutiny Management Committee/Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 14.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee and panels as appropriate depending on the particular matter under consideration. Indeed this liaison is encouraged to enable members of scrutiny panels to develop an effective overview of services, developments, and issues for consideration.
- 14.3 All members of the Council will have access in accordance with the Access to information Procedure Rules to agendas, reports in support of decisions to be made and notices of decisions (to be posted within 2 working days) through the intranet.
- 14.4 Overview and Scrutiny Members will also be informed of key decisions made by Officers under the scheme of delegation.

## **15. Members and officers giving account**

- 15.1 Overview and Scrutiny Management Committee or any Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, senior officers, or other officers if necessary to attend before it to explain in relation to matters within their remit:
  - a) any particular decision or series of decisions;
  - b) the extent to which the actions taken implement Council policy; and/or
  - c) their performance.
- 15.2 By virtue of the provisions of the Local Government Act 2000, the Overview and Scrutiny Management Committee/Panels can require officers and Cabinet Members to respond to their requests and attend their meetings, and (by virtue of the Act) it is the duty of those persons to attend if so required.
- 15.3 Requests for attendance of officers or the provision of information to Overview and Scrutiny shall generally be channelled through the Council's Directors/Heads of Service who will identify appropriate officers to respond to the requests. Services shall also identify contact officers for each Overview and Scrutiny Management Committee/Panel.
- 15.4 Such requests will be made in writing by or on behalf of the Chair of the relevant Management Committee/Panel and as much notice of the meeting as practicable will be given allowing for the need to gather information and/or prepare a report.

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

## **16. Attendance by others**

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

## **17. Decision-Making and Call-in**

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

- 17.4 This will mean that the Overview and Scrutiny Panel Chair and the Panel will be aware at an early stage of the issues that the Cabinet/Cabinet Committee will be addressing. They must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focussed on a particular option and likely decision. Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.
- 17.5 Through early involvement it should be possible to take on board the concerns of scrutiny and ensure that the right decision is taken first time. However, there may be times when differences will not be resolved, or when an item surfaces at short notice on an agenda. In these circumstances Overview and Scrutiny and non-executive councillors should follow the procedure set out below. This procedure gives Overview and Scrutiny the opportunity before a decision is taken to issue a formal 'notice of concern' which will be recorded, and after a decision is taken, but before it is implemented, to 'call-in' a decision.
- 17.6 It is fundamental to remember that:
- the Cabinet Member is responsible for the work programme within her/his portfolio and to determine, in consultation with the Leader of the Council, the items that will be on the Cabinet /Cabinet Committee agenda, and
  - the Cabinet /Cabinet Committee has the responsibility to make decisions within its remit, and to oversee and be accountable for the taking of decisions on its behalf by officers, joint committees or area committees.
- 17.7 The procedure set out in this section is designed to give Overview and Scrutiny a proper role in having an overview of decision-making.

## **18. Notice of Concern - Procedure**

- 18.1 The Overview and Scrutiny Panel Chair will receive the Forward Plan, information about other decisions to be taken, papers in support of a decision considered by the Cabinet Member/Cabinet/Cabinet Committee, including the reports containing the Cabinet Member's recommendation. If the Overview and Scrutiny Panel Chair or Chair of Overview and Scrutiny at this stage feels that scrutiny's concerns have not been adequately addressed or it is an item brought forward late at short notice, and the Scrutiny Panel Chair is unhappy with the Cabinet Member's recommendation, the Scrutiny Panel Chair should issue a 'notice of concern'. This must be sent in writing to the Head of Policy and Governance the main recipient and also for information to the Cabinet Member and the Chair of the Overview and Scrutiny Management Committee within 3 working days of the publication of the agenda for the relevant Cabinet /Cabinet Committee meeting.
- 18.2 If possible, all efforts should be made to consult with the Overview and Scrutiny Panel and the Overview and Scrutiny Management Committee

before issuing a 'notice of concern'. If this is not possible there must at least be consultation with the Chair of the Overview and Scrutiny Management Committee.

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

## **19. Call-in - procedure**

- 19.1 The decision-summary of Cabinet/Cabinet Committee and individual Cabinet Members will be published (including, where possible by electronic means) and sent to the appropriate Overview and Scrutiny Panel within 2 working days of the decision and sent to the members of the appropriate Overview and Scrutiny Panel – e.g. this will be the Friday following a Cabinet Meeting on Wednesday.
- 19.2 There will be a standard period of 2.5 full working days after the day of publication before decisions are implemented (e.g. midday on Wednesday following a Cabinet/Cabinet Committee meeting the previous Wednesday). A decision can be called-in only during this period.

19.3 To call in a decision of the Cabinet/Cabinet Committee, written notice must be given to the Head of Policy and Governance as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma will be made available to make this easier.

19.4 A decision can be called in by:

- either, 5 non executive Councillors
- or 2 members of the Overview and Scrutiny Management Committee, one of whom should be the Chair
- or 2 Members of the relevant Overview and Scrutiny Panel, one of whom should be the Chair

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

19.5 To be valid a call in must be submitted in writing (on paper or electronically) signed by all parties to the call in and must state the reasons for the suspension of the decision and request for a review.

19.6 When a valid written notice is received within the period referred to above, all action to implement the decision must be suspended for 2 weeks from receipt of the notice, during which time the appropriate Overview and Scrutiny Panel must meet. If the issue that has been called-in falls between or overlaps with the responsibility of more than one panel, the Head of Policy and Governance will take the advice of the Overview and Scrutiny Management Committee, which will determine which Panel to refer the matter to or indeed whether it should be considered by the Overview and Scrutiny Management Committee.

19.7 When a valid written notice is received the Head of Policy and Governance will notify all Cabinet Members and the Leader of the Council. A meeting of the appropriate Overview and Scrutiny Panel will take place within two weeks of the call in, giving notice required by Rule 4 of the Access to Information Procedure Rules. If the decision has been called-in by 5 non-executive Members they must attend, if possible, the Overview and Scrutiny Panel Meeting. The Head of Policy and Governance will also notify all Members that this decision has been called-in.

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

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

- Free the decision for implementation; or,
- Refer it back to the Cabinet/Cabinet Committee or decision-maker with a recommendation for amendment; or,



- In exceptional circumstances, refer the issue to the next Council Meeting if the decision is not consistent with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Head of Legal Services.

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

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

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

19.11 A decision may only be reviewed once.

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

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

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

19.15 **Key decisions taken by officers** – If a key decision is to be taken by an officer under the scheme of delegation, all Members and Overview and

Scrutiny will have the same rights to information and to use the procedures set out above for the call-in of decisions.

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

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

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

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

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

- To refer the decision to the Cabinet/Cabinet Committee, with a recommendation for amendment to comply with the budget and policy framework; or
- Refer the issue to the next Council meeting.

20.4 If the Panel refers the decision back to the Cabinet/Cabinet Committee, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may take any of the actions set out in Rule 19 other than to confirm its original decision.

20.5 If the decision is referred to the Council, it will be considered at the next ordinary Council meeting, or, if urgent, at an additional meeting to be called as early as practicable. The Council will receive reports from the Overview & Scrutiny Panel and the Cabinet/Cabinet Committee. The Council may either:-

- Decide that the decision is within the existing budget and policy framework, in which case it will be freed for implementation;
- Decide that the decision is contrary to the budget and policy framework, but agree to the decision, with immediate effect; or;
- Decide that the decision is contrary to the budget and policy framework; that the Council is not prepared to agree to the decision; and require the Cabinet/Cabinet Committee to re-consider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

## **21. The Group Business Manager**

21.1 The Council views whipping as incompatible with overview and scrutiny. Therefore, the political groups shall not give any instruction to any councillor

as to how that councillor shall speak or vote on any matter before overview and scrutiny, nor apply any sanction in respect of that councillor should he/she speak or vote in any particular manner.

## **22. Procedure at overview and scrutiny meetings**

- 22.1 The Overview and Scrutiny Management Committee and its Panels are encouraged to develop less formal approaches to meetings that support the reflection required by the Overview and Scrutiny role. In doing so the Management Committee and Standing Panels will ensure the inclusion of some basic items, such as minutes of the last meeting; declarations of interest; consideration of any decisions that have been called in; issues from the Cabinet's forward plan and/or of service delivery; responses of the Cabinet to reports of the Overview and Scrutiny Management committee; and the business otherwise set out on the agenda for the meeting.
- 22.2 Where ad-hoc panels, or mini ad hocs within / across Panels, conduct investigations, they or the Overview and Scrutiny Management Committee may also ask people to attend to give evidence at panel meetings which are to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the panel by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 22.3 Following any investigation or review, the Panel in consultation with the Overview and Scrutiny Management Committee shall prepare a report for submission to the Cabinet/Cabinet Committee and/or Council as appropriate and shall make its report and findings public.

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

- 23.1 Where a matter for consideration by overview and scrutiny falls within the remit of one or more overview and scrutiny panels, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Management Committee.
- 23.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all panels affected by the issue and to report the outcomes to all such panels.

## ARTICLE 7 – THE EXECUTIVE (CABINET)

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### 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 (**so that one political group has a majority or loses a majority of seats**); 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.

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