

SC7

Contact Officer: Adrian Johnson - Tel. 01484 221712

KIRKLEES COUNCIL
STANDARDS COMMITTEE

Wednesday 28 April 2010

Present: Councillors Hardcastle, C Smith and K Smith

Co-opted Members: Mr P Blythe (in the Chair), Councillor M Barlow,
Councillor C Kaye, Councillor P Cunnington and Professor A Kitson

Apologies: Councillor Patrick and Mr D J Binns

1 Minutes of Previous Meeting

The Minutes of the meeting of the Committee held on 9 March 2010 were approved as a correct record subject to the inclusion of apologies submitted by Councillors Ridgway, C Smith and K Smith and Professor Kitson.

2 Interests

No interests were declared.

3 Admission of the Public

The Committee determined that all business would be considered in public session.

4 Deputations/Petitions

No deputations or petitions were received.

5 Update on Complaints

The Monitoring Officer provided an update to the Committee on complaints as at April 2010 and circulated a schedule breaking down the complaints by source of complainant and indicating the state of progress on each.

RESOLVED -

(1) That the update on complaints be noted.

(2) That the update schedule provided to the Committee should, in future, include a column identifying cases referred to Standards for England.

6 Use of Social Media by Councillors and Code of Conduct

The Acting Assistant Director (Legal and Governance) submitted a report providing a brief overview of the Standards issues raised by the use of social media by individual Councillors, and incorporating a Blogging Quick Guide produced by Standards for England.

The report indicated that the Council had been invited by the Department for Communities and Local Government to be an exemplar authority in taking forward the recommendations of the Councillors Commission looking at the role of Councillor and the incentives and barriers to being a Councillor. As part of the pilot arrangements in Kirklees a key strand of the work involved looking at the information and intelligence that Ward Councillors should have to fulfil their roles and how they could better communicate with their residents; hence, it was important that the transition phase from pilot to rollout was underpinned by sound advice and support.

Work was being undertaken by the Council's Governance Officers to promote the use of social media by Councillors and it was proposed that the approach taken by the Standards Committee to these matters should be co-ordinated with that work.

RESOLVED -

(1) That the Standards for England Blogging Quick Guide be circulated to all Councillors and to Local Parish and Town Councils.

(2) That a report be brought to the Standards Committee when further work has been done on the promotion of the use of social media by Councillors.

7 Development of the Standards Materials on the KMC Website

The Acting Assistant Director (Legal and Governance) submitted a report, briefing the Committee on the current information on the Council's website on Standards matters and suggesting a way forward to improve the way the website could be accessed by members of the public looking for information about Standards matters, through the creation of a web portal for Standards materials on the Council website.

RESOLVED -

(1) That approval be given to creating a web portal for the Standards materials on the Kirklees Council website.

(2) That Professor Alan Kitson be nominated to progress the web portal proposals with Officers.

(3) That a further report be submitted to the Standards Committee when the portal is operational.

8 Review of the Role of Function of Standards Committee

The Acting Assistant Director (Legal and Governance) submitted a report referring to the decision of the Committee on 12 January 2010 to set up a Working Party of Committee Members to review the current role and functions of the Standards Committee. The report incorporated the recommendations which had emerged from the Working Party in terms of a range of issues including term of office for independent members; increasing the size of membership of the Committee; various adjustments to the Committee's terms of reference; production of a media protocol for dealing with press queries about Standards matters; and a systematic approach towards delivering appropriate training to Members and Co-optees, Members of Standards Committee, new Councillors, new Committee Members and Parishes.

RESOLVED -

(1) That the recommendations from the Working Party be noted and supported, subject to an amendment to the recommendation in paragraph 2 (n) of the report, to replace reference to "ethical issues" with "when the Committee's annual report is being discussed".

(2) That the consequential amendments arising to the Council's Constitution and Articles be submitted to Annual Council for approval.

9 Promotion of Ethical Standards

The Acting Assistant Director (Legal and Governance) submitted a report incorporating a paper on ways in which the Committee could support the third principle set out in the Council's Code of Corporate Governance which states:-

"Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour".

The report sought the Committee's view on what further action the Committee could take to promote values and good governance, for subsequent report to the Corporate Governance and Audit Committee as part of that Committee's work on corporate governance.

The submitted paper identified the following areas where there was a role for Standards Committee:-

- Member training for Kirklees Councillors and members of Local Parish and Town Councils.
- Publicity for the Standards complaints process.
- General promotion of the role of the Standards Committee.
- Promotion of ethical standards in partnerships.
- Defining standards of behaviour expected of Members and staff.

RESOLVED -

(1) That the report be received.

(2) That, in relation to the section about promoting the role of the Standards Committee, the suggestion for ensuring there is an ethical standards presence at all Council/Committees be not adopted.

(3) That, in relation to the section on publicity for the Standards complaints process:-

- (i) The Committee would want input into the staging of any ethical awareness week.
- (ii) That a report be submitted to a future meeting of the Committee on options, with potential value for each, for undertaking surveys on perceptions within the Council and among the public, of Standards issues.
- (iii) That a further report be submitted to a future meeting of the Committee on the operation of procedures for notifying Parish or Town Councils on the outcome of Standards hearings.
- (iv) That training of Governance Officers on the Code of Conduct be made available so that such staff may offer advice to Committees and the public on the operation of the Standards system.
- (v) That the pocket guide to the Code of Conduct produced by Standards for England be made available at public meetings of the Council and its Committees.

(4) That the training programme on the Code of Conduct should include opportunities for participation by Parish Councillors and Clerks.

(5) That feedback be provided to a future meeting of the Committee on the number of hits on the Kirklees website by the public accessing Code of Conduct and Standards issues.

(6) That the Committee be kept informed of progress of the Kirklees Council's webcasting of its meetings.

10

2010/2011 Work Programme

During consideration of this item the meeting became inquorate so it was agreed that the provisional list of items suggested by remaining Members in the meeting be reported to the next meeting for consideration, together with the dates of meetings of the Committee in 2010/11 as agreed at Annual Council.

11

Retiring Co-opted Members

The Committee placed on record its thanks to Councillor Margaret Barlow of Denby Dale Parish Council and Reverend Mike Roberts (Independent Member) for their work and contribution to the Committee during their term of office.

**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, 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 reviews of issues and service provision within the terms of reference of more than one panel.
- (v) 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.
- (vi) 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.
- (vii) 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.
- (viii) Receive proposals from the overview and scrutiny panels for planned in-depth scrutiny reviews, investigations and reports on issues relating to the council’s functions, and determine the appropriate action.

- (ix) 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.
- (x) Consider and formally agree the reports of all Ad-Hoc Panels and Councillor Call for Action Scrutiny Panels, and submit them to Cabinet and or relevant agencies for response and action.
- (xi) Consider and formally agree the reports of all Ad-Hoc Panels and Councillor Call for Action Scrutiny Panels, and submit them to the Council and/or Cabinet for consideration.
- (xii) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, the Local Strategic Partnership Structures, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xiii) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xiv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xv) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvi) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xvii) Monitor and review the effect of and consequence of the call-in of decisions of the Cabinet/Cabinet Committee.
- (xviii) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xix) 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.
- (xx) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.
- (xxi) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxii) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function
- (xxiii) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.
- (xxiv) Agree terms of reference and work plans of ad-hoc review panels and Councillor Call for Action Scrutiny Panels, and monitor their progress.

- (xxv) Advise ad-hoc review panels and Councillor Call for Action Scrutiny Panels on the contents of reports.

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 Overview & Scrutiny Procedure 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 assigned task based approaches.
- (xi) Scrutinise the work of the Local Strategic Partnership and its structures and the council's contribution to them, specifically 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 Well-Being and Communities Panel will in addition include the specific responsibilities of the Council for the scrutiny of health and 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: Within panels assigned tasks can be used to divide larger pieces of scrutiny work into smaller tasks to be allocated to panel members and findings reported back to panels to enable recommendations to be agreed.

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 consider issues arising from a Councillor Call for Action request, where the Committee considers it appropriate. Councillor Call for Action Scrutiny Panels shall include a non executive councillor from the affected locality and a scrutiny voluntary co-optee (or statutory education co-optees if the issue includes education matters).

2.5 Joint Health Scrutiny Committee

- 2.5.1 The Overview and Scrutiny Management Committee will appoint members to any Joint Health Scrutiny Committees 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 Assistant Director Legal 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 Strategic Partnership structures, 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 in line with the agreed approach to developing scrutiny work programmes, for example through reviewing the Council's priorities, 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 Strategic Partnership structures 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 draft report shall be submitted by the Overview and Scrutiny Office, to be considered informally by the relevant officers/Cabinet Member/Cabinet/Cabinet Committee/Local Strategic Partnership or other partnership body.
- 12.3 The Cabinet Member/Cabinet/Cabinet Committee/Local Strategic Partnership /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 Strategic Partnership/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.
- 15.5 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 or Chair of Overview and Scrutiny is unhappy with the Cabinet Member's recommendation, the Scrutiny Panel Chair or Chair of Scrutiny should issue a 'notice of concern'. This must be sent in writing to the Assistant Director Legal and Governance the main recipient and also for information to the Cabinet Member and, if appropriate, the Chair of Overview and Scrutiny 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 / Chair of Overview and Scrutiny 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 Assistant Director Legal 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 / Chair of Overview and Scrutiny 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 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 Assistant Director Legal 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 Assistant Director Legal 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 Assistant Director Legal 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 Assistant Director Legal and Governance will also notify all Members that this decision has been called-in.
- 19.8 The Assistant Director of Legal and Governance shall have discretion to extend the period during which the appropriate Overview and Scrutiny Panel must meet, where in his/her opinion, exceptional circumstances so require.
- 19.9 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.
- 19.10 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 Assistant Director Legal and Governance.

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.
- 19.11 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.

19.12 A decision may only be reviewed once.

19.13 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.

19.14 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.

19.15 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.

19.16 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 Director of Finance and Performance 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 Councillor Call for Action 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 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 coordinate, 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 the four Scrutiny Lead Members. If a political group(s) is not represented on the Management Committee then a group nomination place(s) will be included in the Committee. Any councillor, except a member of Cabinet, may be a member of the Management Committee. The Management Committee shall appoint the Lead Members (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.

Panel	Scope
Development and Environment	All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the Place portfolio (including Regeneration, Street Scene and Public Protection) and activities relating to partnerships and partner bodies within the portfolio.
Well-being and Communities Scrutiny Panel (including Health, Homes and Neighbourhoods and CDRP)	As above in relation to the Well – being and Communities portfolio (including Health) and activities relating to the Crime and Disorder Reduction Partnership, and other relevant partner bodies within the portfolio. The Panel's role includes the specific responsibilities of the council for scrutiny of health matters and scrutiny of CDRP matters.
Children and Young People	As above in relation to the Children and Young People Portfolio and all matters considered by the Children's Trust, and partnerships and partner bodies within the portfolio.
Resources (Incorporating Finance and other Support Services and organisational development)	As above in relation to any matters relevant to the issues of corporate services, communication and resources and activities in respect of the Kirklees Partnership Executive and partner bodies within the portfolio

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 relating to education matters shall also include the above representatives 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 Strategic Partnership body.

6.3 Ad-hoc Scrutiny Panels 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.

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 Committees

6.3.3 The Overview and Scrutiny Management Committee will appoint members to any Joint Health Scrutiny Committees 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 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 a

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 and 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 and scrutinise decisions made or actions taken by the Local Strategic Partnership or bodies within its structure, in relation to the Local Area Agreement.
- f) Consider any matter affecting the area or its inhabitants.
- g) Consider how the services and resources of other organisations in the district impact on Kirklees residents and liaise with other external organisations operating in the District, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.
- h) Make reports or recommendations to the full Council, the Cabinet/Cabinet Committees or any joint or area committee on the outcomes of the scrutiny process and in connection with the discharge of any function.
- i) Assist the council and the Cabinet/Cabinet Committees in the development of the budget and policy framework.
- j) Conduct research, involve the community and undertake other relevant consultation.
- k) Invite attendance by appropriate individuals (with the agreement of the Overview and Scrutiny Management Committee) to advise them (as an

expert witness). Such individuals will have expertise in the area being scrutinised, e.g. they may be a service user or a professional or academic in the relevant discipline.

- l) Question Cabinet Members in relation to the overview and scrutiny of Cabinet/Cabinet Committee recommendations and the performance of Council services. (In the case of Cabinet/Cabinet Committee recommendations to Council, scrutiny will take place before the recommendations are considered by full Council). Cabinet Members and appropriate officers are required to be available to attend meetings of the relevant Overview and Scrutiny Management Committee/Panel if so requested.
- m) Question Council Officers in relation to the overview and scrutiny of service performance/delivery and the reports on which Cabinet/Cabinet Committee decisions are based. Such officers are required to attend meetings of the relevant Overview and Scrutiny Management Committee/Panel if so requested.
- n) Request attendance by the council's section 41 representatives (joint authorities) in connection with the scrutiny of those bodies.
- o) Invite attendance by senior representatives of outside organisations and invite reports from them on their activities and performance, where necessary, in accordance with the Management Committee's/Panel's terms of reference.
- p) Question and gather evidence from any person (with their consent)
- q) Make recommendations to Cabinet/Cabinet Committee and/or Council on issues arising from the overview and scrutiny of Cabinet/Cabinet Committee decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.
- r) Identify issues for attention within the terms of reference of overview and scrutiny.

COUNCIL PROCEDURE RULES

(A) Meetings of the Council

1. Annual Meeting of the Council

(1) Timing and Business

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

At the Annual Meeting the agenda will be as follows:

CIVIC AND PROCEDURAL

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

ELECTION OF THE EXECUTIVE

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

CONSTITUTIONAL BUSINESS

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

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

(2) Selection of Councillors on Committees

At the Annual Meeting, the Council will:

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

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

Dates of Council Meetings

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

Extraordinary Meetings

- (2) Those listed below may request the Assistant Director - Legal and Governance to call Council meetings in addition to ordinary meetings:
 - (a) the Council by resolution;
 - (b) the Mayor, following consultation with the Chief Executive or following a written requisition signed by five Members of the Council;
 - (c) the Chief Executive, the monitoring officer and section 151 officer;

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

Venue and Start Time

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

Council Summons

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

Chair of Meeting

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

3. Budget Meeting

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

4. Quorum of Council

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

5. Order of Business

- (1) There shall be two types of ordinary meeting of the Council, one which focuses on **Holding the Executive to Account** and one which focuses on Key Discussions. The designation of each Council meeting shall be set (and published) at the start of the municipal year by the Chief Executive in consultation with the Group Leaders, but may be changed during the course of the year by the Chief Executive in consultation with the Group Leaders if it

is considered necessary for the efficient operation of the Council, provided that no less than four ordinary meetings are designated as Holding the Executive to Account. The content and running order of the business to be transacted at each ordinary meeting of Council may be altered in advance by the Chief Executive in consultation with the Mayor and Group Leaders if it is considered necessary or appropriate for the efficient operation of the Council.

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

PROCEDURAL

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

PUBLIC

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

DECISION MAKING

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

CABINET AND COMMITTEE

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

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

CABINET AND COMMITTEES

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

MEMBER MOTIONS

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

GENERAL

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

KEY ISSUES

- j) To receive presentations and/or reports on key issues and debate the same in accordance with Rule 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 note Rule 14 (5), if any, in the order which they have been received by the Head of Policy & Governance Assistant Director – Legal and Governance

GENERAL

- m) Other matters for consideration by Council including reports back on Resolutions from previous Council meetings and action regarding any

deputations or petitions received by Council.

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

6. Limitation of Business

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

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

7. Minutes

Correct Record

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

Accuracy

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

Submission to Council

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

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

- (1) No discussion shall take place on any announcement made by the Mayor or

Chief Executive.

- (2) Any Member may propose that the subject matter of any announcement be referred to Cabinet or an appropriate Committee, Sub-Committee, or Panel and such a motion, on being seconded, shall be put to the vote immediately.

9. 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 Assistant Director for investigation and report to Cabinet or an appropriate Committee.

10. 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

- (24) The deputation shall not exceed five persons. Only one person shall speak, and the speech shall not exceed five minutes.
- (53) 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

- (64) 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.~~

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~~(2) When a petition is received at a Council meeting no discussion shall take place on the item.~~

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~~*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.~~

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

Who Can Ask A Question?

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

When Questions Cannot Be Asked

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

Questions Which Will Not Be Answered

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

Questions To Be Within Terms of Reference

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

Time Allowed for Questions

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

Answers to Questions

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

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

An answer may take the form of:

- (a) a direct oral answer; or

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

Recording in Minutes

- (7) The Assistant Director - Legal and Governance shall record in the Minutes of the meeting the question(s) and the name of the respondent.

Questions Ruled Out of Order

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

Referral of Subject Matter

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

12. Written Questions by Members

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

The following provisions shall apply to written questions by Members which must be received by the Assistant Director - Legal 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, Sub-Committee or Panel or a spokesperson of a Joint Committee or external body, as defined at Rule 13 (4).
- (2) The Mayor in consultation with the Chief Executive may determine that a question shall not be put where the question is substantially the same as a question put at a meeting of the Council within the preceding six months or the question appears defamatory, vexatious or requires the disclosure of confidential or exempt information.
- (3) Priority will be given to questions submitted previously to Cabinet or any Cabinet Committee which have not been answered at the relevant meeting due to time constraints.
- (4) Following consideration of any questions arising from (1) above, questions will be timetabled in the order which they are received by the Governance

Team.

- (5) The Member to whom the question has been put shall give an oral answer at the Council meeting or may nominate another Member to answer if that Member agrees.
- (6) An answer may take the form of:
 - (a) a direct oral answer; or
 - (b) a reference to a publication of the Council which contains the desired information; or
 - (c) a written answer circulated to all Members within 7 days of the Council meeting.
- (7) The period allowed for written questions at any one meeting shall not exceed 30 minutes.
- (8) Where written questions are not addressed within the above timescale, then the question will be referred to the next relevant Cabinet/Committee meeting for reply. Any such questions will only be responded to if the Member who put forward the original question to the Council meeting is in attendance at the Cabinet/Committee/Sub-Committee/Panel meeting to ask the question. Written questions to spokespersons of Joint Authorities not dealt with within the above timescale will be answered by means of a written reply within 7 days of the meeting and be circulated to all Members of the Council.
- (9) When an answer to a written question has been given, the Member who asked it may ask one supplementary question relating to the same topic. Such a supplementary question must follow straight on from the Member's answer to the original question.
- (10) A written question must be relevant to the Terms of Reference or powers or duties of Cabinet or of the relevant on the Committee/Sub-Committee/Panel or ~~which~~ affects the area of Kirklees.
- (11) The Assistant Director - Legal 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 Assistant Director - Legal and Governance until the time of the next Council meeting and made available for any Member who wishes to make a written record of a particular supplementary question and answer.

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

- (1) *Minutes for Information / Reports which require approval*
 - (i) Any matter expressly referred to Council by Cabinet or a Committee for determination shall be dealt with first.

- (ii) Minutes of meetings of Cabinet and Committees shall be presented to Council meetings for information as a basis for questioning and comment. There shall be no need for any motion or vote to receive them. If the minutes are not considered due to lack of time they shall be deemed to have been presented to Council and will not, therefore, require resubmission.

(2) *Questions on Cabinet Minutes*

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

(3) *Questions on Committee Minutes*

- (i) The Minutes of other Committees submitted to Ordinary meetings of the Council shall be set out in alphabetical order.
- (ii) Any member may comment on any item within the Committee minutes presented to the meeting
- (iii) Any Member may ask the chair of the relevant Committee a question upon any item within that Committee's Terms of Reference or the spokesperson for any of the Joint Committees or external bodies

identified in Rule 13(4)

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

14. Notices of Motion

Submission of Motions

- (1) Every notice of motion (with the exception of those proposed in accordance with Rules 14 and 18) shall be submitted in writing and delivered to the Assistant Director - Legal 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 Assistant Director - Legal and Governance will record the date and time of receipt of each motion in a register. This register shall be open to inspection to every Member of the Council.

Motions Which Have Revenue Effects

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

Relevance

- (4) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the area of Kirklees.

Five Minute Motions

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

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

Motions Not Accepted

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

Withdrawal

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

Inclusion on Council Agenda

- (8) The Assistant Director - Legal 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 Assistant Director - Legal 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 Assistant Director - Legal 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 Assistant Director - Legal and Governance who will notify the groups or individual Members to allow them to consider the proposals.

Alterations to Motions and Amendments

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

15. Motions and Amendments Which May Be Moved Without Notice

The following motions and amendments may be moved without notice:

- (1) Appointment of a Chair of the meeting at which the motion is moved.
- (2) Questioning the accuracy of the Minutes of the previous meeting of the

Council.

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

16. Termination and Adjournment of Meeting

- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time.
- (2) A meeting of the Council (except the Annual Meeting) shall terminate at 9.00 p.m. unless a Member moves a motion that the meeting shall continue until (i) a later time (to be specified in the motion) or (ii) the conclusion of the business of the meeting. If the motion is seconded it shall be put to the meeting without comment.
- (3) If the motion is passed the meeting shall continue until the time specified or until the conclusion of the business of the meeting.
- (4) At 9.00 p.m. or such later time as the Council has agreed, the Mayor shall have discretion to grant an additional period of time to allow the item under consideration at that time to be concluded. Otherwise, the Mayor shall
 - a) allow no further points of order to be raised by any other Member.
 - b) interrupt the discussion of the item being considered by the meeting.
 - c) allow the proposer of the motion then under consideration a maximum of five minutes to reply to the debate unless he/she seeks leave to withdraw the motion.
 - d) put (without discussion) all of the questions necessary to dispose of that motion, unless the motion is withdrawn.
 - e) put (without discussion) all of the questions necessary to complete the consideration of any reports of Cabinet or any Committee, which are on the Agenda for the meeting, unless the Member appointed to preside in any such body (or a person on his/her behalf) indicates a wish to the contrary.
- (5) Any Motion given under Rule 14 not considered due to time constraints shall automatically be rolled over for consideration at the next Ordinary Council meeting unless the motion is subsequently withdrawn by notification to the Assistant Director - Legal 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 Assistant Director - Legal and Governance shall indicate on the Agenda which item of business (if any) is to be treated as opposition priority business.
- (5) If consideration of an item of opposition priority business has not begun two hours after the start of the meeting it will be brought forward and considered immediately after the conclusion of the item of business then under discussion.

18. Rules of Debate

Motions and Amendments

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

Seconders Speech

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

List of Names of Those Wishing to Speak

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

- the Mayor

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

Addressing the Mayor

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

Content and Length of Speeches

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

Additional Time For Speeches

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

When a Member May Speak Again - Adoption of Reports

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

When a Member May Speak Again - Other Motions

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

Exceptions to Speaking Only Once

- (10) The requirement that a Member shall only speak once shall not prevent a Member from speaking:
- (i) in exercise of a right to reply,
 - (ii) on a point of order,
 - (v) by way of personal explanation.

Amendments to Motions

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

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

Discussion of Amendments

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

Motion as Amended

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

Withdrawal of Motion/Amendment

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

granted permission for its withdrawal.

Right of Reply

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

Motions which may be moved during debate

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

Closure Motion

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

Point of Order and Personal Explanation

- (18) A Member may rise on a point of order or in personal explanation, and shall

be entitled to be heard immediately. A point of order shall relate only to an alleged breach of one of these Rules or the law and the Member shall specify the Rule or the law and the way in which it has been broken. A personal explanation shall be confined to some material part of a speech by the Member in the Council meeting which may appear to have been misunderstood in the present debate. A personal explanation may not be made in any other circumstances and in particular reference in a speech to another Member does not give that Member any right of personal explanation except in circumstances specified above.

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

Relaxation by the Mayor of Rules of Debate

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

Mayors Authority

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

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

Motion referred from Cabinet

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

Motion distributed by Chair of Cabinet

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

of the Council.

Amendments

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

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

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

Notification of Amendments

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

Submission of Further Motions and Amendments

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

Limitations

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

20. Motion affecting persons employed by the Council

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

21. Members Conduct

Member not be heard

- (1) If at a Council meeting any Member of the Council (in the opinion of the Mayor) persistently disregards the ruling of the Mayor or behaves irregularly, improperly, offensively or obstructs the business of the Council, the Mayor or any other Member may move "That the Member named be not heard further on the item of business before the Council". If the motion is seconded it shall

be determined without discussion.

Member to leave the meeting

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

General Disturbance

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

Mayor's Power to Adjourn

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

22. Disturbance by the Public

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

23. Previous Decisions and Motions

Motion to rescind a previous decision

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

Motion similar to the one previously rejected - exceptions

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

24. Voting

Show of Hands / Voting Equipment

- (1) Voting at Council meetings shall be as directed by the Mayor, either by a show of hands or by use of the electronic voting equipment unless a Ballot is

agreed under paragraph (5). Where a recorded vote is taken under paragraphs (3) and (4) below, then the result of the vote shall be recorded by the process under paragraph (4) below.

Casting Vote

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

Recorded Vote

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

Ballots

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

Right to require individual votes to be recorded

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

Voting on Appointments (including Mayor and Leader)

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

25. Failure to Attend Meetings

- (1) In accordance with the Local Government Act 1972, if a Councillor attends no meetings of the Authority for six months the Chief Executive will tell the Council (unless the Member has been granted leave of absence by the Council). The Council will consider whether the absence was caused by some reason approved by them. If they are not satisfied about the cause of the failure, the Member will cease to be a Member of the Council.
- (2) For the purpose of this Rule a meeting of the Authority shall include:-

* the Council, Cabinet or any Committee, Sub-Committee or Panel; or

- * any Joint Committee or Joint Board which has Council functions delegated to it;
- * any other body at which the Member represents the Council.

26. Personal or Prejudicial Interests of Members

- (1) Any Member who has a personal or prejudicial interest as defined by the Council's Code of Conduct in any matter shall comply with the requirements of that Code in respect of that interest. Those requirements may include:
 - (a) declaration of the interest at meetings
 - (b) withdrawal from meetings while the issue concerned is under debate
 - (c) giving of written notice in the register kept by the Assistant Director - Legal 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 Assistant Director - Legal 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 Assistant Director – Legal and 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 Assistant Director – Legal and 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 Assistant Director – Legal and 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 in writing to the ~~Head of Policy & Governance~~.
Assistant Director – Legal and Governance.

32. Interest of Officers in Contracts

The Assistant Director - Legal 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 Assistant Director - Legal 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~~ Assistant Director – Legal and Governance 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 Assistant Director - Legal 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) Subject to paragraphs (3) and (4) below A 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 ("the Code") unless attending for the sole purpose of making representations, answering questions or giving evidence relating to that business and members of the public are also allowed to attend the meeting for the same purpose (in accordance with paragraph 12(2) of the Code).
- (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 Assistant Director – Legal and Governance 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 or administrative function when it is considering its decision.

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(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.

(3) Councillors who attend a Planning Committee or Sub-Committee but who:

- (a) Are not members of that Planning Committee or Sub-Committee; or
- (b) Are members of that Planning Committee or Sub-Committee but who have indicated that they will not be voting on an application because, for example, they believe that they may have predetermined it
- (c) or wish to make representations rather than participate in the determination of the application

shall be entitled to speak once for a maximum of five minutes.

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(4) Councillors who have a prejudicial interest in a planning application and who attend a Planning Committee or Sub-Committee in accordance with the provisions of paragraph 12(2) of the Code shall be entitled to speak once for a maximum of three minutes.

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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 Assistant Director - Legal 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 two Kirklees Members, one independent Member and (for Parish business only) at least one Parish Member are 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 Assistant Director - Legal 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 Assistant Director – Legal and 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 Assistant Director - Legal 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 Assistant Director - Legal 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 Assistant Director - Legal 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.

- ~~(5) At any meeting of a Planning Committee or Sub-Committee, the Chair may propose that a recorded vote is taken on an item to record how each Member present at the meeting intended or decided to vote. This proposal for a recorded vote will only be effective if it is supported by at least two other Members of the Committee or Sub-Committee and is made before any votes have been cast.~~

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 Assistant Director - Legal 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.

KIRKLEES COUNCIL

**PROTOCOL FOR PLANNING COMMITTEES
AND SUB-COMMITTEES**

1. BACKGROUND AND INTRODUCTION

1.1 This protocol replaces and updates that which was approved by a joint meeting of the Council's Standards Committee and the Planning & Highways Committee on 16 July 2007.

1.2 The aim of this protocol is to ensure that the planning process operates properly, legally and effectively and that there are no grounds for suggesting that a decision has been biased, partial or not properly considered and made in any way. It is also intended to help councillors work effectively and seek to achieve their aims within the regimes which govern development control.

1.3 Your role as a member of the planning authority is to make planning decisions openly, impartially, with sound judgment and for justifiable, properly balanced reasons which must be relevant to planning issues. If for any reason you would have difficulty in complying with this protocol or if you would usually prefer to be able to champion your constituents' point of view, you should not accept appointment to the committee or sub-committee, nor attend as a substitute.

1.4 When the protocol applies: This protocol applies to councillors at all times when involved in the planning process. This includes taking part in decision making meetings of a planning committee or sub-committee, or when involved on less formal occasions, such as meetings with officers or the public. It applies equally to planning enforcement matters or to policy issues relating to a specific site as to planning applications. Part 10 of the protocol draws attention to issues affecting all councillors, whether or not involved in decision-making.

1.5 If you have any doubts about the application of this protocol to your own circumstances, you should seek early advice from the *Assistant Director Legal & Governance or one of their staff*, preferably well before any meeting takes place. Senior Planning Officers and Decision Support Officers are also able to assist.

2. RELATIONSHIP TO THE COUNCILLORS' CODE OF CONDUCT:

2.1 This protocol is additional to the councillors' code of conduct. You should always apply that code first to any issue arising and declare any personal or prejudicial interests which you may have and, in the case of a prejudicial interest, leave the meeting during the consideration of the item (unless you have been allowed to stay to make a statement as permitted by the revised code of conduct, in which case you should leave as soon as you have made that statement). As with all other matters, the duty to declare an interest also applies where it is a member of your family, a close associate of yours or your employer etc, who has an interest as defined in the code of conduct. It would be helpful if you could avoid confusing that sort of interest with the other issues raised under this protocol, especially those in part 3 below.

3. AVOIDING BIAS AND PRE-JUDGEMENT IN THE PLANNING PROCESS:

3.1 Making a decision on planning issues is an administrative function affecting the interests of applicants and potentially objectors and any one else affected by the proposal. This means that you should act entirely impartially and without any prejudgement when making such decisions. Nationally the tendency for disappointed applicants or objectors in planning matters to take their cases to court or elsewhere is increasing, so you need to be aware that failure to follow these requirements could lead to legal challenge of the decision or reference to the Ombudsman. It could also on occasion constitute a breach of the councillors' code of conduct. This protocol is intended to help you to avoid that.

3.2 It is also important to remember that if you have a personal interest in an issue before the committee it could lead to a clear appearance of bias, even though, under the revised code of conduct, it may not be a prejudicial interest (if it does not relate to an application by yourself, a member of your family or a close associate etc. and the proposal would not affect your or their financial position). If you have such an interest you should take the action set out in para 3.3.7 below.

3.3 If you are taking part in a planning decision (whether as a member of the committee or sub-committee or as a substitute) you should always bear the following in mind if you are to be sure of making a valid and unchallengeable decision.

3.3.1 You must be completely impartial and come to the meeting with an open mind as to the ultimate decision.

3.3.2 On the other hand, you may come with local knowledge from working the ward, or with a predisposition towards a certain view that, for instance, you are concerned about highways issues and want to see that those are properly dealt with; or perhaps with a view that this is green belt and needs strong justification. That would not, *of itself*, constitute pre-determination provided you retain an open mind as to the merits of the application before the final decision is made at the committee meeting.

3.3.3 You must consider all the matters and information available at the meeting and make the decision on the basis of all matters relevant to planning (which may include issues you are already aware of - it might be helpful for those to be added to the committee discussion) and you need to be ready to give reasons for decisions on the same basis, especially if you go against officers' advice. In that case officers can help to set out your reasons and make sure they are relevant and therefore lawful and effective. Also see paras. 8.5 - 8.9 below

3.3.4 You must remember at the meeting that you are acting as a member of the local planning authority - not as a ward councillor.

3.3.5 You should not take into account any issues not relevant to planning (officers can advise on issues which may or may not be legally regarded as relevant; examples are set out in part 8 of this protocol).

3.3.6 You should not come to a view or express an opinion on the merits of any applications before the meeting - otherwise you could be found to have predetermined the issue without the necessary full information and potentially invalidated the decision. In those circumstances, you should not take part in the vote on the particular application. See, however, the comments in 3.3.2 above. While it's sensible to try to avoid unnecessary

comment (which can be misunderstood or misrepresented) there's nothing wrong with having concerns or issues which you want to examine in the decision-making process.

3.3.7 You should, if you are at risk of having pre-determined an issue or if you have a personal, non-prejudicial interest under the code of conduct which could nevertheless give a real appearance of bias, declare that fact at the meeting and make clear that you will not be taking part in the vote. If you wish to speak on the application, you should leave the committee arena and sit in the public area and wait to be invited to speak by the chair. Remember, though, that if you have a prejudicial interest under the code of conduct, you will have to leave the room after taking any opportunity to make a statement. Any such statement should, of course, be similarly made from the public area.

3.3.8 You should not seek to champion the views of your constituents on an application (whether for or against), either at the meeting or beforehand - though, of course, those views, if material in planning terms, should be taken into account and you can show that you understand and are aware of them - though, again, beware of incautious comment which could be misunderstood or misrepresented even if you are in fact behaving quite properly.

3.3.9 You should not lobby officers or other members on any application on which you will be making a decision. That is very likely to compromise your impartiality.

3.3.10 You may ask questions or seek clarification on matters which you find unclear or which concern you if this will help you to gain the information you need to make the decision.

3.3.11 You should not make statements to the press on any application which you may be considering (but see also 4.2.6 below);

3.3.12 You should not come to any prior agreement or understanding with any other councillor on the merits of an application or about how to vote - we have in the past been criticized by the Ombudsman for this. That doesn't stop you from discussing issues and concerns with other councillors - but be careful of appearing to be in breach of this or para 3.3.9 and hence not appearing impartial.

3.3.13 You should decide how to vote individually and should not vote in any particular way just because that is how other councillors (e.g. members of your political group) are voting.

3.3.14 You should follow the guidance set out in the following sections if developers or constituents approach you.

3.4 Where an application is considered at a committee or sub-committee meeting and then deferred, many councillors will obviously have expressed opinions or, on occasion, voted. That does not cause any substantial problem at the subsequent decision-making meeting, but you must ensure that at that meeting you come prepared to take into account any new information or additional comments and consider the matter afresh in the light of that and if necessary make that clear in any public comment which you might make. Also, see section 6 about parish council considerations.

4. LOBBYING AND CONTACT WITH APPLICANTS AND OBJECTORS

4.1 Any councillor could be the subject of lobbying over planning issues. Lobbying occurs when an applicant, objector or supporter seeks to influence a councillor to change their mind or to adopt and support their point of view. This includes contact by letter, e-mail, 'phone or in person to discuss or put forward specific points of view regarding forthcoming planning decisions.

4.2 Lobbying is a normal and perfectly proper part of the political process. However, you need to understand and accept that where you are making a decision on a planning issue, you are acting in a different role from that of ward councillor. Lobbying can, therefore, unless care and common sense are exercised by all concerned, lead to your impartiality and integrity being called into question. In order to avoid any such criticism or legal challenge and to preserve your right to vote on an application, you should follow the following advice.

4.2.1 Avoid organising support for or opposition to a planning application or involving yourself in such a process and avoid lobbying other councillors on the issue.

4.2.2 If applicants, potential applicants or objectors ask to meet you about a proposal, refer them to another councillor who does not serve on the planning sub-committee and will not be involved in the decision; alternatively refer them to an officer. *If however, the proposal is complex, controversial or of major local significance, eg a new supermarket, landfill site, large housing estate, then you may consider that the process would benefit from engaging councillors in pre-application discussions. In such a situation it will be important for you to follow the guidance set out in section 5 of this Protocol about pre-application discussions.*

4.2.3 If any one (including another councillor) does lobby you or raise issues about a particular proposal, refer them to officers for advice on procedure and suggest that they send their comments to officers so that they can be included in the committee report; it is also a good idea to explain why you have to remain completely impartial.

4.2.4 Keep a record of any approaches by lobbyists and the response given or action taken; these records should be incorporated in the form attached as an appendix to this protocol and the relevant records produced at the start of each sub-committee meeting - but note that this is a separate process from that which relates to declaration of personal or prejudicial interests under the members' code of conduct.

4.2.5 Minimise social contacts with known developers and agents and refrain altogether from such contacts when pre-application work is under way or a planning application has been received and is being considered by the authority;

4.2.6 When approached by anybody (including the press) regarding a particular application, take care to avoid expressing an opinion which others might regard as indicating that you have already made up your mind on the issue before hearing all the information and arguments presented at the subcommittee meeting. You can, if pressed, perhaps, indicate the sort of concerns or issues which you think you'll need to consider when making the decision, but remember that if you cannot clearly demonstrate that at the meeting you have an open mind and are balancing all the various issues and arguments, you run the risk of potentially invalidating the decision and making the Council subject to legal challenge. So make sure that you also say that you will not be making a decision until the meeting.

4.2.7 If you cannot avoid expressing a clear opinion on the decision beforehand, disclose this at the committee (as part of the disclosure of lobbying). You should not then vote on the item unless you made it clear when expressing the opinion that your views were preliminary only and that a final decision would be made at the sub-committee meeting when you had the opportunity to review all the issues and arguments. If you do have to drop out of a particular decision, you should not take part in the discussion on the item, but may, if you wish to speak, move away from the other members of the committee to the public area and comment when invited to do so as with other non-committee members and the public.

4.2.8 Remember that your overriding duty in this role is to the whole community not just to the people in your ward and, taking into account the need to make decisions impartially, you should not improperly favour any person, company, group or locality or appear to do so. If local people put you under pressure, or you want to try to be as helpful as possible, try to explain the reasons why you can't favour one side or the other, tell them the best way to get their views across, tell them how to contact another councillor who can help them, or refer them to officers who can explain the issues and reasons.

4.3 Public Meetings are unlikely to be necessary or appropriate in most cases, since the process was adopted of allowing applicants and objectors to attend and make comments at planning sub-committee meetings. Nevertheless, on occasion they may be appropriate where there is a need for a forum to allow clear expression of a volume of concern on a controversial proposal. It may also very occasionally be necessary and beneficial in order to assist in the determination of a planning issue. If so it is vital that you avoid acting in a way which could lead to an appearance of pre-judgement or bias. So, if anyone asks you to organise or attend a public meeting about a specific application, you should try to avoid doing so, though you may refer the request to officers. Certainly you should avoid attending any public meeting at which officers are not present - otherwise you may be accused (rightly or wrongly) of having done so because you favour one side or the other and it might well be difficult to avoid giving that impression. If you do attend, you should do so bearing in mind all the comments set out above and should ensure that it is made clear that you are unable to form or express any view before the committee meeting- but that obviously doesn't stop you from listening to what is said or making it clear that you are listening. Don't forget, though that you need to be able to differentiate, when you do make the decision, between issues which are relevant to planning decisions and those which are not. Officers will be able to assist by answering technical questions and helping to explain why you are unable to support either side. The same advice as above applies to avoiding expressing any opinion on the ultimate decision at such a meeting.

The public meetings referred to here should be distinguished from briefings, developer presentations etc that are organised by officers as part of any pre-application discussion process with councillors/members of the planning committee (see section 5 below).

5. PRE-APPLICATION DISCUSSIONS WITH COUNCILLORS

5.1 *Discussions between potential applicants and the council prior to the submission of an application, particularly relating to major development, can be of considerable benefit to both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become part of the lobbying process on the part of the applicant.*

5.2 It is therefore essential that where any such discussions are held it is done within carefully established guidelines to protect the council and councillors from allegations of bias, pre-determination etc.

5.3 All arrangements with potential applicants relating to pre-application discussions (whatever form they may take) should be made by officers. Where councillors receive a request to engage in pre-application discussions from a potential applicant they should refer such request to the Planning Case Officer who will consult the Chair of the relevant committee or sub-committee as to whether pre-application discussions are considered appropriate in the circumstances and, if so, the form that such discussions will take. The most appropriate methods of engaging councillors in pre-application discussions are:

- Interim committee reports on pre-application discussions (at the request of a councillor, subject to the approval of the Chair of the relevant committee or sub-committee and the Assistant Director Strategic Investment)
- Public developer presentations to committee
- Development control forums

Informal private briefings or private developer committee presentations may occasionally be appropriate but must be handled carefully to avoid third parties becoming suspicious of the process and the reasons for a private meeting.

5.4 Whatever method of pre-application discussion is adopted, the following guidance will apply:

5.4.1 The purposes of councillors becoming engaged at the pre-application stage should be made clear by the relevant committee/sub-committee Chair or planning case officer at the start of the discussions. The purposes can be summarised as:

- Keeping councillors better informed on major applications and helping them to learn more about emerging proposals
- Engaging members on issues to be dealt with in a formal submission
- Taking account of emerging or existing community concerns at a formative stage
- Obtaining initial member guidance for officer negotiations on major applications
- Identifying issues to be dealt with in any further submissions
- Reinforcing Councillors' roles in their communities.

5.4.2 The Chair or planning case officer will also make clear from the outset that the discussions will not bind the council to make a particular decision and that any views expressed are personal and provisional.

5.4.3 Officers should always be present with councillors at any pre-application discussions. They will be responsible for advising impartially on all planning issues including the development plan, the interpretation of relevant policies and any material planning considerations. Councillors should avoid giving separate planning advice during such discussions as this could result in inconsistent information being given. Neither should councillors become drawn into negotiations with potential applicants.

5.4.4 A written record of all pre-application discussions should always be made by the officer present. This note will be placed on the public planning case file to ensure transparency.

5.4.5 Discussions with councillors at pre-application stage should not be seen as:

- A means by which to find out councillors views on a proposal. Councillors may be in a position to give a preliminary view on a proposal but any members of the planning committee (who are likely to be determining the application when it is submitted) will be advised that they should not express a view which could give the impression that they have pre-determined their position
- An opportunity to conduct negotiations on the application in public
- Any substitute for the formal consultation and processing of an application
- A means by which potential applicants can seek to hold confidential discussions with councillors on the merits of the proposal

5.4.6 Any member of the planning committee who elects, at such discussions, to voice a clear and strong view for or against the proposal being discussed in pursuit of their community champion role could be considered to have pre-determined their position and prejudiced their ability to vote in relation to any forthcoming planning application. They should therefore seek advice from the Assistant Director Legal & Governance as to their future participation in the decision making process.

6. GUIDANCE TO COUNCILLORS WHO ARE ALSO MEMBERS OF A PARISH OR TOWN COUNCIL

6.1 The potential problem is that if you are involved in a meeting of the parish council or its planning committee which decides on the recommendations or comments which are to be given to KMC on particular planning applications and then are also a member of the planning subcommittee which makes the final decision on those applications, you are at risk. The first risk is of having a prejudicial interest in the application at the KMC subcommittee; the second is of being considered to have already made up your mind before coming to that subcommittee and therefore being biased, in legal terms, thus invalidating the subcommittee's decision.

6.2 To minimise this risk, therefore, if you are a member of the KMC planning subcommittee you should always:

- i. make it clear at any meetings of the parish/town council that any views you express and your vote, if you give one, are based solely on the limited information which is before you at that meeting;
- ii. make it clear that you are reserving your judgment and independence, when any application comes before the KMC subcommittee, to make a fresh decision on each application on the basis of all the relevant information which is available to that meeting and

based also on your overriding duty to the whole community and not just the people of the area, ward or parish;

- iii. not in any way commit yourself as to how you may vote when the proposal comes before the KMC subcommittee;
- iv. ensure that the above, or something to that effect, is noted in the parish minutes.

6.3 In addition, any member of a parish council (whether or not on its planning committee) needs to declare a personal interest at the KMC planning subcommittee when considering any application on which the parish council has expressed a view or made comments. Clearly, if the parish council has a greater interest than that (eg the application has been made by the parish council or significantly affects parish property), you should declare a prejudicial interest. That can be done, of course, at the start of the planning subcommittee meeting in the normal way.

6.4 While the process above is a way of minimising the risk of successful challenge, it does need to be remembered that the public and press can misunderstand or (innocently or otherwise) misrepresent your actions which could lead to unjustified criticism or misguided legal challenge. There is also, of course, inevitably the risk that on occasion for some reason something may go wrong and the proper procedure not be appropriately followed. In the light of the increasing tendency to litigation, therefore, although this Council has not so far experienced such a problem, the best advice is, where possible, to avoid playing the dual role and therefore to choose whether to go on the parish council's planning committee or the KMC subcommittee, but not both. That would be the only way of clearly avoiding any of the potential risks and problems referred to above.

7. COUNCILLOR COUNCIL PARTNERSHIP DEVELOPMENT AND DEVELOPMENT ON COUNCIL LAND

7.1 Many of the Council's functions give rise to development which requires planning permission. Similarly, many of the activities carried out through partnerships require planning permission. From time to time the Council will also dispose of land for purposes requiring planning consent. It is important to ensure that particular care is taken with such applications to demonstrate that no preferential treatment is given to them as this could easily give rise to suspicion of bias or impropriety.

7.2 Such applications are dealt with in exactly the same way as any other planning application and members need to take care that they also treat them in the same way when making decisions. It's vital to demonstrate this split between promoting a scheme and making the planning decision; otherwise the latter will inevitably risk being challenged as biased.

7.3 If you were involved in a meeting which made a decision giving rise to the submission of such an application, you should not take part in the decision making process. This will apply principally to members of the Cabinet, through meetings of either the Cabinet or a Cabinet committee. It will also apply if you are, for instance, a director on the board of a partnership company which is submitting an application. In any such case, you will most probably be best advised to declare a prejudicial interest under the councillors' code of conduct and leave the meeting for the consideration of that item. Similarly, if the proposal is a major council-driven project of such significance to your ward or to the borough as a whole that you want to support it or express your views about it, you can do so, but only if you then remove yourself from the decision-making on the planning application.

8. SITE VISITS

8.1 The purpose of a site visit is to enable committee members to see the physical attributes of the site and its setting which are part of the material considerations in cases where these are not readily capable of being appreciated from documentary material. Officers may arrange a site visit where they consider it to be appropriate.

8.2 You, as a ward councillor, may also request a site visit on any application being considered by committee within your ward, provided that the request is made in writing to the planning officer with a reason which relates to some aspect of the site or the development (*you should have regard to the provisions of paragraph 9.6 below to help you to formulate appropriate reasons in support of your site visit request*) and takes account of the purpose of site visits mentioned above and which can be incorporated in the officer's report to committee; and the request is lodged as soon as possible and in any event before the finalisation of the agenda for the sub-committee at which the application is due to be considered - i.e. 10 working days before the date of the meeting - in order to allow it to be included on the agenda and the itinerary. Remember, however, that if in that written request you express an opinion on the merits of the application, you may well disqualify yourself from taking part in the decision. Try to limit your comments to identifying issues which you think the site visit will help to clarify. This advice also applies if you request that a decision is referred to committee rather than being made by officers.

8.3 Alternatively, the committee may itself decide to defer an application for a site visit through the normal course of debate and vote.

8.4 On a site visit, councillors will have the opportunity to view the site and officers can point out significant features. You should try to avoid being lobbied by the public, but if this is unavoidable, you should react as in the guidance on lobbying above and declare the fact on return to the committee meeting room.

8.5 If other ward councillors attend a site visit, they should not carry out any lobbying of their own *and should not join members of the planning committee on the site visit bus.*

8.6 Anyone (public or ward member) who is unable to attend the meeting to present their views will not be able to use the site visit for that purpose and should, therefore, be encouraged to put their views in writing to the planning officers beforehand.

8.7 All members of the committee should attend site visits since they are an integral part of the committee decision-making process. However, since this does not always happen you should try to avoid asking officers for additional information until you get back to the meeting room. Nevertheless, to ensure that all councillors at the meeting have, as far as possible, the same information before them, officers will provide at the meeting a summary of any significant additional information provided or issues raised on the site visit.

9. CONDUCT AT THE COMMITTEE MEETING

9.1 Separate *guidance set out in The Public Speaking Protocol* is available for members of the public on the process allowing them to put their views in the course of the debate on any particular application. Bear in mind that many of them will not be familiar with planning procedures or with what is or is not a material consideration. Nevertheless, they should obviously be treated with respect. It is also vital that the procedure for public comment is closely followed in every case, to avoid complaints that some individuals are being treated differently from others.

9.2 Councillors who attend the committee or sub-committee as observer in accordance with Council Procedure Rule 36 (CPR 36) together with any member of the committee who has indicated that because, for instance, of a prior expression of a view, he/she will not be voting, but still intends to contribute to the debate, will be bound by the 5 minute time restriction specified in CPR 36.

9.3 Every effort will be made to ensure that the seating arrangements make it clear who are the members of the committee. Wherever possible, therefore, the public will be kept separate from the committee members and other members of the Council should also avoid sitting with the members of the committee.

9.4 If you are a member of the committee, you should, as far as possible, avoid contact with members of the public. This will ensure that you are not subject to last minute lobbying, or provision of information which is not available to the rest of the meeting, and it will also protect you from appearing to favour or have a relationship with one side or the other on a particular application. This applies before, during and immediately after the meeting. Only the chair should speak to members of the public during the meeting or ask questions (e.g. for clarification). If any other councillor needs clarification, they should raise the issue with the chair, who will decide how to deal with it.

9.5 Remember that you must be able to justify any decision on planning grounds. If you wish therefore to vote on a decision in a way which is different from the officers' recommendation, you should be clear what your reasons are for that.

9.6 Relevant planning issues, which you can take into account, include:

- The Development Plan and the various policies which it contains
- National or regional guidance
- The Council's supplementary planning guidance/documents
[Remember that if you are proposing not to follow any one of the above three, then you'll need reasons for that too.]
- The planning history of the site
- The visual impact of the development
- Effect on public amenity
- Access, traffic and highway considerations
- Impact on listed buildings, conservation areas or protected trees
- The views of local people insofar as they are based on relevant planning issues

When formulating reasons which you consider will justify a decision contrary to the officer's original recommendation you should always have regard to the principles set out in paragraph 1.3 above.

Matters which are not material planning considerations and which, therefore, cannot be taken into account include:

- Effect on property values
- The character, identity or personal circumstances of the applicant or objectors
- Boundary or property disputes
- How the application affects a view (as opposed to the wider effect on public amenity)
- Issues of commercial competition
- Land or property values
- Moral or ethical issues or judgments
- Weight of numbers of public opposition or support in itself - as opposed to relevant planning basis for such views
- Political manifesto commitments

9.7 Officers will ensure that the practice of seeking clarification when councillors' reasons are in doubt is always pursued and sub-committee chairs, before putting to the vote a proposition or amendment differing from the recommendation should expressly obtain clarification of reasons. If councillors differ as to choice of reasons, then that should itself be the subject of separate amendments. Reasons will be particularly important where officers' advice is strong. Officers will normally indicate where a decision is a close call and the recommendation is therefore on balance. In those circumstances you may simply take a different view of the balance. Where the officer view is unequivocal you need first to be clear in your own mind why you disagree. Officers are professional and experienced and while they are no less fallible than anyone else, their views should be properly considered. It's unreasonable and won't achieve what you want if you simply disagree and then expect officers to work out why. It's your decision and they must be your reasons.

9.8 Similarly, if your view is that a policy, such as green belt, for instance, shouldn't be applied, you need to have a clear reason for that, relevant to the way the policy is expressed. Officers can help with those sorts of issues if you are clear yourself what the problem is. On the other hand, if you are clear in your reasons and clear that they are proper planning reasons, that will make it very much easier for officers (or indeed, you yourself) to defend and explain them if they are challenged on appeal or by judicial review. Ideally there should be a partnership here. Officers are professionals; councillors have democratic accountability. But both have to play the game by the rules.

9.9 If no reasons are forthcoming, or if the reasons given are in the opinion of officers unsustainable due to lack of evidence or lack of relevance to planning issues, the Chair may not allow any motion contrary to the officer recommendation to be voted upon. An application proposed to be decided contrary to the recommendation should, instead, be deferred unless a proposal that can be supported by officers is moved. Deferment will allow officers to provide a further report in the light of councillors' expressed views (though

you need to recognise that this may simply serve to record in writing the absence of justification for the intended decision). Officers will try to help you here - but you need first to help them by being clear in your own mind and by listening to and understanding advice about how planning principles apply to the issue. Where councillors are moving towards approving an application recommended for refusal, deferral will also give an opportunity for officers to produce draft conditions.

9.10 It is the role of the Committee Chair (or Vice Chair if substituting) to guide, manage and control the meeting so that procedures are properly followed, everyone gets a fair chance to have their say, the debate remains focused and relevant, proper standards are maintained and the process is as efficient as possible leading to a clear and rational decision. Councillors (and officers) should do everything possible to co-operate and assist with that. As part of that role, the Chair (or Vice-Chair if substituting) may request that a recorded vote is taken on a particular application for eg. if the application is particularly controversial, there is considerable public interest in the proposal or the decision would be contrary to the officer recommendation or the development plan. It is also the role of the Chair (or Vice Chair if substituting) to summarise and clarify the decision of the committee for the benefit of members of the public so that there is no doubt as to the outcome of the debate.

10. TRAINING

10.1 Making good, justifiable planning decisions is not something which can be done by instinct.

10.2 Before serving on any committee making planning decisions (whether as a full member or as a substitute) any councillor must have undergone satisfactory training, as referred to in this section, in both the procedural issues outlined in this protocol and in the basic principles of planning, so that you can understand the basis on which decisions need to be made and on which officers prepare reports. It will also help you to take a rational approach to the issues discussed in 9.7 and 9.9 above. -This requirement will also apply to training required to refresh and update knowledge and understanding.

10.3 Suitable training will be provided sufficient to ensure that councillors who wish to be involved in planning decisions can do so, but you do need to make an effort to attend, since it is not possible to make arrangements which are totally convenient for everybody.

10.4 Group business managers should not nominate anyone for membership of any committee which will be making planning decisions unless that councillor has either undergone training or is prepared to do so before taking part in the relevant committee meetings. Councillors should also be prepared to attend annual updating training.

10.5 The only basis on which any councillor may take part in such a meeting without having undergone training will be if, during the period between elections and the provision of the next training session, there are insufficient trained councillors available and prepared to sit on committees in the meantime. In those circumstances, any such councillor will need to attend an initial briefing with legal and planning officers to give them a basic understanding of the issues.

10.6 Annual updating training will also be provided. You will not be able to continue to take part in planning decisions unless you take part in that training.

11. ADVICE TO ALL COUNCILLORS

General

11.1 Any councillor, whether or not involved in decision making on planning issues, could benefit from reading this protocol as it may assist from time to time in explaining issues to constituents who are puzzled by the planning process. All councillors also need to understand how best to represent their constituents when not involved in the decision making process.

11.2 You may well be lobbied by individuals in favour of or opposed to any application, or, indeed, you may have views of your own as the local ward councillor. If so, those views should be expressed to officers. You should avoid lobbying or trying to persuade members of the decision making committee to come to a view beforehand. Doing so will only put at risk that member's ability to take part in the decision.

11.3 You should not, however, exert any improper pressure on officers to make a decision or recommendation contrary to their professional judgment. If you disagree with that judgment you can, of course, raise the issue with a more senior officer. Nor should you lobby members of the sub-committee - in particular make sure you avoid the temptation to seek the support of your ward or group colleagues on the planning sub-committees. Doing so would only make any decision challengeable.

11.4 Please also note the advice on requesting site visits in section 8 which applies to all ward members.

11.5 Local ward councillors may attend site visits, but will not be able to carry out any lobbying on the merits of an application on such occasions.

11.6 Ward councillors may also attend the sub-committee meeting at which decisions are taken. If you do so, you should sit apart from the committee members, with those attending from the public. If you wish to speak on a particular application, you should do so only when specifically invited by the Chair and should act in accordance with the guidance on statements by the public (available at the meeting).

11.7 If you are unable to get to the meeting, then any views which you wish to express should be put in writing to the Planning Officer.

11.8 You should remember that officers have a duty to give impartial advice on planning applications and other planning matters and to make recommendations (or decisions on delegated matters) in the light of all the relevant planning issues using their professional judgment. Where there are disagreements between councillors and officers, these should be approached with mutual respect and while you may obviously express your disagreement, that should be on a rational basis and you should avoid personal criticism or abuse.

11.9 You will be informed when training in planning matters is being provided. While training is essential for councillors who will be making decisions, it is open to all and any councillor could benefit from the information which is provided.

Referring applications to committee

11.10 Under the officer delegation scheme, a ward member is able to refer for committee decision any application which would otherwise be determined by officers. Any such

request must be made in writing and must specify their reasons for making the request which must reasonably relate to some aspect of the site or the development (you should have regard to the provisions of paragraph 9.6 above to help you to formulate appropriate reasons in support of your request for referral to Committee). To be a valid request the Chair of the relevant committee or sub-committee must have confirmed that the ward member's reasons for making the request are acceptable. Requests should be received before the earliest date for decision - i.e. three weeks after receipt of the application.

11.11 Ward members who are also members of the committee (or substitutes) should remember that if, in your written request for referral of an application to committee, you express an opinion on the merits of the application, you may well disqualify yourself from taking part in the decision.

Planning applications submitted by councillors and members of their families

11.12 Planning applications that are submitted to the LPA by serving and former councillors, their close associates and relatives, can easily give rise to suspicions of impropriety. Nevertheless, it is perfectly legitimate for such applications to be submitted to the authority for determination. However, it is vital to ensure that these applications are handled in such a way that gives no grounds for accusations of bias or preferential treatment.

11.13 The officer delegation scheme requires that all planning applications submitted by or on behalf of any elected member of the council (in their personal capacity) or any member of their family shall be referred to committee for decision.

11.14 A councillor who has submitted a planning application in their personal capacity will be considered to have a prejudicial interest in that application. You will also be considered to have a prejudicial interest in any application submitted by a member of your family or a close associate. Accordingly, if you are a member of the planning committee (or sitting as a substitute), you should not take part in the decision making process relating to the application and must leave the room. You may, however, prior to leaving the room, take the opportunity to make a statement to the committee to explain and justify your proposal. As the applicant always addresses the committee last, you will have the opportunity to hear the planning officer's presentation and the representations of objectors and any other interested parties before making your statement and then leaving the room.

11.15 It is important to remember that councillors must not seek improperly to influence the decision on their application. Some councillors may therefore, in this situation, consider it unwise to make a statement to the committee and instead may prefer to rely on a third party or planning agent to make their case to the committee for them. However, councillors who do choose to make a statement to the committee personally should observe the same 3 minute time limit set out in the Public Speaking Protocol that applies to members of the public when addressing the committee.

11.16 This advice also applies to all councillors who are not members of the committee or acting as substitute but who choose to attend the committee at which their planning application (or that of their family member) is due to be determined.

KIRKLEES COUNCIL

PROTOCOL FOR PUBLIC SPEAKING AT PLANNING COMMITTEES AND SUB-COMMITTEES

Kirklees Council has two Planning Sub Committees, each meeting on a 4 weekly cycle. The Planning Sub Committee (Heavy Woollen Area) usually meets in Dewsbury Town Hall, and the Planning Sub Committee (Huddersfield Area) usually meets in Huddersfield Town Hall. These are both sub-committees of the Planning & Highways Committee. The meetings commence at 1.00pm. Both venues have public seating areas, where members of the public are able to observe how the decisions on planning applications are made.

Less than 10% of all planning applications are decided at Committee/Sub-Committee. Most are determined by Officers within a delegation scheme as agreed by the Council. However, the applications that are decided by Councillors are usually the most contentious, often relating to large development sites, or proposals that have attracted a lot of public interest. Members of the public are able to address the Planning Committee/Sub-Committee on any application which they are to consider in order to present their own views on the application. Applicants for planning permission and/or their representatives are also allowed to present their views to the Committee/Sub Committee.

If you wish to speak at a Committee/Sub Committee meeting, please aim to arrive by 12.45pm in order to register before the meeting begins. The Town Hall Reception staff will be able to direct you to where the meeting is being held.

The Governance Officer present at the meeting will ask to know your name, the application on which you wish to speak and the capacity in which you will be speaking. Please note that it is not possible to register by telephone prior to the meeting.

You should not normally circulate documents to the Committee/Sub-Committee in support of your presentation that you have not previously made available to the planning case officer responsible for the relevant planning application at least 48 hours before the start of the Committee/Sub-Committee meeting (eg. for meetings commencing at 1pm on Thursdays, the deadline for receipt of additional documents/information etc will be 1pm on the previous Tuesday). This is because all parties may not have time adequately to respond to and address the issues raised in those submissions. In particular, members of the committee are unlikely to be able to give proper consideration to the matters raised and officers are unlikely to be able to provide considered advice on any material considerations. The planning case officer will ensure that the additional information/documents are circulated to all members of the Committee/Sub-Committee in advance of the meeting.

Procedure for the Meeting

- The Chair will begin the meeting at 1.00pm. There will be a number of constitutional items on the agenda that will be dealt with first. The Committee/Sub Committee will then progress to consider the schedule of Planning Applications.
- At the beginning of each application the Chair will indicate which application is to be dealt with. The Planning Officer will make a short presentation and propose their recommendation. Chair will then invite members of the public who have

registered to speak to address the Committee/Sub-Committee. The Chair will have a list of speakers who have indicated that they want to comment on the application, and he/she will call your name at the appropriate time. Local residents and objectors will be called to speak first, followed by any other interested parties, for example, applicants or their agents.

- Your case should be concisely made, concentrating on the 'planning' issues that the Members of the Planning Committee/Sub-Committee can take into account, such as,
 - *The planning history of the site*
 - *The visual impact of the development*
 - *Effect on public amenity*
 - *Access, traffic and highway considerations*
 - *The impact on listed buildings, conservation areas, or protected trees.*

- Matters that cannot be taken into account include,
 - *Effect on property values*
 - *The character or identity of the applicant*
 - *Boundary or property disputes*
 - *How the application affects a view (as opposed to the wider affect on public amenity)*
 - *Issues of commercial competition*

- *Your presentation to the Committee/Sub-Committee should reinforce and amplify the representations on the application that you have already made to the Council in writing.*

Once all representations have been made, the Committee/Sub-Committee will then consider the application. Officers may be asked for more information, or to respond to specific questions, but further comments from members of the public, applicants or agents will not normally be taken, unless the Chair invites further comment. Voting on an application will normally be by a show of hands. *However, in some instances, the Chair with the support of two other members of the Committee/Sub-Committee, may request that a recorded vote is taken.*

Please note;

- *You will be entitled to speak once and you will have a maximum of three minutes to present your case to the Sub Committee and a visible timing system will be in operation to assist you. (Unless you are an elected member to whom CPR 36 is applicable).* The Chair may have to ask you to conclude your presentation if the allotted time has been exceeded.

- *(Councillors who attend committee as observer under Rule 36 of the Council Procedure Rules or members of the committee who choose to make representations as ward councillor rather than participate in the determination of an application will be bound by the 5 minute time limit set out in CPR 36).*

- *You will only be permitted to speak again in exceptional circumstances (as determined by the Chair) and only for the purposes of addressing wholly new issues that may have arisen during the debate or to correct information that is clearly incorrect.*

- You will not normally be permitted to make power point presentations.
- The number of people who will be allowed to speak is at the Chair's discretion, and his/her decision is final. If there are a large number of attendees who wish to comment on the same application, the Chair may ask the group involved to organise a representative so that the case for/against may be put collectively.
- Any representations should be directed to the Councillor who is 'Chairing' the meeting. By convention, this person is addressed as 'Chair'. If you refer to a Member of the Council, then the correct way to do this is to refer to them as 'Councillor (surname)'. Dialogue between members of the public and Members of the Committee or Officers is not permitted once the meeting has started.
- Direct questioning of individual committee members or officers will not be permitted. Any comments must be made to the Chair of the Committee.
- You should not pass messages to members of the Planning Committee before, during or after your presentation.

Agenda for the Meeting

The agenda for the meeting is available one week in advance of the meeting and can be viewed on the Kirklees Website. If you require any assistance in accessing the information, or would like to receive a hard copy of a report, please contact the Governance Officers whose details are provided.

An update is also usually circulated prior to the beginning of the meeting. This will provide details of any amendments made to the applications, further consultation responses and representations received since the formal agenda was published, and may include legal advice from officers to councillors on any issues that have been raised in those representations. However, the update should be brief and not raise wholly new issues.

Additional Information

Decisions on planning applications can be challenged by the applicant making an appeal to the Secretary of State. In the English planning system, third parties e.g. objectors to the application, have no rights of appeal against the decision but may in appropriate circumstances seek to have the decision judicially reviewed in the High Court.

However, the Local Government Ombudsman can investigate any claims that the Council did not follow its own procedures, or allegations of impropriety. Ask a Council Officer for more information if you are considering approaching the Ombudsman.

Contacts:

Governance Team

Heavy Woollen Area Sub-Committee (Andrea Woodside) 01484 221715
Huddersfield Area Sub-Committee (David Gordon) 01484 221714

Planning Services

Development Control 01484 414746

Legal Services

Heavy Woollen Area Sub-Committee (Jo Kingham Slater) 01484 221504
Huddersfield Area Sub-Committee (Deborah Wilkes) 01484 221503

KIRKLEES COUNCIL

Draft Licensing Committee Protocol

This Protocol sets out principles to guide members and officers in determining licensing applications and making other decisions within the terms of reference of Licensing Committee.

Although it is of particular relevance to members of Licensing Committee, it applies to all members of the Council who may become involved in licensing matters.

PROTOCOL - LICENSING COMMITTEE

1. INTRODUCTION

This protocol contains guidance for members of the Licensing Committee. If members are uncertain about the application of the Protocol, they should seek guidance from officers, preferably in advance of any meeting.

Licensing has a very important role to play in the life of the district. The Licensing Committee determines applications under the Licensing Act 2003 and applications under the Gambling Act 2005. The Licensing Act 2003 regulates 'licensable activities' which are defined in the Act as the sale of alcohol, regulated entertainment and late night refreshment. The Gambling Act 2005 regulates the licensing of gambling premises and certain permissions.

In this Protocol, reference to 'the Regulations' means The Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) and/or The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (SI 2007 No 173)

2. INTERESTS OF THE WHOLE COMMUNITY

Members of Licensing Committee should determine licensing matters in the interests of the whole community of the district.

All applications should be determined with regard to the relevant legislation, the statutory guidance and the Licensing and Gambling policy adopted by the Council.

Members of Licensing Committee should not prejudge licensing applications nor do anything that may reasonably be taken as giving an indication of having prejudged licensing applications.

All other members should have regard to these principles when dealing with licensing matters and must avoid giving an impression that the Council may have prejudged the matter.

3. PARTICIPATION OF MEMBERS

Members must consider carefully whether it is right for them to participate in a matter before the Committee. There are two elements to this:

- where they have personal and prejudicial interests
- where members of the public may feel that the member will not be able to approach matters with an open mind and consider the application on its own merits.

While this Protocol seeks to guide Members each situation will be different and Members should seek guidance from Officers.

4. Personal and prejudicial interests

Members must comply with the provisions regarding personal interests and prejudicial interests set out in the Code of Conduct for Members. In particular, members must be mindful that if they have a “prejudicial interest” as defined in the Members’ Code of Conduct, they must withdraw from the meeting and take no part in the matter.

The only exception to this allowed under the Licensing and Gambling Act is where a member may attend to make representations, answer questions or give evidence provided that it is in their capacity as an interested party i.e. they live in the vicinity of the premises under consideration or have been asked to represent interested parties in the vicinity, which should be authorised in writing. See Section 8 below.

Pre-judgment

While the Code of Conduct for Members provides guidance as to personal and prejudicial interests which may affect a member's ability to take part in the decision-making process, members may have other interests which may influence their decision which will not amount to personal or prejudicial

interests for the purposes of the Code. In order to maintain the integrity of the licensing system, members should be careful to ensure that such interests do not unduly influence their decisions. Such interests may arise:-

- from ward concerns
- from membership of other Committees of the Council
- from membership of other public or community bodies
- from membership of voluntary associations and trusts (including where appointed by the Council)
- from a connection with a particular policy initiative of the Council.
- from membership of clubs, societies and groups
- from hobbies and other leisure interests
- from employment or professional concerns

Such interests may mean that a Member is involved with a licensing application before the matter comes before the Licensing Committee. Such involvement need not on its own debar a member from participating in making the licensing decision when the matter is considered by Licensing Committee providing that the member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they can reasonably be seen to approach the application on its own merits and with an open mind. If the member considers that this is not possible, the member should withdraw from consideration of that item.

As a minimum, the integrity of the licensing system requires openness on the part of members; it must operate fairly and be seen to operate fairly.

5. NATURAL JUSTICE

There are two elements to natural justice:

(a) Fairness

When the Licensing Committee is considering an application, the applicant will be given an opportunity to put his/her case before the Committee, in accordance with the Regulations governing such hearings and the procedure adopted by the Licensing Committee. If the applicant or his/her representative does not attend, the Licensing Committee may proceed in the applicant's absence in accordance with the Regulations and the Procedure.

The Licensing Authority will arrange a hearing when it receives relevant representations under the legislation.

All documentation to be considered by the Licensing Committee will be available in advance in accordance with the Regulations and the Procedure. All Members of the Licensing Committee shall be present throughout the consideration of a particular application. Where a Member arrives late or leaves the room once consideration of the matter has started, that Member shall play no part in the decision-making process for the particular application. Where an application is adjourned it shall be heard by the same Members only, and no others.

(b) Prevention of Bias

The rules about personal and prejudicial interests are set out in the Code of Conduct for Members and should be firmly applied. Members are also referred to the guidance about prejudgement in paragraph 4.

When the Licensing Committee moves into private session to consider its decision, it should be accompanied only by its Decision Support Unit Officer and legal adviser who shall have taken no substantive part in the debate, and shall play no substantive part in the decision-making process other than to record and advise.

6. HEARINGS

Hearings shall generally be in public and the Committee shall retire to consider its decision and take advice from officers.

7. DEBATE

Only members of the Licensing Committee can take part in the decision making.

Members of Licensing Committee must:-

- a) listen to all arguments for and against an application and weigh them up carefully before deciding whether to support or oppose a particular application.
- b) make sure that they are not swayed by arguments which are not directly related to the merits of the application.

8. ROLE OF MEMBERS IN RELATION TO APPLICATIONS

Licensing Act 2003

S13 of the Licensing Act 2003 sets out the definition of 'interested parties'; - that is persons who may make representations to licensing authorities on applications for the grant, variation or renewal of a premises licence for the licensable activities covered by this Act.

There are four categories of 'interested parties' described in the Act:

- a) A person living in the vicinity of the premises in question;
- b) A body representing persons living in that vicinity, for example a residents' association;
- c) A person involved in a business in the vicinity of the premises in question;
and
- d) A body representing persons involved in such businesses for example a trade association.

It can be seen that Members are not entitled as *of right* to make such representations in relation to this Act but can do so if they live in the vicinity of the premises (as is the case for any other member of the public) or are requested to represent another interested party.

This section of the Act is explained in paragraphs 8.5 – 8.11 of the Guidance issued by the government and a copy can be obtained from officers if necessary.

Gambling Act 2005

S 158 of the Gambling Act 2005 sets out who is an interested party in relation to an application under this Act for a premises licence for gambling. An interested party is a person who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)

Guidance issued under the Act by the Gambling Commission states at Para.8.11:

'Interested parties can be persons who are democratically elected such as councillors and MPs. Where appropriate this will include county, parish and town councillors. Other than these persons, authorities should require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.'

9. LOBBYING

While recognising that lobbying of members has an important role in the local democratic process, this should not prejudice the licensing process.

Lobbying can, therefore, unless care and common sense are exercised by all concerned, lead to your impartiality and integrity being called into question. In order to avoid any such criticism or legal challenge and to preserve your right to vote on an application, you should follow the following advice.

- Avoid organising support for or opposition to a licensing application or involving yourself in such a process and avoid lobbying other councillors on the issue.
- If applicants, potential applicants or objectors ask to meet you about a proposal, refer them to another councillor who does not serve on the licensing sub-committee and will not be involved in the decision; alternatively refer them to an officer.
- If any one (including another councillor) does lobby you or raise issues about a particular proposal, refer them to officers for advice on procedure and suggest that they send their comments to officers so that they can be included in the committee report; it is also a good idea to explain why you have to remain completely impartial.
- Keep a record of any approaches by lobbyists and the response given or action taken; these records should be incorporated in the form attached as an appendix to this protocol and the relevant records produced at the start of each sub-committee meeting - but note that this is a separate process from that which relates to declaration of personal or prejudicial interests under the members' code of conduct.
- When approached by anybody (including the press) regarding a particular application, take care to avoid expressing an opinion which others might regard as indicating that you have already made up your mind on the issue before hearing all the information and arguments presented at the sub-committee meeting. You can, if pressed, perhaps, indicate the sort of concerns or issues which you think you'll need to consider when making the decision, but remember that if you cannot clearly demonstrate that at the meeting you have an open mind and are balancing all the various issues and arguments, you run the risk of potentially invalidating the decision and making the Council subject to legal challenge. So make sure that you also say that you will not be making a decision until the meeting.

- If you cannot avoid expressing a clear opinion on the decision beforehand, you should not sit on the committee concerned with determining the application
- Remember that your overriding duty in this role is to the whole community not just to the people in your ward and, taking into account the need to make decisions impartially, you should not improperly favour any person, company, group or locality or appear to do so. If local people put you under pressure, or you want to try to be as helpful as possible, try to explain the reasons why you can't favour one side or the other, tell them the best way to get their views across, tell them how to contact another councillor who can help them, or refer them to officers who can explain the issues and reasons.

10. VISITS TO PREMISES

The main role of Licensing Committee is to decide individual applications which is a quasi-judicial function. The Committee may find it useful in the course of its deliberations on an application to visit the premises in question. While it is proper for the Committee to do this, care must be taken not to prejudice the integrity of the licensing process. The following ground rules will help to prevent this

Arrangements for visits should be approved by the Committee and arranged by officers. Members should not make their own arrangements. If Members are approached direct, they should pass the person concerned on to officers.

- Members should not accept any gift or any hospitality during such visits.
- There should be no discussion of individual applications with anyone except fellow panel members
- At such visits, there should be no one-to-one discussions between Members and others.
- Officers should always be present at such visits.

11. PRESS COMMENTS

All members should ensure that any contact which they may have with the press should accord with the principles of this Code and should not affect the integrity of the licensing system.

12. TRAINING

Making good, justifiable licensing decisions is not something which can be done by instinct.

Before serving on any committee making licensing decisions (whether as a full member or as a substitute) any councillor must have undergone satisfactory training in both the procedural issues outlined in this protocol and in the basic principles of licensing law, so that you can understand the basis on which decisions need to be made and on which officers prepare reports.

This requirement will also apply to training required to refresh and update knowledge and understanding.

Suitable training will be provided sufficient to ensure that councillors who wish to be involved in licensing decisions can do so, but you do need to make an effort to attend.

Annual updating training will also be provided. You will not be able to continue to take part in licensing decisions unless you take part in that training.

CGAC7

Contact Officer: Adrian Johnson - Tel. 01484 221712

KIRKLEES COUNCIL

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Wednesday 28 April 2010

Present: Councillor Raistrick in the Chair
Councillors E Firth and D Hall

Ex Officio: Mr P Blythe

1 Minutes of Previous Meeting

The Minutes of the meeting of the Committee held on 12 March 2010 were approved as a correct record.

2 Interests

No interests were declared.

3 Admission of the Public

The Committee determined the part of the Agenda during which the public would be excluded.

4 Deputations/Petitions

No deputations or petitions were received.

5 Review of Scrutiny - Options for the Way Forward

Further to the meeting of the Committee held on 12 March 2010 which considered findings in a report of Professor Taylor, Huddersfield University, following a review of the Scrutiny function, the Committee considered a report of the Acting Assistant Director, Legal and Governance, incorporating a cross-section of views (Overview and Scrutiny Management Committee, Group Leaders, and Cabinet Members) on those findings, and putting forward options for a way forward.

RESOLVED -

(1) That approval be given to the adoption of the approach set out by the Overview and Scrutiny Management Committee.

(2) That the structure proposed by the Overview and Scrutiny Management Committee, as set out at Appendix 2 to the submitted report, be agreed for recommendation to Annual Council, and that a full evaluation of that structure be undertaken after two years.

(3) That reference to mini Ad Hoc Scrutinies be removed, as this practice is no longer in use.

(4) That Annual Council be recommended to include a new Scrutiny procedure rule to allow the Assistant Director of Legal and Governance, in consultation with the Chief Executive, to approve discretion to extend the call in hearing period in exceptional circumstances (and to make any consequential changes to other Scrutiny procedure rules and renumber as appropriate).

(5) That no change be proposed to current arrangements which allow the Chair of the Overview and Scrutiny Management Committee to be drawn from the same group as the Leader of the Council and which allow Lead Members to be drawn from any political groups.

NB: Councillor D Hall, who did not agree that the Chair of Overview and Scrutiny Management Committee and Lead Member should be drawn from the same group as the party forming the administration, requested his dissent from (5) above be recorded.

6 Review of the Council's Procedure Rules

In accordance with the annual practice of reviewing the Constitution of the Council the Acting Assistant Director, Legal and Governance, submitted a report putting forward proposed revisions to Council Procedure Rules in relation to:-

- Order of business of Council meetings;
- Written questions to Council;
- Submission of Cabinet/Committee meetings to Council;
- Speaking rights of Members at Committees/Sub-Committees and specific arrangements at Planning Committees/Sub-Committees;
- Recorded votes at Planning/Sub-Committees;
- Title changes (Acting Assistant Director - Legal and Governance, in place of Head of Policy and Governance).

RESOLVED - That the proposed changes to Council Procedure Rules (CPRs), as set out in the submitted report, be agreed and recommended to Annual Council for approval subject to:-

- (i) The proposed change to CPR 12(8) to also include a provision for a Member to request a written response within seven days (instead of the question being referred on to Cabinet).
- (ii) The proposed changes to CPR 36, insofar as this relates to speaking rights at Planning Committees or Sub-Committees, to also include discretion for the Chair, for exercise only in exceptional circumstances, to allow Ward Members, Members who have indicated they will not be voting on an application, and members of the public, to make representations on new issues which have been raised, or make points of explanation.

7 Proposed Amendments to Contract Procedure Rules and Financial Procedure Rules 2010

The Committee considered a report of the Assistant Director, Risk and Performance, putting forward proposed changes to Contract Procedure Rules and Financial Procedure Rules. The report indicated that the changes in the Senior Management structure of the Council looked to generally make Directors responsible for business operations; the expectation was that Directors would formally delegate responsibilities in a way pragmatically reflecting operational practice. However, the need to maintain appropriate internal check and control necessitated a number of formal designations of tasks to Assistant Directors in the regulations.

RESOLVED - That the proposed amendments to Contract Procedure Rules and Financial Procedure Rules, as set out in the submitted report, be recommended for approval to Annual Council.

8 Constitution of Corporate Governance and Audit Committee for 2010/11

The Committee considered a report of the Acting Assistant Director, Legal and Governance, reflecting the Committee's previously expressed call for an expansion of its membership in order to strengthen its role, and also proposing arrangements to meet the Committee's new responsibility for treasury management.

RESOLVED - That Annual Council be recommended to approve a change in the Constitution of the Committee to provide for a membership of seven Members; that proportionality need not apply; that the seven Members be drawn on the basis of two from each of the three largest parties and one from the minority party; that existing ex officio members (none voting) apply namely Cabinet Portfolio Holder for Corporate (or appropriate Portfolio), Chair of Overview and Scrutiny Management Committee and Chair of Standards Committee; further, an option be included to allow the Committee to commission specialist advice in relation to treasury management, and that the operation of this arrangement be reviewed after one year.

9 Proposed Adoption of a Revised and Updated Councillors' Protocol for Planning Committees

The Committee considered a report of the Assistant Acting Director, Legal and Governance, referring to the Protocol advising Members on how to approach decision making and how to conduct themselves at all stages of the planning process. The report incorporated a draft of the Protocol which had been revised and updated to take into account guidance recently published by the Local Government Association entitled "Probity in Planning" to provide clearer advice to Members on dealing with their own planning applications or those submitted by family and friends, and to address a number of difficulties and misunderstandings in relation to the operation of the Protocol that had arisen over the past couple of years.

The report also incorporated a number of observations made on the draft Protocol by the Standards Committee of 9 March 2010 and the Planning and Highways Committee of 19 April 2010.

RESOLVED - That Annual Council be recommended to adopt the draft Protocol, as amended by the adjustments proposed by the Standards Committee and the Planning and Highways Committee, subject to the amendment to paragraph 9.9 of the Protocol proposed by the Standards Committee prevailing over that proposed by the Planning and Highways Committee; further, wording be included in paragraph 9.6 of the Protocol (concerning relevant planning issues which a Member could take account of) to cross reference this section to Section 1.3 of the Protocol concerning the role of Members of the Planning Authority in reaching decisions on planning issues on the correct basis.

10 Proposed Adoption of a Revised and Updated Protocol for Speaking at Planning Committees and Sub-Committees

The Committee considered a report of the Acting Assistant Director, Legal and Governance, referring to the existing public speaking Protocol providing guidance for all those wishing to attend and participate in Planning Committee and Sub-Committee meetings. This Protocol had now been revised and updated to provide clearer advice to members of the public on the procedures that will be followed and how the meetings will be conducted by the Chair. The report highlighted the main changes and also incorporated observations received from the Standards Committee of 9 March 2010 and the Planning and Highways Committee of 19 April 2010.

RESOLVED - That Annual Council be recommended to adopt the draft Protocol, subject to adjustments proposed by the Standards Committee and the Planning and Highways Committee and to the adjustment to Council Procedure Rule 36 referred to therein, as outlined in the decision on Minute 6, resolution part (ii), above concerning the review of the Council's Procedure Rules.

11 Proposed Adoption of Licensing Committee Protocol for Licensing Members

The Committee considered a report of the Acting Assistant Director, Legal and Governance, incorporating a draft Licensing Protocol setting out principles to guide Members and Officers in determining Licensing applications and making other decisions within the terms of reference of the Licensing Committee. The Protocol had been considered by the Licensing Committee on 13 April 2010, who had supported it and referred it to this Committee for further consideration.

RESOLVED - That Annual Council be recommended to approve and adopt the submitted Protocol.

- 12** **Dates/Times/Venues of Council Meetings - 2010/11**
The Committee considered a report of the Acting Assistant Director, Legal and Governance, incorporating a list of proposed dates, times and venues of Council meetings in 2010/11 which had been compiled following consultation with the Group Leaders.

RESOLVED-

(1) That, in accordance with Council Procedure Rule 2(3) the Annual Council meeting be recommended to approve the programme of ordinary meetings of the Council in 2010/11, as set out in the submitted report.

(2) That the Annual Council meeting be recommended to agree that the "Budget" Council meeting be held on 23 February 2011 at 5.00 pm and that the provisions of Council Procedure Rule 3 should apply to this meeting.

(3) That the Annual Council meeting be recommended to note the provisional date of the Annual meeting for the municipal year 2011/12, namely 25 May 2011, under the provisions of Council Procedure Rule 1(1).

- 13** **Changes in Representation on Outside Bodies - Dewsbury Guild of Help/Whittuck Charity**

The Committee was informed that, at a meeting of the Area Committee - Dewsbury held on 30 March 2010, Councillor Paul Kane and Mrs Iris Bettney were re-nominated as Trustees of the Dewsbury Guild of Help/Whittuck Charity for a four year term.

RESOLVED - That the renewed representation on the Dewsbury Guild of Help/Whittuck Charity be noted.

- 14** **Exclusion of the Public**

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

- 15** **Quarterly Report of Internal Audit - Quarter 4 (January-March) 2009/10**

(Exempt information relating to the financial or business affairs of any particular person (including the Authority holding that information). The public interest in maintaining that exemption outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making)

The Committee considered a report of the Assistant Director, Risk and Performance, providing information on the activity and findings from

Internal Audit work completed in the quarter to 31 March 2010, comprising about 75 pieces of work, and highlighting the action being taken in relation thereto.

RESOLVED - That the report be noted.

PART 3

RESPONSIBILITY FOR FUNCTIONS

RESPONSIBILITY FOR FUNCTIONS

Introduction

1. Delegation is simply a way of allocating matters to the levels appropriate to ensure that the council's business is dealt with in the most efficient way possible.
2. This means that some matters will be considered and approved by all members of the council or the Executive, as appropriate, whereas others can be dealt with efficiently and properly by other bodies established for that purpose, or by individual Cabinet members or by officers.
3. The Financial Procedure Rules and the Contract Procedure Rules set out in Part 4 of the constitution contain some additional delegations of responsibility.
4. Unless specifically authorised, a body or individual holding delegated authority is not permitted to exercise delegated powers on a decision, the effect of which will be to negate a decision previously taken at a higher level.
5. Any person or body responsible for nominating, appointing or selecting members of any of the following:-
 - i Appeals Panels
 - ii Licensing Panels
 - iii Regulatory Panels
 - iv Planning & Highways Committee and the Area Sub-Committees
 - v Standards Committee

should ensure that no-one is selected to be a member of such committee, sub-committee or panel unless they have either received any relevant training already or will have received it before they are required to attend any meeting unless this is wholly impracticable in the particular circumstances (in which case, advice from the Assistant Director – Legal & Governance should be sought).
6. Delegated power will normally be exercised at the lowest level to which it has been given. However, all such powers will also be held by the delegating body and no delegation shall preclude the reference of matters for a decision to that body, except where action has already been taken in the exercise of delegated power. This provision is subject to any statutory requirements which may apply from time to time.
7. References to any statute or statutory provision shall be taken to include:-
 - (i) any statute or provision which may from time to time replace, amend or extend it;
 - (ii) any orders, directions, regulations or codes made under it; and

- (iii) any ministerial circulars or advice notes which relate to it.
8. Delegation of any power carries with it (subject to the relevant procedure rules) the power to decide to enter into, amend or terminate any agreement or contract, as appropriate, in order to implement any exercise of that power.
 9. Where an officer post to which any function has been delegated is renamed or is affected by a staffing reorganisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same relevant duties as the original post following that reorganisation.
 10. Any named officer may make arrangements for any function delegated to him or her to be exercised by a member of staff within his/her department whom he/she considers to be appropriate.

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Section D	Area Committees
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Section F	Scheme of Delegation to Officers
Section G	Advisory Committees/Panels

RESPONSIBILITY FOR FUNCTIONS

SECTION A

Responsibility for Local Choice Functions

The functions specified in Schedule II to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) will be allocated as set out in the Table below.

Function	Allocation
1. Local Act functions: (i) Any function which adds to or complements any function of the council (ii) All other functions	Council delegated to the relevant committee Executive (Cabinet)
2. Determining appeals against decisions made by or on behalf of the authority	The council, delegated to the Appeals Panel
3. Making arrangements for the hearing of appeals against exclusion of pupils from maintained schools	Executive (Cabinet)
4. Making arrangements for the hearing of schools admission appeals	Executive (Cabinet)
5. Making arrangements for the hearing of appeals by governing bodies over a requirement that they take pupils excluded from other schools	Executive (Cabinet)
6. Making arrangements for enabling questions to be put at council meeting on a discharge of the functions of the police authority	Council (delegated to Corporate Governance & Audit Committee)
7. Arrangements for appointments of members to the police authority	Council (delegated to Corporate Governance & Audit Committee)
8. Any function related to contaminated land	Executive (Cabinet)

9. The discharge of any function relating to the control of pollution or the management of air quality	Executive (Cabinet)
10. The service of an abatement notice in respect of a statutory nuisance	Executive (Cabinet)
11. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive (Cabinet)
12. The inspection of the authority's area to detect any statutory nuisance	Executive (Cabinet)
13. The investigation of any complaint as to the existence of a statutory nuisance	Executive (Cabinet)
14. The obtaining of information under Section 330 of the Town & Country Planning Act 1990 as to interests in land	Allocated to each of the Executive and the council (delegated to the Planning Highways Committee) so far as required for carrying out other functions allocated to those bodies
15. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Allocated to each of the Executive and the council (delegated to the relevant committees) so far as required for carrying out other functions allocated to those bodies
16. Making of agreements for the execution of highways works	Council - (delegated to the Planning & Highways Committee)
17. Appointments of individuals to outside bodies and revocation of such appointments	School governing bodies - Executive (Cabinet) All other such bodies - council (delegated to Corporate Governance & Audit Committee)
18. Power to make agreements placing staff at the disposal of other authorities	Executive (Cabinet)
19. Functions under section 106(1) Local Government & Public Involvement in Health Act 2007 relating to local area agreements (approval of draft LAA for submission under s.106(1))	Council (authority delegated to Cabinet to agree minor amendments)

<p>20. Functions under sections 106, 110, 111 and 113 Local Government & Public Involvement in Health Act 2007 relating to local area agreements (apart from approval of draft LAA for submission under section 106(1)).</p>	<p>Council (authority delegated to Cabinet to agree minor amendments)</p>
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SECTION B

Responsibility for Council (Non-Executive) Functions

To discharge non-executive functions which are not reserved to full council, the council has established the following committees, sub-committees and panels:

- Licensing & Safety Committee
- Sub-committees of the Licensing & Safety Committee:
 - Regulatory Panels
 - Licensing Panels
- Appeals Panels
- Corporate Government & Audit Committee
- Planning & Highways Committee
- Sub-committees of the Planning & Highways Committee:
 - Planning (Heavy Woollen) Area Sub-committee
 - Planning (Huddersfield) Area Sub-committee
- Personnel Committee
- Sub-committees of the Personnel Committee:
 - Appointment Panels
- Standards Committee
- Sub-committees of the Standards Committee:
 - Local Assessment Sub-committee
 - Review Sub-committee
 - Consideration Sub-committee
 - Determination Sub-committee
 - Dispensations Sub-committee
- Area Committees (NB: These committees may exercise both non-executive functions and executive functions.)

The terms of reference of these committees, sub-committees and panels and their delegated powers are set out in the following pages.

Many of the functions referred to below are further delegated to officers as set out in Section F of this Part of the Constitution.

Licensing and Safety Committee

Membership

15 Members of the council

Terms of Reference

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

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

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

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

1. To establish Regulatory Panels to carry out such licensing and registration functions other than the 2003 and 2005 Acts functions as the Committee may delegate.
2. All the council's functions relating to the power of designating alcohol control zones under sections 12 – 15 of the Criminal Justice and Police Act 2001.
3. All the council's functions relating to smoke free legislation under the Health Act 2006 and associated regulations.

Delegated authority in respect of functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Regulatory Panels

(Sub-committees of the Licensing & Safety Committee)

Membership

Any five members of the Licensing and Safety Committee selected by the Assistant Director – Legal & Governance.

Terms of Reference

1. Power to license hackney carriages and private hire vehicles.
2. Power to license drivers of hackney carriages and private hire vehicles.
3. Power to license operators of hackney carriages and private hire vehicles.
4. Power to issue cinema and cinema club licences.
5. Power to issue theatre licences.
6. Power to issue entertainment licences.
7. Power to license sex shops and sex cinemas.

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8. Power to license performances of hypnotism.
9. Power to register premises for acupuncture, tattooing, ear-piercing, and electrolysis.
10. Power to license pleasure boats and pleasure vessels.
11. Power to license market and street trading.
12. Power to license dealers in game and the killing and selling of game.
13. Power to license scrap yards.
14. Power to issue, amend, or replace, safety certificates (whether general or special) for sports grounds.
15. Power to issue, cancel, amend, or replace, safety certificates for regulated stands at sports grounds.
16. Power to issue fire certificates.
17. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:-
 - (a) an exchange of lands affected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to the Acquisition of Land Act 1981 (c.67) or
 - (b) an order under section 147 of the Inclosure Act 1845 (c.8 and 9 Vict. C118).
18. Power to register variation of rights of common.
19. Power to sanction persons to collect for charitable and other causes.
20. Power to license agencies for the supply of nurses.
21. Power to sanction use of parts of buildings for storage of celluloid.
22. Power to make, vary or revoke closing orders with respect to take-away food shops.
23. Power to register premises or stalls for sale of goods by way of competitive bidding.
24. Power to license premises for the breeding of dogs.
25. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
26. Power to register animal trainers and exhibitors.

27. Power to license zoos
28. Power to license dangerous wild animals.
29. Power to license knackers' yards.
30. Power to grant consent for the operation of a loudspeaker.
31. Power to issue licences for the movement of pigs.
32. Power to license the sale of pigs.
33. Power to license collecting centres for the movement of pigs.
34. Power to issue a licence to move cattle from a market.
35. Power to approve meat products premises.
36. Power to approve premises for the production of minced meat or meat preparations.
37. Power to approve dairy products establishments.
38. Power to approve egg products establishments.
39. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
40. Power to approve fishery products premises.
41. Power to approve dispatch or purification centres.
42. Power to register food business premises.
43. Power to license the employment of children.
44. Power to approve premises for the solemnisation of marriages.
45. Power to revoke/refuse to grant permits under the Pollution, Prevention and Control (England and Wales) Regulations 2000 and authorisations under the Environmental Protection Act 1990.
46. Power to approve the commencement of proceedings in the High Court in respect of offences under the Environmental Protection Act 1990 and the Pollution, Prevention and Control (England and Wales) Regulations 2000.

Delegated authority in respect of functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act

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1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Licensing Panels

(Sub-committees of the Licensing & Safety Committee)

Membership

Any three Members of the Licensing and Safety Committee selected by the Assistant Director – Legal & Governance.

Terms of Reference

1. To exercise all licensing functions under the Licensing Act 2003 including determination and dealing with applications for licences, certificates, temporary events and other notices and all variations, transfers, withdrawals and reviews of such matters.
2. To exercise all licensing and related functions allocated to the local licensing authority under the Gambling Act 2005, including determining and dealing with applications for licenses, certificates, permits, registration, temporary use of premises and other notices and all variations, transfers, surrenders, revocations, reviews of such matters.
3. To consider and determine any other functions referred to the Panel by the council or the Licensing and Safety Committee under the terms of the Licensing Act 2003 or the Gambling Act 2005.
4. Power to register pool promoters.
5. Power to grant track betting licences.
6. Power to license inter-track betting schemes.
7. Power to grant permits in respect of premises with amusement machines.
8. Power to register societies wishing to promote lotteries.
9. Power to grant permits in respect of premises where amusements with prizes are provided.
10. To provide feedback reports to the Licensing and Safety Committee, as necessary, on any matters determined under these Terms of Reference.
11. To refer any matter, if necessary, for determination to the Licensing and Safety Committee.

Appeals Panel

Membership

Any 3 members of the council selected by the Assistant Director – Legal & Governance from a panel of 15.

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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 for Children & Young People's Service 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 for Communities & Well-Being on the details of any registered complaint, at the request of the complainant, in accordance with the Directorates complaints procedure;
5. to resolve disagreements, etc. between the Directorate for Communities and Well-Being 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.

Corporate Governance and Audit Committee

Membership

Seven members, two from each of the three largest groups on the council and one from the minority group.

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

- Executive Portfolio Holder for Corporate Governance
- The Chair of the Overview & Scrutiny Management Committee,
- The Chair of the Standards Committee

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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).
 14. Responsibility for reviewing and challenging all treasury management activities.

Planning and Highways Committee

Membership

16 Members of the council

Terms of Reference

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Delegated authority in respect of all Planning, Development Control and Highways functions which are not by virtue of any legislation present or future, the responsibility of the Executive and are not required by legislation to be carried out in the full Council. This includes:-

Planning and Development Control

1. Power to determine application for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into agreement regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice
15. Power to issue an enforcement notice.
16. Power to determine applications for hazardous substances consent, and related powers.
17. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
18. Power to require proper maintenance of land.
19. Power to determine application for listed building consent, and related powers.

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20. Power to determine applications for conservation area consent.
21. Duties relating to applications for listed building consent and conservation area consent.
22. Power to serve a building preservation notice, and related powers.
23. Power to issue an enforcement notice in relation to demolition of unlisted building in conservation area.
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.
27. Powers relating to the protection of important hedgerows.
28. Powers relating to the preservation of trees.
29. Powers relating to complaints about high hedges.

Highways and Transportation

1. Power to permit deposit of builder's skip on highway.
2. Power to license planting, retention, and maintenance of trees, etc. in part of highway.
3. Power to authorise erection of stiles, etc. on footpaths or bridleways.
4. Power to license works in relation to buildings, etc. which obstruct the highway.
5. Power to consent to temporary deposits or excavations in streets.
6. Power to dispense with obligation to erect hoarding or fence.
7. Power to restrict the placing of rails, beams, etc. over highways.
8. Power to consent to construction of cellars, etc. under street.
9. Power to consent to the making of openings into cellars, etc. under streets, and pavement lights, and ventilators.
10. Power to create footpath or bridleway by agreement.
11. Power to create footpaths and bridleways

12. Duty to keep register of information with respect to maps, statements, and declarations.
13. Power to stop up footpaths and bridleways.
14. Power to determine application for public path extinguishment order.
15. Power to make a rail crossing extinguishment order.
16. Power to make a special extinguishment order.
17. Power to divert footpaths and bridleways.
18. Power to make a public path diversion order.
19. Power to make a rail crossing diversion order.
20. Power to make a special diversion order.
21. Power to require applicant for order to enter into agreement.
22. Power to make an SSSI diversion order.
23. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.
24. Power to decline to determine certain applications.
25. Duty to assert and protect the rights of the public to use and enjoyment of highways.
26. Duty to serve notice of proposed action in relation to obstruction.
27. Power to apply for variation of order under section 130B of the Highways Act 1980.
28. Power to authorise temporary disturbance of surface of footpath or bridleway.
29. Power temporarily to divert footpath or bridleway.
30. Functions relating to the making good of damage and the removal of obstructions.
31. Powers relating to the removal of things so deposited on highways as to be a nuisance.
32. Power to extinguish certain public rights of way.
33. Duty to keep definitive map and statement under review.
34. Power to include modifications in other orders.

35. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.
36. Duty to reclassify roads used as public paths.
37. Power to prepare map and statement by way of consolidation of definitive map and statement.
38. Power to designate footpath as cycle track.
39. Power to extinguish public right of way over land acquired for clearance.
40. Power to authorise stopping-up or diversion of footpath or bridleway (including Section 247 of the Town & Country Planning Act 1990).
41. Power to extinguish public rights of way over land held for planning purposes.
42. Power to enter into agreements with respect to means of access.
43. Power to provide access in absence of agreement.
44. Power to grant a street works licence.
45. Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highways and related powers.
46. Duty to publish notice in respect of proposals to grant such permission under Section 115E of the Highways Act 1980.

Planning (Heavy Woollen) Area Sub Committee
Planning (Huddersfield) Area Sub Committee
(Sub-committees of the Planning & Highways Committee)

Membership

15 or 16 Members of the council

Terms of Reference

Delegated powers within their areas in respect of all planning and development control functions of the Planning & Highways committee except:-

- (i) Where the proposed decision will be contrary to the Unitary Development Plan;
- (ii) Any other matter which, because of its particular significance, the Sub-committee refers to the Planning & Highways Committee for decision.

In respect of matters which relate to an area which is within the remit of both Planning Sub-committees decisions will be taken at a joint meeting of both Sub-

committees which, for procedural purposes, will be regarded as a single Sub-committee.

Personnel Committee

Membership

9 Members of the council

Terms of Reference

Delegated responsibility for:-

1. Appointment of staff and determination of their terms and conditions of appointment, including disciplinary procedures and including negotiations and consultation with trade unions over issues relating to terms and conditions [N.B. all appointments below Assistant Director level are required to be delegated to officers];
2. To establish at the appropriate time sub-committees of members to act as appointment panels for the appointments of the Chief Executive, Chief Officers, and designated Deputy Chief Officers (as defined in Section 2(8) of the Local Government and Housing Act 1989).
3. To determine which Deputy Chief Officer posts should be designated to be appointed by a sub-committee of members.
4. To determine the mode of appointment to the post of Chief Executive, Deputy Chief Executives and Directors.

N.B. There are statutory requirements relating to delegation of and procedures for appointment of staff. These are set out in the Officer Employment Procedure Rules in Part 4 of the Constitution.

Appointment Panels (if not specifically appointed by the Personnel Committee)
(Sub-committees of the Personnel Committee)

Membership

The Leader or the Leader's nominee, together with at least two other members of the council selected by the Assistant Director – Legal & Governance in consultation with the Chair of the Personnel Committee. The Chair of Overview and Scrutiny may select a representative to attend as observer.

Terms of Reference

To select in accordance with agreed procedures the individual for appointment to a specific post.

Standards Committee

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The membership and role and function of this committee are set out in Article 9 of Part 2 of this Constitution.

Membership

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

Role and Function

The Standards Committee will have the following roles and functions:

- (a) To promote and maintain high standards of conduct by members, including co-opted members;

- (b) Establish sub-committees to consider, review, request an investigation into and determine any written allegation made to it under Section 57A of the Local Government Act 2007, that a member or co-opted member (or former member or former co-opted member) of that Authority has failed or may have failed to comply with the Authority's code of conduct.
- (c) To make arrangements for publicity of the member complaints system in such manner as it considers appropriate to comply with statute, regulation and Standards Board for England guidance;
- (d) To agree, review periodically and make publicly available criteria against which complaints will be assessed;
- (e) To agree criteria by which the assessment sub-committee will consider requests for confidentiality;
- (f) To agree and publish a statement setting out how anonymous complaints will be dealt with;
- (g) To monitor and review, as appropriate, the members' code of conduct and to advise the council on any changes;
- (h) To provide advice and guidance to members and co-opted members on issues relating to the members code of conduct and ethical standards and to arrange the provision of training on such matters;
- (i) To consider and, if appropriate, grant dispensations to members and co-opted members from requirements relating to interests set out in the members' code of conduct; within the framework permissible by Regulations issued to give effect to the Local Government & Public Involvement in Health Act 2007;
- (j) To deal with:-
- any report from a case tribunal or interim case tribunal established under Section 76 of the Local Government Act 2000; and
 - any report from the Monitoring Officer on any matter which is referred to him by an ethical standards officer appointed under that Act

- (k) The exercise of (a) to (j) above in relation to the parish and town councils wholly or mainly within Kirklees and the members of those councils;
- (l) To comment on any matter raised by the council's auditors or the Local Government Ombudsman relating to the above and referred to it by the Chief Executive, the Monitoring Officer or an Overview and Scrutiny Committee;
- (m) To recommend to the council, if appropriate, the adoption of protocols relating to members' conduct supplementary to the members code of conduct and to determine procedures for dealing with allegations of breaches of such protocols;
- (n) To consider and take action on any reports referred to it by the Corporate Governance and Audit Committee relating to the monitoring of the performance of councillors.

Sub-Committees

1. There shall be five sub-committees as follows:
 - A local assessment sub-committee to consider complaints made in respect of potential breaches of the member code of conduct to determine whether an investigation should be undertaken
 - A review sub-committee to consider requests for reviews of a decision not to proceed to investigate a complaint
 - A consideration sub-committee to consider and determine complaints following investigation and report
 - A hearings sub-committee to determine complaints referred by the consideration sub-committee
 - A dispensations sub-committee to consider requests for dispensations from councillors, co-opted members with voting rights and parish and town councillors
2. Any member of the Committee may be a member of any sub-committee and the membership of each shall not be fixed, but shall be determined on each occasion it is required to sit except that in the case of the local assessment, review, consideration and hearings sub-committees:
 - 2.1 Each sub-committee shall be chaired by an external member
 - 2.2 If the complaint under consideration involves a parish/town council member, then a parish/town council committee member must be on each sub-committee considering that complaint
 - 2.3 If the complaint under consideration involves a Kirklees council

member, then a Kirklees council committee member must be on each sub-committee considering that complaint

- 2.4 Each sub-committee shall have 3 members with preferably one external member (who must be the Chair), one Kirklees member and one parish/town council member. The quorum for a sub-committee shall be three members and if it is not possible to continue with the sub-committee because a member becomes unavailable then a fresh committee must be established to consider the complaint.
- 2.5 No member may sit on more than one sub-committee considering a particular complaint, so that they shall only be involved in one sub-committee on any one complaint.

3. Any member of the committee may be a member of the dispensations sub-committee and the membership of the dispensations sub-committee shall not be fixed, but shall be determined on each occasion it is required to sit. Where possible the dispensations sub-committee shall consist of at least one independent member who shall chair the sub-committee, and where the application for dispensation is from a town or parish councillor there shall be a parish councillor committee member on the sub-committee provided that in cases where a decision on an application for a dispensation is urgently required the membership of the sub-committee may consist of such members as are available.

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Chair attending Council meetings

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

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

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

SECTION C

Responsibility for Executive Functions

The Executive are responsible for the discharge of all executive functions. As stated in Article 7 of this Constitution, the Executive consists of the Leader of the Council and a minimum of two and a maximum of nine councillors appointed to the Cabinet by the Leader.

Cabinet members each have a portfolio of responsibility which is allocated by the Leader. The Leader may also determine the extent, if any, of the decision making responsibility delegated to individual Cabinet members.

Role and Responsibilities of a Cabinet Member

The duties of a cabinet member are:

- (1) To have the responsibility for, and provide a lead on, the initiation of policy.
- (2) To decide the executive action to be taken in implementing those matters of Council policy allocated to them within their portfolio, seeking advice from the Executive Management Group and Assistant Directors where appropriate.
- (3) To take personal responsibility, and to be held accountable, for any decisions taken, and to share with the appropriate service managers responsibility for the performance of services within their portfolio.
- (4) To respond to or deal with any issues arising at council meetings relating to their portfolio.
- (5) To act as spokesperson within and outside the authority on those services and functions within their portfolio.
- (6) To be a member of, and attend, Cabinet Committees and to share the collective responsibility for decisions taken by the Cabinet.
- (7) To act as an advocate for the council within the Authority and outside.
- (8) To provide regular reports on progress and to undertake consultation on decisions as required.
- (9) To attend Overview and Scrutiny Committee and Scrutiny Panels to discuss decisions taken or support the policy formulation process.
- (10) To attend relevant Cabinet Committees and Executive Briefing Sub Groups
- (11) To develop partnership working with other agencies and contribute as a key player to delivering a partnership agenda through the Local Public Service Boards.

- (12) To represent the council on outside bodies.
- (13) To represent the council and contribute the Kirklees perspective on national, regional and sub regional bodies.
- (14) To consult interested parties, ward councillors and citizens as part of the development and review of policy.
- (15) As part of the Cabinet to be involved in:
 - providing support to all councillors to help them develop constructive roles as Ward Members
 - leading the community planning process for the council
 - the consultation on, and drawing up of, the revenue and capital budgets
 - leading the search for continuous improvement
 - taking decisions on resources and priorities to deliver the strategies and budget approved by full council
 - promoting and participating in Member development

Portfolios

The matters set out in these portfolios exclude any functions specifically retained by the council, including those delegated to Council committees. However, Cabinet members may advise the council or its committees or comment on such matters. References in these portfolios to any functions which are the responsibility of the council relate to that role rather than a decision making role. Budget and policy formulation is subject to approval by the council of matters included in the Budget and Policy Framework.

The Leader

The position of Leader of the council does not have a specific portfolio, but the role has an overview on policy formulation, budget and implementation on all Council activities, taking a specific lead on community leadership on the council's external and international relations, including representation of Kirklees interests at City Region, West Yorkshire, regional and national levels.

Similarly the Leader also has an oversight of the operation and functions of all Council Services.

Specific responsibilities include:

- Chair of Kirklees Partnership Board
- Policy development and co-ordination
- Overseeing the delivery of the Administration's ambitions

- Performance management of cabinet members
- External communications
- Council's representative on the Leeds City Region Leaders Board
- Strategic development of Streetscene
- Innovation and Efficiency

The Deputy Leader

The Deputy Leader does not have a specific portfolio.

Specific responsibilities include:

- Policy development and co-ordination of Cabinet portfolio holders in progressing policy
- Performance management of cabinet members
- Overseeing the delivery of the Administration's ambitions
- Change and technology (including IT strategy and change and change leadership and support)
- Risk and performance (including performance, risk management, internal audit and insurance)

Portfolio for Children & Young People's Service

Specific responsibilities include:

Inclusion Services

- Special Needs (education psychology, behaviour and attendance support)
- Family Support and Parenting (early years and children's centres)

Support and Protection Services

- Safeguarding (accommodation, children with a disability, duty and assessment, care and after care)
- Integrated Youth Support (youth work, youth offending and antisocial behaviour)

Learning

- Strategy planning and resources for schools system
- Raising standards and extended learning
- Inclusion
- 14-19 and skills
- Schools for the future

Commissioning

- Service development
- Service strategic commissioning
- Advocacy and quality assurance

Portfolio for Well Being and Communities

Specific responsibilities include:

Homes and Neighbourhoods

- Strategic Housing
- Localities and Neighbourhoods
- Community Living (antisocial behaviour, integrated offender management, restorative practice)

Well-being and Integration

- Vulnerable adults
- Well-being services
- Sports and art development
- Social care transformation and integration

Personalisation and Commissioning

- Strategic partnership and commissioning
- Cross sector development
- Regulation and quality
- Cross directorate strategic support

Communities and Leisure

- Third sector development
- Public events and engagement
- Community cohesion and civic participation
- Prevent
- Museums and galleries
- Community activities
- Access to books
- Sport and arts development

Portfolio for Place (Development and Environment and Public Protection)

Specific responsibilities include:

Strategic investment

- Economic and skills strategy
- Strategic planning
- Transportation strategy
- Housing strategy
- Development control

- Environment unit

Regeneration and Business Support

- Regeneration projects
- Commercial estates management
- Business support activity
- Inward investment
- Town centre management and events

Public Protection

- Environmental health
- Licensing
- Building control
- Bereavement services
- Routine enforcement
- Parking and other street enforcement

Streetscene

- Highways (except transport planning, development control and car parks)
- Refuse collection
- Waste disposal
- Street cleaning
- Centralised transport
- Parks and grounds maintenance
- PCSOs / Rangers

Building Services

Portfolio for Corporate Services

Specific responsibilities include:

Strategic Development

- Council commissioning insight
- Policy
- Partnership

Legal and Governance

- Legal Services
- Governance
- Member relations

Service Support

- HR

- Payroll
- Agency / Temp Direct
- Marketing and Communications (external comms as part of the Leader's portfolio responsibilities)
- ICT Delivery

Accountancy, Financial Advice and Reporting

- Strategic finance
- Business and finance advice to Directorates
- Treasury management

Physical Resources and Procurement

- Asset management
- Corporate landlord
- Construction project planning
- Catering, cleaning and caretaking
- Procurement
- Corporate safety and emergency planning

Customer and Exchequer Services

- Customer strategy
- Customer contact
- Housing benefits
- Revenues
- Advice
- Complaints

DELEGATIONS

The Executive may arrange for the discharge of any of their executive functions by a committee of the Executive, an individual member of the Executive or an Officer of the authority. Any arrangements made for the discharge of executive functions by a committee of the Executive, an individual member of the Executive or an Officer do not prevent the Executive from exercising those functions.

The Executive may also arrange for the discharge of any of their executive functions by a joint committee (pursuant to s.20 Local Government Act 2000 and s.101(5) Local Government Act 1972) or by the executive of another local authority (pursuant to s.19 Local Government Act 2000 and s.101(1) Local Government Act 1972).

The Executive have established the following arrangements for the exercise of executive functions:

1. **Cabinet Committees**

The Executive have established the committees referred to below. Membership of the committees shall be as set out below. In addition, all members of the Executive shall constitute a **panel of substitute** members to be available to replace members of Cabinet committees at any meeting during the municipal year as and when required.

Once a Cabinet committee meeting has started with a substitute member in attendance, the member who has been substituted will be entitled to attend the meeting only as an observer.

Only members of the Executive may be members of Cabinet committees, however each committee may arrange for non-executive councillors or other individuals to attend meetings of the committee. Those people have all the same rights as to notification, attendance and speaking etc, as members of the committee other than the right to participate in a vote.

(a) **Local Issues – Cabinet Committee**

Membership:

Two Cabinet members with responsibility for the Place Portfolio and one Cabinet member with responsibility for the Corporate Services Portfolio.

Ward councillors will be invited to attend and make representations, as appropriate, in relation to any matters affecting their wards.

Terms of Reference:

- i. To consider and ultimately determine whether to uphold or overrule objections to the establishment of pedestrian crossings, the installation of road humps and other traffic calming measures, the making of speed

limit orders, traffic regulation orders or on-street or off-street parking places orders;

- ii. To consider all highways petitions including those referred for consideration and/or decision from Council following a Council debate;
- iii. To consider reports on disposals of Council assets, with a capital value not exceeding £250,000, that have previously been approved by officers.

2. Delegations to Officers

Officers may discharge any executive function delegated to them by the Executive and included in the Officer Scheme of Delegation set out in Section F of this Part of the Constitution.

3. Delegations to Area Committees

The terms of reference of Area Committees include or may from time to time include delegated responsibility for certain executive functions.

4. Delegations to Kirklees Neighbourhood Housing

Housing Management functions are delegated under Section 27 of the Housing Act 1985 to the council's arms-length company Kirklees Neighbourhood Housing, to the extent specified in the agreement with that company.

5. (i) Delegations to Joint Committees

The Executive may establish joint committees with one or more local authorities to exercise functions which are executive functions. Any joint committee appointed in accordance with those arrangements may, subject to the terms of those arrangements, discharge those executive functions on behalf of the Executive.

The following joint committees have been established to discharge certain executive functions:

- a. West Yorkshire Joint Services Committee dealing with trading standards, archives, archaeology and grants to voluntary organisations
- b. Yorkshire Purchasing Organisation originally established under an agreement dated 3 December 1976
- c. Yorkshire and Humberside Regional Broadband Consortium established under an agreement dated 22 June 2001
- d. Leeds City Region Leaders' Board

- e. The Parking and Traffic Regulations Outside London Adjudication Joint Committee

(ii) **Delegations to other local authorities**

The Executive may arrange for the discharge of any of their executive functions by the executive of another local authority.

The Council has agreed the following arrangements for the exercise of certain executive functions by other local authorities:

- a Discharge by Birmingham City Council of the Council's function relating to the enforcement of Part III of the Consumer Credit Act 1974 (illegal money lending investigations and prosecutions) – approved by Cabinet on 15 October 2008).
- b Discharge by the Executive of Wakefield Metropolitan District Council of the Council's functions for making payments of loans approved under the "Breathing Space" scheme (the regional mortgage assistance loan scheme) – approved by Cabinet on 13 October 2009.
- c Delegation to Sheffield City Council of the Council's functions relating to the administration and payment of Home Appreciation Loans under the Regulatory Reform (Housing Assistance) Order 2002 – approved by Cabinet on 13 September 2006.

Where joint arrangements with one or more other local authorities in respect of the discharge of an executive function cease to have effect, the Leader shall have power to make new joint arrangements to discharge those functions jointly with other local authorities and/or the executives of other local authorities as appropriate

SECTION D

Area Committees:

Membership and Terms of Reference (except delegated functions) are set out in Article 10 of Part 2 of this Constitution.

Delegated Functions (Delegated by the Executive)

NB: Any such functions may be further delegated by an Area Committee to an officer.

1. In accordance with any guidelines determined by the Executive to determine the allocation of revenue or capital budgets identified in the annual budget or capital plan or otherwise, for purposes reflected in community action plans or, where these are not yet in place, for purposes arising from community engagement in the area and to account for allocations to Cabinet;
2. To receive summaries of expected levels of service, key performance targets and constraints relating to grounds maintenance and environmental services. To comment on priorities and implementation arrangements for relevant developments and to receive monitoring information.
3. Determinations as to the naming and re-naming of streets in areas of dispute

SECTION E

Overview & Scrutiny Management Committee

Pursuant to Article 6 of Part 2 of this Constitution, the Council has established four Standing Panels and two Ad-hoc Panels to discharge the functions set out in that Article and in s.21 of the Local Government Act 2000.

Membership of the Committee and its Standing and Ad-hoc Panels are set out in Article 6 aforesaid. The terms of reference are set out in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution.

SECTION F

Scheme of Delegation to Officers

General Provisions

1. A Scheme of Delegation has been introduced that is founded on the principle of delegation “by exception”. That means that the delegating body delegates everything that can lawfully be delegated (both non-executive and executive functions) to a Director or, in appropriate circumstances, to the Assistant Director – Legal & Governance, save for exceptions which are listed. Therefore the listing is of what is not delegated, as opposed to a listing of what is (although a number of specific delegations are referred to for clarity and the avoidance of doubt).
2. Officers may only exercise the delegated powers in this Scheme in accordance with:
 - a) All relevant statutory requirements including the principles of public law and the provisions of the Human Rights Act 1998, statutory guidance and statutory codes of practice; and
 - b) The provisions of this Constitution (including the provisions of the Access to Information Procedure Rules relating to the taking of key decisions); and
 - c) The revenue and capital budgets of the council, subject to any variation thereof permitted by the Council’s Financial Procedure Rules.
3. Officers may not exercise delegated powers where:
 - a) The matter is reserved to the council by law or by the council’s Constitution;
 - b) The matter is a function which cannot by law be discharged by an officer;
 - c) The council, the Executive or Committee, Sub-committee or Panel has determined that the matter should be discharged otherwise than by an officer;
 - d) In relation to executive functions, the Leader of the Council or the relevant Cabinet member has directed that the matter should be referred to the Executive for determination;
 - e) In relation to non-executive functions, the Chair of a Council Committee, Sub-committee or Panel has directed that the matter should be referred to the appropriate Committee, Sub-committee or Panel for determination;
 - f) The decision would be contrary to any approved policies and plans of the Council.
4. The Scheme provides for the delegation of authority to the relevant Director or the Assistant Director – Legal & Governance (as appropriate). However the

relevant Director or the Assistant Director – Legal & Governance may arrange for such delegated authority to be exercised on their behalf by an officer of appropriate experience and seniority. The Director or Assistant Director – Legal & Governance (as appropriate) shall remain personally responsible for any decision taken on their behalf pursuant to the delegation arrangements.

5. All decisions taken must be clearly recorded and must clearly identify the officer responsible for taking the decision.
6. Each Director together with the Assistant Director – Legal & Governance will prepare Service Schemes of Delegations which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly establish which officers have been given authority to make decisions under the delegated powers of the Directors or Assistant Director – Legal & Governance, the extent of the delegated authority of those officers and any terms, conditions and/or limitations subject to which those delegations must be exercised. All service schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.
7. Where an officer has delegated authority to discharge functions by virtue of any provision of this Constitution other than the Scheme of Delegation set out in Section F, or by virtue of a specific decision of the Council, a Committee, Sub-committee, Panel or the Executive, whether made before or after the adoption of this Scheme, the absence of that delegation from this Scheme shall not be treated as preventing the exercise of that delegation.
8. Where an officer has delegated authority to discharge functions in consultation with the relevant Cabinet member, in the absence of that Cabinet member the officer may discharge such function in consultation with the Leader instead (or in the Leader's absence, in cases of urgency, with the Deputy Leader).
9. Where the delegation provides for discharge of a function in consultation with the Leader, in the absence of the Leader the officer may discharge the function, in cases of urgency, in consultation with the Deputy Leader instead.
10. This Scheme describes particular functions as executive functions and non-executive functions for illustrative purposes only, and misattribution of a function as executive or non-executive shall not be treated as preventing the exercise of the delegation.
11. "Function" for the purposes of this Scheme of Delegation is to be construed in a broad and inclusive fashion and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
12. Where relevant, the delegations within this Scheme also include the appointment of the Chief Officer as "proper officer" for the purpose of any function delegated to him/her under these arrangements.

Director for Children & Young People's Service

The holder of the post of Director for Children and Young People's Service is the statutory officer for the purposes of Section 18 of the Children Act 2004 and shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Children and Young People's Service and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements to:

A. Learning matters

Executive Functions

1. Discharge all of the education functions and responsibilities conferred on or exercisable by the local authority, except those excluded by Section 18(3) of the Children Act 2004, that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

Without prejudice to the generality of the above, such functions and responsibilities referred to in A1 above include, but are not limited to:

- (a) the exercise of all planning and commissioning responsibilities in relation to the functions transferred to the Local Authority under the Apprenticeships, Skills, Children & Learning Act 2009 for learning and skills for 16-19 year olds.

B. Support and Protection matters

Executive functions

1. Discharge all of the functions and responsibilities conferred on or exercisable by the Council, which are Social Services functions and responsibilities (within the meaning of the Local Authority Social Services Act 1970) so far as they relate to children together with the Council's youth offending functions under the Crime and Disorder Act 1998 that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

C. Inclusion matters

- 1. Discharge of all functions and responsibilities of the Council relating to inclusion services (including special needs, education psychology, behaviour and attendance support, family support and parenting, Early Years and children's centres) that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

D. Commissioning matters

- 1. Discharge of the functions and responsibilities of the Council relating to commissioning services (including service development, service strategic commissioning, advocacy and quality assurance) that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Director for Development

The holder of the post of Director for Development shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Development Directorate and without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

A. Planning Matters

Non-Executive Functions

1. All functions and responsibilities of the Council as Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990) included within the terms of reference of the Planning and Highways Committee, save for the approval of proposed developments that would be contrary to the development plan, subject to the exceptions that:

Matters are referred to the appropriate Committee/Sub-committee as specified in paragraph 3 of the General Provisions and 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; and
- v) where any member for the wards of Almondbury, Ashbrow, Colne Valley, Crosland Moor and Netherton, Dalton, Denby Dale, Golcar, Greenhead, Holme Valley North, Holme Valley South, Kirkburton, Lindley and Newsome so requests with regard to any application/submission for development falling wholly or substantially within Huddersfield Town Centre 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

Councillor's Protocol for Planning Committees and

that the application/submission does relate to development falling wholly or substantially within Huddersfield Town Centre

(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 reason will be incorporated in full in the Committee/Sub-Committee report)

- vi) applications for listed building consent involving the partial or total demolition of Grade I or Grade II* listed buildings;
- vii) the serving of building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in non-urgent cases;
- viii) planning applications for the disposal of solid waste exceeding 50000m³ in volume;
- ix) planning applications for the disposal of special hazardous wastes;
- x) the making of tree preservation orders other than orders to replace existing tree preservation orders containing area notations;
- xi) the making of provisional tree preservation orders in non-urgent cases;
- xii) 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.

- xiii) the revocation of certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development;
- xiv) all applications submitted by or on behalf of any elected member of the Council (in their personal capacity) or any member of their family;

- xv) all applications submitted by or on behalf of any member of staff who works for Planning & Building Control Services (in their personal capacity);
- xvi) 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)

Executive Functions

2. All functions and responsibilities of the Council as Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990) not included within the terms of reference of the Planning and Highways Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

B. Highways Transportation matters

Non-Executive Functions

1. All functions and responsibilities of the Council as Local Highway Authority (within the meaning of s.1 Highways Act 1980) relating to highways transportation, public rights of way strategy and enforcement and highways development control included within the terms of reference of the Planning and Highways Committee subject to the exceptions that:

Matters are referred to the Planning and Highways Committee as specified in paragraph 3 of the General Provisions and in the following cases:

- i) where the delegated officer so decides:
 - a) with the agreement of the Chair of the Planning and Highways Committee; or
 - b) due to the significant volume of local opinion (including through Area Committees or Parish Councils);
- ii) where the Chair of the Planning and Highways Committee so requests;
- iii) where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request;
- iv) where there is no majority support for the proposed action by the three

ward members;

- v) where objections are received at the preliminary consultation stage to the making of orders for the stopping up or diversion of footpaths or bridleways under the Town & Country Planning Act 1990 (or any legislation revoking or re-enacting that Act with or without modification);
- vi) where objections are received at the preliminary consultation stage to the making of public path extinguishment orders or public path diversion orders under the Highways Act 1980 (or any legislation revoking or re-enacting that Act with or without modification);
- vii) in respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking or re-enacting that Act with or without modification).

Executive Functions

2. All functions and responsibilities of the Council as Local Highway Authority (within the meaning of s.1 Highways Act 1980) relating to highways transportation, public rights of way strategy and enforcement, on and off street car parking (apart from enforcement) and highways development control not included within the terms of reference of the Planning and Highways Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Where they are or relate to key decisions as defined by Article 13.3(b) of Part 2 of the Council's Constitution;
- iii) Determinations relating to any proposed increases to on or off street car parking tariffs

Without prejudice to the generality of the above such functions and responsibilities referred to in B2 above include but are not limited to:

- (a) To respond to consultation requests on the highways/traffic implications of planning applications.
- (b) To prepare and publish for consultation the Local Transport Plan.

C. Strategic Environmental Matters

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's environmental strategy not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Decisions on the approval of environmental grants exceeding £10,000 for local voluntary groups from the voluntary sector funding allocation within the Environment Budget.

D. Housing Strategy

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's housing strategy, including commissioning, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

E. Economic & Skills Strategy

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's economic and skills strategy, including commissioning, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

F. Regeneration and Business Support Matters

Executive Functions

All functions and responsibilities of the Council relating to its regeneration and business support activities and direction (including implementation of the Council's economic and skills strategy, town centre management and events, commercial estate management, regeneration projects, inward investment and the management of markets and slaughterhouses) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

Director for Environment and Public Protection

The holder of the post of Director for Environment and Public Protection shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Environment and Public Protection Directorate and without prejudice to the foregoing, shall have power, to discharge the following functions and responsibilities subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or Executive (as appropriate) and any relevant legal requirements:

Public Protection

A. Environmental Matters

Non-Executive Functions

1. All functions and responsibilities of the Council relating to environmental services (including environmental health, public health, environmental protection, pollution control, contaminated land, health and safety, food safety and animal welfare) and included within the terms of reference of the Licensing and Safety Committee, subject to the exceptions that:

Matters are referred to the Licensing and Safety Committees or the Regulatory Panels (as appropriate) as specified in paragraph 3 of the General Provisions above and 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
- 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
- 2 Power to require the proper maintenance of land under Section 215 of the Town & Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

Executive Functions

3. All functions and responsibilities of the Council relating to environmental services (including environmental health, public health, environmental protection, pollution control, contaminated land, health and safety, food safety and animal welfare) not included in the terms of reference of the Licensing and Safety Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

B. Licensing Matters

Non-Executive Functions

1. All functions and responsibilities of the Council relating to Licensing included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Licensing and Safety Committee or the Licensing Panel (as appropriate) as specified in paragraph 3 of the General Provisions above, and in the circumstances set out in Section 10(4) of the Licensing Act 2003 and Section 154(4) of the Gambling Act 2005.

Matters are referred to the Licensing and Safety Committee or the Regulatory Panel (as appropriate) as specified in paragraph 3 of the General Provisions above, and in the following cases:

- i) Appeals 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.

C. Building Control Matters

Non-Executive Functions

1. All functions and responsibilities of the Council relating to building control and registration included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Licensing and Safety Committee or the Regulatory Panel (as appropriate) as specified in paragraph 3 of the General Provisions above, and in the following cases:

- i) Where the delegated officer so decides with the agreement of the Chair of the Licensing and Safety Committee or Regulatory Panel (as appropriate).

Executive Functions

2. All functions and responsibilities of the Council relating to building control and registration not included within the terms of reference of the Licensing and Safety Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Matters are referred to the relevant Area Committee in the following cases:

- i) Determinations as to the naming and re-naming of streets in the cases of dispute.

D. Bereavement Matters

Executive Functions

1. All functions and responsibilities of the Council relating to bereavement services (including cemeteries, crematoria and burial grounds) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

E. Parking Matters

Executive Functions

1. All functions and responsibilities of the Council relating to the enforcement of on and off street car parking matters not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above; and

F. General Enforcement

Executive Functions

1. All functions and responsibilities of the Council relating to the enforcement of all legislation within the remit of the Directorate for Environment and Public Protection, including highways, housing and town and country planning legislation (as appropriate) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the

Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Streetscene

A. Highways Matters

Non-Executive Functions

1. All functions and responsibilities of the Council as Local Highway Authority included within the terms of reference of the Planning and Highways Committee (apart from public rights of way strategy and enforcement, highways transportation and highways development control) subject to the exceptions that:

Matters are referred to the Planning and Highways Committee as specified in paragraph 3 of the General Provisions above and in the following cases:

- i) Where the delegated officer so decides:
 - a) with the agreement of the Chair of the Planning and Highways Committee; or
 - b) due to the significant volume of local opinion (including through Area Committees or Parish/Town Councils).
- (ii) Where the Chair of the Planning and Highways Committee so requests.
- (iii) Where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request.
- (iv) Where there is not majority support for the proposed action by the 3 ward members.

Executive Functions

2. All functions and responsibilities of the Council as Local Highway Authority (excluding car parking and general enforcement of highways matters) not included within the terms of reference of the Planning and Highways Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above; and

- ii) Where they are or relate to key decisions as defined by Article 13.3.(b) of Part 2 of the Council's Constitution.

B. General Streetscene Matters

- 1. All functions and responsibilities of the Council relating to:

Refuse collection
Waste disposal
Street cleaning
Centralised transport
Parks and Grounds Maintenance
Police Community Support Officers/Rangers

And not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Building Services

Executive Functions

All functions and responsibilities of the Council relating to its building repair service and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Director for Organisation Development

The holder of the post of Director for Organisation Development shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Organisation Development Directorate and, without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements.

A Strategic Development Matters

Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to strategic development (including council commissioning insight, policy and partnership) not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation to be carried out by full council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

B Governance Matters

Non-Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to governance and member relations (including elections and payments or the provision of other benefits in cases of maladministration) subject to the exceptions that:

Matters are referred to Council:

- (i) As specified in paragraph 3 of the General Provisions above.

Matters are referred to Corporate Governance and Audit Committee:

- (i) As specified in paragraph 3 of the General Provisions above; and
- (ii) Where the proposed payment or benefit to be made/offered in cases of maladministration exceeds £5,000.

Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to governance and member relations not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full council together with any local choice functions

set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

C Service Support Matters

Human Resources

Non-Executive Functions

1. Discharge of all functions and responsibilities of the Council included within the terms of reference of the Personnel Committee (save for the appointment of staff, at Assistant Director level and above), subject to the exceptions that:

Matters are referred to the Personnel Committee in the following cases:

- (i) as specified in paragraph 3 of the General Provisions above;
- (ii) determinations as to the grading of posts of the Chief Executive and Directors;
- (iii) disagreements as to employee terms and conditions between the Director for Organisation Development (or their nominated officer) and representatives of the recognised Trade Unions that have not been resolved by the Central Negotiating Team;
- (iv) sanctioning of compulsory redundancy proposals for directors;
- (v) sanctioning of early retirement/voluntary severance or ill health retirement proposals for directors;
- (vi) decisions as to the implementation of the discretionary areas of nationally negotiated agreements relating to rates of pay and terms and conditions of employment;
- (vii) approval of all local terms and conditions of employment including discretionary holiday days.

Matters are referred to a panel appointed by the Personnel Committee in the following cases:

- (i) any grievance raised by the Chief Executive.

Executive Functions

2. Discharge of all functions and responsibilities of the Council relating to human resources that are not included within the terms of reference of the Personnel Committee or are not by virtue of any legislation present or future prevented from

being the responsibility of Executive and not required by legislation to be carried out by full council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) as specified in paragraph 3 of the General Provisions above.

NB the Director for Human Resources shall also have the power to exercise the functions and responsibilities of the Council (both non-executive and executive) in relation to the human resources matters referred to above.

General Service Support, Change and Technology

Executive Functions

1. All functions and responsibilities of the Council relating to:

- Training Delivery
- Payroll
- Agency/Temp Direct
- Marketing and Communication
- ICT Delivery
- Change Leadership and Support
- IT Strategy and Change

and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Director for Well-being and Communities

The holder of the post of Director for Well-being and Communities is the statutory officer for the purposes of Section 6 of the Local Authority Social Services Act 1970 as amended (other than those functions for which the Director of Children and Young People's Service is responsible under Section 18 of the Children Act 2004) and shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Well-being and Communities Directorate and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or Executive (as appropriate) and all relevant legal requirements to:

A. Well-being and Integration Matters

Executive Functions

1. Discharge all Social Services functions and responsibilities of the Council as listed in Schedule 1 of the Local Authority Social Services Act 1970 as amended from time to time (other than those functions and responsibilities for which the Director for Children and Young People's Service is responsible under Section 18 of the Children Act 2004) and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that :

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above, and
- ii) Awards of ex-gratia payments exceeding £1,000.

B. Homes and Neighbourhoods Matters

Non-Executive Functions

1. Power to require the proper maintenance of land under s.215 of the Town & Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

Executive Functions

2. Discharge of all functions and responsibilities of the Council, as local housing authority that are not delegated to Kirklees Neighbourhood Housing, pursuant to an agreement with the Council under Section 27 of the Housing Act 1985, including implementation of the Council's housing strategy, that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this

Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above, and
- ii) Determination of applications for reimbursement of costs incurred by former tenants in building home extensions

C. Personalisation and Commissioning matters

Executive functions

1. Discharge of all functions and responsibilities of the Council relating to personalisation and commissioning (including strategic partnerships and commissioning, cross-sector development, regulation and quality and cross directorate strategic support) and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above

D. Communities and Leisure matters

Executive Functions

1. Discharge all functions and responsibilities of the Council relating to communities and leisure matters (including third sector support, development and grant aid, public events and engagement, community cohesion and civic participation, museums and galleries, Prevent, community activities, library resources, physical activity and sports development and arts and creative economy development) and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Approval of disposals of museum specimens;
- iii) Approval of loans to voluntary organisations exceeding £1,000;

Without prejudice to the generality of the above, such functions and responsibilities referred to in D1 above include but are not limited to:

- a) the discharge of the Council's statutory responsibilities under s.17 of the Crime & Disorder Act 1998;
- b) the promotion of the Council's statutory duty to promote race equality under the Race Relations (Amendment) Act 2000

Assistant Director – Legal and Governance

The holder of the post of Assistant Director – Legal and Governance is designated as the Council's Monitoring Officer and is also responsible for the strategic direction and overall management and delivery of the legal functions and responsibilities of the Legal and Governance Service and without prejudice to the foregoing shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

A. Legal Matters

General

These functions can be either Executive or Non-executive depending on the circumstances.

All functions and responsibilities of the Council relating to legal matters including:

- a) to take any action necessary to give effect to a decision of the Council, the Executive, the Overview and Scrutiny Management Committee or any committee, sub-committee or panel of the Council;
- b) the making, issuing or serving of orders and notices;
- c) to institute, conduct, prosecute, defend, withdraw or settle any legal proceedings on behalf of the Council;
- d) to commence and conduct any other legal action on behalf of the Council for the purpose of protecting the Council's interests;
- e) to instruct Counsel and professional advisers, where appropriate;
- f) to determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council under statutory powers.

Executive Functions

All Executive functions and responsibilities of the Council relating to legal matters including:

- a) to give undertakings on behalf of the Council;
- b) to prepare, sign or apply the Council's common seal to documents;
- c) to authorise other officers to apply the Council's common seal in accordance with Article 14.5 of Part 2 of the Constitution and to sign documents that are not required to be under seal;
- d) to complete all property transactions and contractual arrangements where

terms have been agreed by the Council, its committees or sub-committees or Directors acting under the scheme of delegation;

- e) to authorise officers who are not admitted solicitors to appear in the Magistrates' Court on behalf of the Council pursuant to Section 223(1) of the Local Government Act 1972.
- f) To authorise officers of the Council to conduct actions on behalf of the Council in the County Court before a District Judge pursuant to Section 60 of the County Court Act 1984, in respect of:
 - the recovery of possession of houses or other property belonging to the Council; and
 - the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house.
- g) to accept on behalf of the Council the service of notices, orders and legal procedures;
- h) to exercise the functions of the Council pursuant to Section 1 of the Crime and Disorder Act 1998 (Anti-Social Behaviour Orders);
- i) to determine exemptions under Section 36 of the Freedom of Information Act 2000.

SECTION G

Advisory Committees/Panels

Youth Council

Membership consists of up to 32 young people aged 11-18 who meet regularly to discuss issues important to them. The Youth Council can refer issues to Cabinet or Scrutiny for discussion and decision.

It has responsibility for:

- Undertaking projects/activities to tackle issues
 - Having some input into budget setting for Children and Young People's Service
 - Advising Councillors on young people's views
 - Linking up with locality based youth groups
 - Referring issues for consideration by Cabinet and Scrutiny, as appropriate
- Considering issues referred from Cabinet and Scrutiny, as appropriate