



Annual Council : 25 May 2011

Title of report: Proposed changes to the Council's Constitution

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Is it in the Council's Forward Plan?	N/A
Is it eligible for "call in" by Scrutiny?	N/A
Cabinet member portfolio	Corporate

Electoral wards affected: All

Ward Councillors consulted: N/A

Public or private: Public

1. Purpose of Report

The Annual Council meeting is, as usual, required to review the Constitution in the light of its operation in the current municipal year. This report sets out all of the proposed changes that have previously been considered by members, officers, council committees/sub-committees/panels and, where required in accordance with the Constitution, by the Corporate Governance and Audit Committee. The Key Points section below sets out the Constitutional changes proposed in response to issues which have arisen over the past year through practical problems experienced, comments by members and/or officers and legislative changes since the last annual council meeting. The Key Points also incorporate the recommendations of the Corporate Governance and Audit Committee held on 13 May 2011.

Annual Council is asked to consider and determine whether the proposed amendments to the relevant parts of the Constitution as set out below should be approved. Specific amendments to wordings are shown underlined. Save for Appendix B and C, the appendices referred to below have the same numbering as those appended to Item 7 of the agenda of the Corporate Governance and Audit Committee dated 13 May 2011 and attached to this report as Appendix A.

Approval of the proposed amendments referred to in paragraphs 31 and 32 below is the responsibility of the Executive but details are included here for information. The Leader's approval to these proposed changes will be sought following the Annual Council meeting.

2. Key Points

Proposed Changes

1. **Article 4 – the Full Council** (Appendix 1)

Amend Article 4 of the Constitution to refer to an updated list of plans and strategies which together comprise the Council's policy framework.

2. **Article 6 – The Overview & Scrutiny Function** (Appendix 2)

- 6.1.2 – amend to read:

“The Management Committee shall be made up of seven members based on a ratio of 2:2:2:1, comprising of the Chair of Overview & Scrutiny, the four Scrutiny Panel, Lead Members and two other Councillors”.

Reason - To reflect the amendment agreed at the Annual Council meeting on 26 May 2010.

- 6.2.1 – make minor amendments to the scopes of the Panels

Reason - To reflect the restructuring of the Council directorates.

- 6.5 (e) – amend to read:

“Review and scrutinise decisions made or actions taken by the Local Strategic Partnership or bodies within its structure, in relation to shared partnership priorities”.

Reason - To reflect that, notwithstanding the removal of Local Area Agreements, Scrutiny retains a role in scrutinising partners in respect of shared priorities.

3. **Article 7 – The Executive** (Appendix 3)

Substitute all references to “the Assistant Director (Legal & Governance) with “the Assistant Director – Legal, Governance & Monitoring”.

Reason – to reflect revised post title.

4. **Article 9 – The Standards Committee** (Appendix 4)

9.2 Membership – amend Article 9.2a to read:

- “a. The Standards Committee will be composed of:-

- 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;
- three persons who are not Councillors or officers of the Council or any other body having a Standards Committee (external members);
- three persons who are members of a parish or town Council wholly or mainly in the Council's area (parish members), but who are not also members of Kirklees Council."

Reason - recommendation from the Standards Committee held on 1 February 2011. To ensure that the Council continues to meet its statutory obligations under the Local Government Act 2000 for a properly constituted Standards Committee with the correct composition of Kirklees, Parish and External members until such time as the standards regime is abolished.

9.3 Role and Function – amend Article 9.3(k) to read:

“(k) To deal with applications for exemption from political restrictions made by Council officers in respect of their own posts and, where appropriate, to give directions to the Council requiring it to include a particular post in the Council's list of politically restricted posts kept in accordance with section 2(2) of the Local Government and Housing Act 1989.”

Reason - Recommendation from the Standards Committee held on 12 October 2010. To ensure that there is an effective and speedy process in place for dealing with political restriction matters.

9.4 Sub-Committees – amend Article 9.4 as follows:

9.4.1 “There shall be six 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

- A political restrictions sub-committee to consider appeals by officers against their posts being designated as politically restricted and to consider whether directions to the Council should be given in accordance with section 2(2) of the Local Government and Housing Act 1989.”

Reason - (1) To align with the Terms of Reference for the Standards Committee.

(2) Recommendation from the Standards Committee held on 12 October 2010.

9.4.4 “Any member of the committee may be a member of the political restrictions sub-committee and the membership of the political restrictions sub-committee shall not be fixed, but shall be determined on each occasion it is required to sit. Where possible the political restrictions sub-committee shall consist of at least one independent member who shall chair the sub-committee, provided that in cases where a decision on a political restriction matter is urgently required the membership of the sub-committee may consist of such members as are available.”

Reason - Recommendation from the Standards Committee held on 12 October 2010.

5. **Article 12 – Officers** (Appendix 5)

Amend as follows:

- 12.1 b. Chief Officers – delete “N.B. the following list of functions and responsibilities is still under consideration in the light of recent changes and may be subject to variations.”
- Substitute all references to the “Director of Finance and Performance” and the “Director for Organisation Development” with the “Director of Resources”.
- Include reference to the “Chief Finance Officer” in the Functions and Areas of Responsibility of the Director of Resources.
- Substitute all references to the “Director for Environmental & Public Protection” and “Director for Development” with the “Director for Place”.

Reason - The Senior Management Structure and their roles and responsibilities have now been finalised.

- 12.1 c. Statutory officers – update the post titles of the senior managers as necessary.

Reason - The Senior Management Structure and their roles and responsibilities have now been finalised.

6. Article 13 – Decision Making (Appendix 6)

13.1 Responsibility for decision making. Include additional wording as follows:

“A record will also be kept (see Section G of Part 3 of the Constitution) of those bodies / working groups / boards within the Council which do not have formal decision making roles but which have advisory responsibilities and functions.”

Reason - To formalise the current arrangements and working practices in the interests of transparency and good governance.

13.6 Decision making by officers. Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

13.10 Decision making by boards of Council officers. Include a new paragraph as follows:

“The chief executive has delegated authority to establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. Details of the currently established officer boards together with their terms of reference and decision making powers are set out in Section H of Part 3 of the Constitution.”

Reason - To formalise the current arrangements and working practices in the interests of transparency and good governance.

13.11 Access to information. Paragraph renumbered from 13.10.

Reason - Consequential amendment.

7. Article 14 – Finance, Contracts & Legal Matters (Appendix 7)

Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

8. Article 16 – Suspension, Interpretation & Publication of the Constitution (Appendix 8)

Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

9. Council Procedure Rule - 1. Election of the Executive (Appendix 9)

Amend CPR 1(g) to read:

“(g) elect the Leader of the Council (as necessary).”

Reason - In recognition that a strong leader is not subject to annual election (under statute).

10. Council Procedure Rule – 10. Deputations

Reject the proposal to limit the number of deputations received at any Ordinary Council meeting to six and retain the current wording of CPR10(2).

“Receiving of Deputations

(2) Those wishing to make a deputation to the Council should give notice 24 hours prior to the start of the meeting to the Assistant Director – Legal, Governance and Monitoring indicating their intention to make the deputation and an outline of the substance of it.

Reason - Placing a limit on the number of deputations that may be made to an Ordinary Council meeting would not be in the best interests of democracy.

Retain the current wording of CPR 10(3) and include the following additional wording:

“(3) The Mayor shall have the discretion to hear a deputation for which the appropriate notice has not been given. The Mayor shall also have the discretion to limit the number of deputations which may be received at an Ordinary Council meeting together with the time allowed for each deputation, particularly in relation to deputations concerning the same subject matter.”

Reason - To provide for flexibility by allowing the Mayor to have the ultimate discretion as to the number and length of deputations that will be heard at each Council meeting.

Amend CPR 10(5) to read:

“Size of Deputation and Speech

(5) 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. The Cabinet Member's response shall not exceed five minutes.”

Reason - In the interests of fairness and to seek to ensure that all Council business on the agenda is dealt with.

Include the following additional wording as CPR 10(6):

“(6) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in exceptional circumstances. For example, in order to respond to personal attacks made during the course of a deputation. Such response shall not exceed five minutes.”

Reason - In the interests of fairness and good governance.

Referral of Subject Matter

Renumber as CPR 10(7) and replace “Head of Service” with “Assistant Director”.

“(7) The Mayor may direct that the subject matter of a deputation be referred to an appropriate Assistant Director for investigation and report to Cabinet or an appropriate Committee.”

Reason - General updating.

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

Reject the following proposal:

Referral of Subject Matter

“(10) No member of the public who has been part of a deputation to an Ordinary Council meeting (in accordance with Rule 10) may ask a question relating to the subject matter of that deputation, at the same Council meeting.”

Reason - In the interests of fairness and democracy.

Include the following additional provision as CPR 11(10):

Mayor's Discretion

“(10) The Mayor shall have the discretion not to allow public questions to be asked where they relate to the same subject matter as a deputation that has earlier been received at the same Ordinary Council meeting.”

12. Council Procedure Rule - 12. Written Questions by Members

Include reference in CPR 12(8) to Sub Committees and Panels:

“Where written questions are not addressed within the above timescale, then the question will be referred to the next relevant Cabinet / Committee / Sub-Committee / Panel 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 or if the Member, within 7 days of the Council meeting, has requested a written response to his / her 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”.

Reason - To align with CPR 12 (1).

Amend CPR 12(11) to replace “taped” and “the tape” with “recorded”:

“The Assistant Director - Legal, Governance and Monitoring 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 recorded and held by the Assistant Director - Legal, Governance and Monitoring 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”.

Reason - To reflect current practice.

Include a new rule within CPR 12 to provide for ordinary meetings of the Council to consider written questions from Members prior to the asking of any oral questions under CPR 13.

Reason - In the interests of good governance and to ensure the most efficient and effective use of officer time.

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

Reject the proposal to limit each Member to asking only one question and one supplementary question of each Cabinet Member. CPR 13(2) then to read as follows:

“(2) *Questions/Comments on Cabinet Minutes*

- (i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those of the 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, in addition to or instead of exercising their rights under Rule 13(2)(iii), comment for a maximum of five minutes 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, subject to the portfolio which is the subject of a progress report to the meeting being at the top of the list. During this item Members will have the opportunity to question Cabinet Members (and other Members appearing on the schedule) on meetings/discussions with external organisations. Any such question will be answered immediately in the manner provided for in Rule 13(4).
- (vi) 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.”

Reason - For clarity and in the interests of democracy.

Reject the proposal to limit each Member to asking only one question and one supplementary question of any Committee Chair. CPR 13(3) then to read as follows:

“(3) *Questions / Comments 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.
- (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/are 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."

Reason - For clarity and in the interests of democracy.

Reject the proposal to limit each Member to asking only one question and one supplementary question of any Chair of a Sub-Committee/Panel. Reject also the proposal to limit each Member to asking only one question and one supplementary question of the relevant spokesperson for any of the Joint Committees or external bodies identified in Rule 13(4). CPR 13(4) then to read as follows:

"(4) *Questions to Chairs of Sub-Committees / Panels and Spokespersons of Joint Committees and External Bodies*

- (i) Any Member may ask the Chair of the relevant Sub-Committee / Panel a question upon any item within the Terms of Reference of that Sub-Committee or Panel. Any Member may also ask a question of the relevant spokesperson for any of the Joint Committees or external bodies identified in Rule 13(4)(ii).
- (ii) For the purposes of this Rule, questions may be asked of spokespersons or representatives of the following Joint Committees or external bodies:
 - (a) Kirklees Neighbourhood Housing
 - (b) Kirklees Active Leisure
 - (c) West Yorkshire Integrated Transport Authority
 - (d) West Yorkshire Fire and Rescue Authority
 - (e) West Yorkshire Police Authority
 - (f) Joint Services Committee
 - (g) Leeds City Region Leaders Board"

Reason - (1) To provide for questions to be asked of the Chairs of Sub-Committees and Panels in the interests of democracy.
(2) Updating of the titles of specified joint committees and external bodies.

Include reference in CPR 13(5) to Sub-Committees and Panels:

"(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 / Sub-Committees / Panels 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.”

Reason - To reflect the proposed amendment to CPR 13(4).

14. Council Procedure Rule - 14. Notices of Motion

Amend CPR 14(4) to read:

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

Reason - For clarity to ensure that all motions are relevant to Kirklees and relate to some matter over which the Council has control/influence.

15. Council Procedure Rule - 16. Termination and Adjournment of Meeting

Amend CPR 16(5) to read as follows:

- “(5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Assistant Director – Legal, Governance and Monitoring receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.”

Reason - For clarity and in the interests of good governance.

16. Council Procedure Rule - 18. Rules of Debate

Renumber CPR 18(10) as follows:

“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,

(iii) by way of personal explanation.”

Reason - For clarity

17. Council Procedure Rule - 18. Rules of Debate

“(12) Except where the voting procedure in Rule 24(6) applies and for motions made under Rule 14(5) only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.”

Reason - For clarity

18. Council Procedure Rule - 19. Motion to Make Statutory Calculations and to set Amounts of Council Tax

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.”

Reason - General housekeeping amendment.

19. Council Procedure Rule – 33. Membership of Secret Organisation by Employees

Delete Rule 33 in its entirety.

Reason - Relates to declarations by Council employees. This should be a matter for the Employee Handbook and/or Officer Code of Conduct.

20. Council Procedure Rule – 39. Quorum of Committees, Management Boards, Sub-Committees and Panels

Delete the following text from CPR 39(7):

“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”.

Reason - The Council no longer has single ward Area Committees. The quorum of Town and Valley Committees is subject to the standard one-third requirement.

21. Council Procedure Rule – 41. Procedure Rules to apply to Committees, Sub-Committees and Panels

Delete the text “standing and”.

Reason - To reflect current practice.

22. Council Procedure Rule – 42. Voting in Committees, Sub-Committees or Panels

Amend CPR 42(1) as follows:

“(1) Voting at a meeting of a Committee, Sub-Committee or Panel shall be by a show of hands or by use of the electronic voting equipment, where appropriate. Alternatively the Committee, Sub-Committee or Panel may require the Assistant Director - Legal, Governance and Monitoring to take a vote by ballot on any motion or amendment which is put to the meeting.”

Reason - To reflect current practice.

23. Council Procedure Rules - general amendment

Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

24. Overview & Scrutiny Procedure Rule - 2.2 Standing Overview and Scrutiny Panels (Appendix 10)

Amend OSPR 2.2(xi) as follows:

“(xi) Scrutinise the work of the Local Strategic Partnership and its structures and the Council’s contribution to them, specifically in relation to shared partnership priorities.”

Reason - Shared partnership priorities to replace reference to the Local Area Agreement.

25. Overview & Scrutiny Procedure Rule - 9.Work programme

Delete “Ad-Hoc Panels will be set up with specified terms of reference to scrutinise and review in depth particular issues” from OSPR 9.3. Wording of OSPR 9.3 to read as follows:

“9.3 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.”

Reason - To remove duplication of text.

26. Overview & Scrutiny Procedure Rule - 10. Agenda items

Substitute “Area Committees” with “Town and Valley Committees” in OSPR 10.5.

“10.5 Town and Valley Committees shall have the right to draw matters to the attention of the Management Committee and panels.”

Reason - To reflect change of name.

27. Overview & Scrutiny Procedure Rule - 12. Reports from Overview and Scrutiny Management Committee

Include the text “where appropriate” in OSPR 12.7 as follows:

“12.7 The Cabinet / Cabinet Committee and where appropriate Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.”

Reason - To clarify agreed procedure in respect of direction of scrutiny reports for agreement.

28. Overview & Scrutiny Procedure Rule - 16. Attendance by others

Substitute “Area Committees” with “Town and Valley Committees” in OSPR 16.2 as follows:

“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 Town and Valley 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.”

Reason - To reflect change of name

29. Overview & Scrutiny Procedure Rule - 19. Call-in - procedure

Amend OSPR 19.2 as follows:

“19.2 There will be a standard period of 5 full working days (commencing the next working day following the Cabinet/Cabinet Committee meeting at which the decision is made and ending at 5.30pm on the fifth working day) before decisions can be implemented (e.g. call in period will end at 5.30pm on Tuesday following a Cabinet/Cabinet Committee meeting the previous Tuesday). A decision can be called-in only during this period.”

Reason - To clarify the call-in period following earlier confusion.

Amend OSPR 19.3 as follows:

“19.3 To call in a decision of the Cabinet / Cabinet Committee, written notice must be given to the Assistant Director Legal, Governance and Monitoring 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 and guidance information will be made available from the Scrutiny Office to make this easier.”

Reason - Amendment to reflect guidance available for Councillors calling in decision

Amend OSPR 19.5 as follows:

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

Reason - Amendment to ensure clear guidelines on a valid call in notice

Amend OSPR 19.6 as follows:

“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 the end of the call in period, 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, Governance and Monitoring 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.”

Reason - To clarify the period within which call-in can be heard.

Amend OSPR 19.8 as follows:

“19.8 The Assistant Director of Legal, Governance and Monitoring, and in his/her absence the Director for Resources, 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.”

Reason - To establish arrangements in the event that the AD Legal, Governance & Monitoring is absent.

Include a new OSPR 19.9 as follows:

“19.9 Once signed and submitted to the Assistant Director of Legal, Governance and Monitoring, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call in.”

Reason - Addition reflects need to clarify procedure in respect of withdrawal of call in notices.

Amend the original OSPR 19.9 as follows and renumber as OSPR 19.10:

“19.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the Cabinet / Cabinet Committee. The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Assistant Director of Legal, Governance and Monitoring, or in his/her absence the Director for Resources.”

Reason - Text has been changed to reflect need to establish a procedure in respect of witnesses being called to call in meetings.

Renumber original OSPRs 19.10 – 19.16 as OSPRs 19.11 – 19.17

Reason - consequential amendments

30. Overview & Scrutiny Procedure Rule - 20. Call-in of decisions outside the budget or policy framework.

Substitute “Director of Finance and Performance” with “Director of Resources”

“20.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the Director of Resources 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.”

Reason - To reflect change of job title.

31. Executive Procedure Rule - 1.8 Quorum (Appendix 11)

Delete the following text from 1.8.1

“provided that where any business to be transacted by the Cabinet or a committee of the Cabinet has implications for local children, young people and families any meeting shall not be quorate unless the lead member for children’s services is present”.

Reason - To remove the requirement for the Lead Member for Children’s Services always to be present where any business being dealt with by the Cabinet or a Cabinet Committee has implications for local children, young people and families. Unnecessary and impracticable requirement.

32. Executive Procedure Rule - 2.6 Who can put items on the Cabinet agenda?

Substitute all references to the “Head of Policy & Governance” with the “Head of Governance & Democratic Services”.

Reason - To reflect new post title.

33. Section B of the Constitution (Appendix 12)

- Substitute all references to “Area Committees” with “Town and Valley Committees”

Reason - General housekeeping.

- Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect new post title.

- **Planning and Highways Committee - Terms of Reference.** Substitute all references to “Development Control” with “Development Management”.

Reason - To reflect the new terminology.

- **Planning and Highways Committee - Membership.** Reduce membership from 16 members to 11.

Reason - Recommendation of the Leading Members to facilitate improved decision making.

- **Planning Area Sub-committees - Terms of Reference.** Amend the terms of reference for each of the sub-committees to include highways functions currently reserved to the Planning and Highways Committee.

Reason - Public rights of way matters relate predominantly to local issues and should therefore be determined on a more local basis at the planning sub-committee.

- Amend (i) to read; "Where the proposed decision will be contrary to any saved policy of the Unitary Development Plan"

Reason - For the purposes of clarity.

Standards Committee

Amend the membership of Standards Committee as follows:

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;
- three persons who are not Councillors or officers of the Council or any other body having a Standards Committee (external members);
- three persons who are members of a parish or town Council wholly or mainly in the Council's area (parish members), but who are not also members of Kirklees Council."

Reason - recommendation from the Standards Committee held on 1 February 2011. To ensure that the Council continues to meet its statutory obligations under the Local Government Act 2000 for a properly constituted Standards Committee with the correct composition of Kirklees, Parish and External members until such time as the standards regime is abolished.

34. Section D of the Constitution (Appendix 13)

Substitute all references to "Area Committees" with "Town and Valley Committees".

Reason - General housekeeping.

35. Section E of the Constitution (Appendix 14)

Amend as follows:

"Overview & Scrutiny Management Committee

Pursuant to Article 6 of Part 2 of this Constitution, the Council has established four Standing Panels and will appoint task-orientated, time limited ('ad-hoc')

scrutiny panels (as appropriate) to discharge the functions set out in that Article and in s.21 of the Local Government Act 2000.”

Reason - General housekeeping.

36. Section F of the Constitution (Appendix 15)

- Amend the scheme of delegation for the Director of Place as follows:

Investment and Regeneration

B. Highways Transportation matters

Include the following additional wording:

“iv) where there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal);”

Reason - It is uncommon for Highways officers to receive responses from all three of the relevant ward Councillors.

Delete the following paragraphs:

“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);”

Reason - To allow for greater flexibility within the process. Highway officers will be able to assess the merits of each objection / representation / comment in consultation with the relevant planning committee / sub committee chair and a joint decision can be made as to whether it is appropriate / necessary for the public rights of way matter to be referred to members.

Renumber remaining paragraphs as required.

- Amend the scheme of delegation for the Chief Executive as set out in Appendix B.

Reason - For clarity and to reflect current arrangements.

37. Section G of the Constitution (Appendix 16)

Include reference to the Budget Advisory Board and its terms of reference.

“Budget Advisory Board

Membership consists of the Leader and Deputy Leader of each of the Groups who are party to the Budget Implementation Agreement dated 16 February 2011.

- The Board will meet as and when required to consider and comment on proposals, options or recommendations relating to the implementation of Budget decisions regarding business contained within the Budget Implementation Agreement, agreed at Council on 23 February 2011.
- The Board will only meet when proposals have been sufficiently developed for submission to the decision making body.
- The Board will make comments and/or recommendations to inform discussion and deliberations at the decision making body i.e. Cabinet or Council, relating to the budget issue under consideration.”

Reason - To reflect current arrangements.

38. Section H of the Constitution (Appendix 17)

Include in Section H details of the membership and terms of reference of the currently established officer boards ie.

- Directors' Group
- Management Board
- Council Managers' Group
- Communications Board
- Innovation and Efficiency Programme Board
- Employee Relations Panel
- Strategic Investment Board

39. Implications for the Council

It is essential that the Council's Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, businesslike and effective manner. Failure to do so could lead to unnecessary procedural delays and less transparency in the Council's democratic processes.

40. Consultees and their opinions

Various officers in the Legal, Governance & Monitoring Service and the Investment and Regeneration Service have been involved in discussions regarding these proposed revisions. The Chairs of both of the Area Planning

Sub-Committees and the Chair of the Planning & Highways Committee have all been consulted on the proposed changes to the terms of reference and membership of the Planning Committee / Sub-Committees. The Leaders of the political groups have been consulted on the significant proposed changes set out in this report. The recommendations above also reflect and incorporate the comments of the Corporate Governance and Audit Committee held on 13 May 2011 and set out below:

RESOLVED

(1) That the proposed changes to the Constitution and Council Procedure Rules, as set out in the submitted report, be agreed and recommended to Annual Council for approval subject to Annual Council being advised that the Committee:-

- (i) Does not support specifying a restricted number of deputations which may be received at any ordinary Council meeting (paragraph 10 of the submitted report, CPR 10 (2)).
- (ii) Recommends that the Mayor should have discretion to limit the number of deputations, and the time they are allowed to speak, particularly in relation to deputations concerning the same subject matter (change to the proposal in paragraph 10, CPR 10 (3)).
- (iii) Recommends substitution of the word "exceptional" for the word "appropriate" in relation to the proposal to allow other Members of the Council to respond to deputations (in addition to the Cabinet Portfolio Holder) (paragraph 10, CPR 10 (6)).
- (iv) Recommends that the Mayor shall have discretion not to allow public questions relating to the subject matter of a deputation to an ordinary Council meeting (change to the wording of paragraph 11, CPR 11 (10)).
- (v) Does not support restrictions of questions / comments on Cabinet Minutes, Committee Minutes, and to Chairs of Sub-Committees / Panels and spokespersons of Joint Committees and External Bodies to no more than one question and one supplementary question (paragraph 13, CPR 13 (2) (iii); (3) (iii); and (4) (i)).
- (vi) Recommends a new rule be included to provide for ordinary meetings of the Council to consider written questions prior to oral questions to Cabinet Members, Committee Chairs and Chairs of Sub-Committees/Panels and spokespersons of Joint Committees and External Bodies.
- (vii) Recommends revisions to Council Procedure Rule 14 (4) to provide greater clarity for the need for Council Motions to be relevant to the powers and duties of the Council within the Kirklees area.

- (viii) Recommends, in relation to the call-in period for executive decisions, that decisions are not implemented until five working days after the Cabinet/Cabinet Committee meeting (paragraph 28, CPR 19.2).
- (ix) Seeks clarification on the circumstances in which a Member who is a signatory to a call-in notice may withdraw their signature from such notice (paragraph 28, CPR 19.9 refers).
- (x) Recommends Annual Council to call for a report back on the renaming of Town and Valley Committees (paragraph 32 refers).

(2) That the Committee notes the amended Article 4 tabled at the meeting and requests that further discussions take place with Leading Members on whether plans and strategies wider than the Development Plan should be considered by the Council under the Policy Framework.

41. Officer recommendations and reasons

That Annual Council consider and approve the proposed changes to the Constitution (apart from those that relate to executive functions) set out in the Key Points Section above and delegate authority to the Council's Monitoring Officer to make all of the necessary amendments.

42. Cabinet portfolio holder recommendation

Not applicable

43. Next steps

The Council's Constitution to be amended in accordance with the resolution of Annual Council.

44. Contact member and officer and relevant papers

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Background Papers:

Reports to Annual Council dated 25 May 2010 and Standards Committee dated 12 October 2010 and 1 February 2011.

APPENDIX A



Corporate Governance & Audit Committee : 13 May 2011

Title of report: Proposed changes to the Council's Constitution

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Is it in the Council's Forward Plan?	N/A
Is it eligible for "call in" by Scrutiny?	N/A
Cabinet member portfolio	Corporate

Electoral wards affected: All

Ward Councillors consulted: N/A

Public or private: Public

1. Purpose of Report

To consider and recommend to Council approval of proposed amendments to the Council's Constitution.

2. Key Points

The Constitution requires that any changes to the Articles of the Constitution, the Council Procedure Rules and the Overview and Scrutiny Procedure Rules must be made by Council following a recommendation from the Corporate Governance & Audit Committee. This committee is therefore asked to approve the following proposed amendments to the Articles and Procedure Rules set out below and recommend approval to Council. The proposed amendments referred to in paragraphs 32 to 36 inclusive are not required by the Constitution to be considered by this committee prior to consideration by Council. However, full details are included in this report in the interests of good governance and for completeness. Approval of the proposed amendments referred to in paragraphs 30 and 31 below is the responsibility of the Executive but, again, details are included for completeness. The proposed changes are shown underlined within this report and the appendices.

Proposed Changes

1. **Article 4 – the Full Council** (Appendix 1)

The list of plans and strategies forming the policy framework has been updated.

2. **Article 6 – The Overview & Scrutiny Function** (Appendix 2)

6.1.2 - “The Management Committee shall be made up of seven members based on a ratio of 2:2:2:1, comprising of the Chair of Overview & Scrutiny, the four Scrutiny Panel, Lead Members and two other Councillors”.

Reason - To reflect the amendment agreed at the Annual Council meeting on 26 May 2010.

6.2.1 - Minor amendments to the Panel scopes.

Reason - To reflect the restructuring of the Council directorates.

6.5 (e) - “Review and scrutinise decisions made or actions taken by the Local Strategic Partnership or bodies within its structure, in relation to shared partnership priorities”.

Reason - To reflect that, notwithstanding the removal of Local Area Agreements, Scrutiny retains a role in scrutinising partners in respect of shared priorities.

3. **Article 7 – The Executive** (Appendix 3)

Substitute all references to “the Assistant Director (Legal & Governance) with “the Assistant Director – Legal, Governance & Monitoring”.

Reason – to reflect the recent senior management structure changes.

4. **Article 9 – The Standards Committee** (Appendix 4)

9.2 Membership

“a. The Standards Committee will be composed of:-

- 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;
- three persons who are not Councillors or officers of the Council or any other body having a Standards Committee (external members);
- three persons who are members of a parish or town Council wholly or mainly in the Council’s area (parish members), but who are not also members of Kirklees Council.”

- Reason - recommendation from the Standards Committee held on 1 February 2011. To ensure that the Council continues to meet its statutory obligations under the Local Government Act 2000 for a properly constituted Standards Committee with the correct composition of Kirklees, Parish and External members until such time as the standards regime is abolished.

9.3 Role and Function

- “(k) To deal with applications for exemption from political restrictions made by Council officers in respect of their own posts and, where appropriate, to give directions to the Council requiring it to include a particular post in the Council’s list of politically restricted posts kept in accordance with section 2(2) of the Local Government and Housing Act 1989.”

- Reason - Recommendation from the Standards Committee held on 12 October 2010. To ensure that there is an effective and speedy process in place for dealing with political restriction matters.

9.4 Sub-Committees

9.4.1 “There shall be six 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
- A political restrictions sub-committee to consider appeals by officers against their posts being designated as politically restricted and to consider whether directions to the Council should be given in accordance with section 2(2) of the Local Government and Housing Act 1989.”

- Reason - (1) To align with the Terms of Reference for the Standards Committee.
(2) Recommendation from the Standards Committee held on 12 October 2010.

9.4.4 “Any member of the committee may be a member of the political restrictions sub-committee and the membership of the political restrictions sub-committee shall not be fixed, but shall be determined on each occasion it is required to sit. Where possible the political restrictions sub-committee shall consist of at least one independent member who shall chair the sub-committee, provided that in cases where a decision on a political restriction matter is urgently required the membership of the sub-committee may consist of such members as are available.”

Reason - Recommendation from the Standards Committee held on 12 October 2010.

5. **Article 12 – Officers** (Appendix 5)

12.1 b. Chief Officers – delete “N.B. the following list of functions and responsibilities is still under consideration in the light of recent changes and may be subject to variations.”

Substitute all references to the “Director of Finance and Performance” and the “Director for Organisation Development” with the “Director of Resources”.

Include reference to the “Chief Finance Officer” in the Functions and Areas of Responsibility of the Director of Resources.

Substitute all references to the “Director for Environmental & Public Protection” and “Director for Development” with the “Director for Place”.

Reason - The Senior Management Structure and their roles and responsibilities have now been finalised.

12.1 c. Statutory officers – update the post titles of the senior managers as necessary.

Reason - The Senior Management Structure and their roles and responsibilities have now been finalised.

6. **Article 13 – Decision Making** (Appendix 6)

13.1 **Responsibility for decision making.** Include additional wording as follows:

“A record will also be kept (see Section G of Part 3 of the Constitution) of those bodies / working groups / boards within the Council which do not have formal decision making roles but which have advisory responsibilities and functions.”

Reason - To formalise the current arrangements and working practices in the interests of transparency and good governance.

13.6 Decision making by officers. Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the recent senior management structure changes.

13.10 Decision making by boards of Council officers. Include a new paragraph

“The chief executive has delegated authority to establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. Details of the currently established officer boards together with their terms of reference and decision making powers are set out in Section H of Part 3 of the Constitution.”

Reason - To formalise the current arrangements and working practices in the interests of transparency and good governance.

13.11 Access to information. Paragraph renumbered from 13.10.

Reason - Consequential amendment.

7. Article 14 – Finance, Contracts & Legal Matters (Appendix 7)

Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

8. Article 16 – Suspension, Interpretation & Publication of the Constitution (Appendix 8)

Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

9. Council Procedure Rule - 1. Election of the Executive. (Appendix 9)

“(g) elect the Leader of the Council (as necessary).”

Reason - In recognition that a strong leader is not subject to annual election (under statute).

10. Council Procedure Rule – 10. Deputations

“Receiving of Deputations

- (2) Those wishing to make a deputation to the Council should give notice 24 hours prior to the start of the meeting to the Assistant

Director – Legal, Governance and Monitoring indicating their intention to make the deputation and an outline of the substance of it. No more than six deputations in total may be received at any Ordinary Council meeting.”

Reason - To place a limit on the number of deputations that may be made to an ordinary Council meeting to seek to ensure that Council is able to deal with all items of business on the agenda for each meeting.

“(3) The Mayor shall have the discretion to hear a deputation for which the appropriate notice has not been given. The Mayor shall also have the discretion to allow more than six deputations to be heard at any Ordinary Council meeting.”

Reason - To provide for flexibility by allowing the Mayor to make the final decision on the number of deputations that will be heard at each Council meeting.

“Size of Deputation and Speech

(5) 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. The Cabinet Member’s response shall not exceed five minutes.”

Reason - In the interests of fairness and to seek to ensure that all Council business on the agenda is dealt with.

“(6) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in appropriate circumstances. For example, in order to respond to personal attacks made during the course of a deputation. Such response shall not exceed five minutes.”

Reason - In the interests for fairness and good governance.

Referral of Subject Matter

“(7) The Mayor may direct that the subject matter of a deputation be referred to an appropriate Assistant Director for investigation and report to Cabinet or an appropriate Committee.”

Reason - General updating.

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

Referral of Subject Matter

“(10) No member of the public who has been part of a deputation to an Ordinary Council meeting (in accordance with Rule 10) may ask a question relating to the subject matter of that deputation, at the same Council meeting.”

Reason - To seek to ensure that all Council business on the agenda is dealt with by 9 p.m. and in the interests of good governance.

12. Council Procedure Rule - 12. Written Questions by Members

(8) Include reference to Sub Committee and Panels;

“Where written questions are not addressed within the above timescale, then the question will be referred to the next relevant Cabinet / Committee / Sub-Committee / Panel 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 or if the Member, within 7 days of the Council meeting, has requested a written response to his / her 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”.

Reason - To align with CPR 12 (1).

(11) Replace “taped” and “the tape” with “recorded”;
“The Assistant Director - Legal, Governance and Monitoring 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 recorded and held by the Assistant Director - Legal, Governance and Monitoring 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”.

Reason - To reflect current practice.

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

“(2) Questions/Comments on Cabinet Minutes

- (i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those of the 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.

- (v) No more than one question and one supplementary question 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.
- (vi) Any member may, in addition to or instead of exercising their rights under Rule 13(2)(iii), comment once for a maximum of five minutes 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, subject to the portfolio which is the subject of a progress report to the meeting being at the top of the list. During this item Members will have the opportunity to question Cabinet Members (and other Members appearing on the schedule) on meetings/discussions with external organisations. Any such question will be answered immediately in the manner provided for in Rule 13(4).
- (vii) 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.”

Reason - For clarity and to reflect current practice.

“(3) *Questions / Comments 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. No more than one question and one supplementary question may be asked by any Member of any Committee Chair.

- (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/are 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.”

Reason - For clarity and to reflect current practice.

“(4) *Questions to Chairs of Sub-Committees / Panels and Spokespersons of Joint Committees and External Bodies*

- (i) Any Member may ask the Chair of the relevant Sub-Committee / Panel a question and one supplementary question upon any item within the Terms of Reference of that Sub-Committee or Panel. Any Member may also ask a question and one supplementary question of the relevant spokesperson for any of the Joint Committees or external bodies identified in Rule 13(4).
- (ii) For the purposes of this Rule, questions may be asked of spokespersons or representatives of the following Joint Committees or external bodies:
- (a) Kirklees Neighbourhood Housing
 - (b) Kirklees Active Leisure
 - (c) West Yorkshire Integrated Transport Authority
 - (d) West Yorkshire Fire and Rescue Authority
 - (e) West Yorkshire Police Authority
 - (f) Joint Services Committee
 - (g) Leeds City Region Leaders Board”

Reason - (1) To provide for questions to be asked of the Chairs of Sub-committees and Panels.
(2) Updating of the titles of specified joint committees and external bodies.

“(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 / Sub-Committees / Panels 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.”

Reason - To reflect the proposed amendment to CPR 13(4).

14. Council Procedure Rule - 16. Termination and Adjournment of Meeting

“(5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Assistant Director – Legal, Governance and Monitoring receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.”

Reason - For clarity and in the interests of good governance.

15. Council Procedure Rule - 18. Rules of Debate

“Exceptions to Speaking Only Once

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

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

Reason - General housekeeping amendment.

16. Council Procedure Rule - 18. Rules of Debate

“(12) Except where the voting procedure in Rule 24(6) applies and for motions made under Rule 14(5) only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.”

Reason - General housekeeping amendment.

17. Council Procedure Rule - 19. Motion to Make Statutory Calculations and to set Amounts of Council Tax

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.”

Reason - General housekeeping amendment.

18. Council Procedure Rule – 33. Membership of Secret Organisation by Employees

Entire rule deleted.

Reason - Relates to declarations by Council employees. This should be a matter for the Employee Handbook and/or Officer Code of Conduct.

19. Council Procedure Rule – 39. Quorum of Committees, Management Boards, Sub-Committees and Panels

Delete the following text from paragraph 7.

“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”.

Reason - The Council no longer has single ward Area Committees. The quorum of Town and Valley Committees is subject to the standard one-third requirement.

20. Council Procedure Rule – 41. Procedure Rules to apply to Committees, Sub-Committees and Panels

Text deleted “standing and”.

Reason - To reflect current practice.

21. Council Procedure Rule – 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 or by use of the electronic voting equipment, where appropriate. Alternatively the Committee, Sub-Committee or Panel may require the Assistant Director - Legal, Governance and Monitoring to take a vote by ballot on any motion or amendment which is put to the meeting.”

Reason - To reflect current practice.

22. Council Procedure Rules - general amendment

Substitute all references to the “Assistant Director – Legal & Governance” with the “Assistant Director – Legal, Governance & Monitoring”.

Reason - To reflect the revised post title.

23. Overview & Scrutiny Procedure Rule - 2.2 Standing Overview and Scrutiny Panels (Appendix 10)

“(xi) Scrutinise the work of the Local Strategic Partnership and its structures and the Council’s contribution to them, specifically in relation to shared partnership priorities.”

Reason - Shared partnership priorities to replace reference to the Local Area Agreement.

24. Overview & Scrutiny Procedure Rule - 9.Work programme

“9.3 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.”

Reason - To remove duplication of text.

25. Overview & Scrutiny Procedure Rule - 10. Agenda items

“10.5 Town and Valley Committees shall have the right to draw matters to the attention of the Management Committee and panels.”

Reason - To reflect change of name.

26. Overview & Scrutiny Procedure Rule - 12. Reports from Overview and Scrutiny Management Committee

“12.7 The Cabinet / Cabinet Committee and where appropriate Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.”

Reason - To clarify agreed procedure in respect of direction of scrutiny reports for agreement.

27. Overview & Scrutiny Procedure Rule - 16.Attendance by others

“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 Town and Valley 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.”

Reason - To reflect change of name

28. Overview & Scrutiny Procedure Rule - 19. Call-in - procedure

“19.2 There will be a standard period of 2.5 full working days after the day the decision summary is published 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.”

Reason - To clarify the call-in period following earlier confusion.

“19.3 To call in a decision of the Cabinet / Cabinet Committee, written notice must be given to the Assistant Director Legal, Governance and Monitoring 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 and guidance information will be made available from the Scrutiny Office to make this easier.”

Reason - Amendment to reflect guidance available for Councillors calling in decision

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

Reason - Amendment to ensure clear guidelines on a valid call in notice

“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 the end of the call in period, 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, Governance and Monitoring 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.”

Reason - To clarify the period within which call-in can be heard.

“19.8 The Assistant Director of Legal, Governance and Monitoring, and in his/her absence the Director for Resources, 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.”

Reason - To establish arrangements in the event that the AD Legal, Governance & Monitoring is absent.

“19.9 Once signed and submitted to the Assistant Director of Legal, Governance and Monitoring, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call in.”

Reason - Addition reflects need to clarify procedure in respect of withdrawal of call in notices.

“19.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the Cabinet / Cabinet Committee. The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Assistant Director of Legal, Governance and Monitoring, or in his/her absence the Director for Resources.”

Reason - Text has been changed to reflect need to establish a procedure in respect of witnesses being called to call in meetings.

19.10 – 19.17 renumbered

Reason - general housekeeping.

29. Overview & Scrutiny Procedure Rule - 20. Call-in of decisions outside the budget or policy framework.

“20.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the Director of Resources 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.”

Reason - To reflect change of job title.

30. Executive Procedure Rule - 1.8 Quorum (Appendix 11)

Delete the following text from 1.8.1

“provided that where any business to be transacted by the Cabinet or a committee of the Cabinet has implications for local children, young

people and families any meeting shall not be quorate unless the lead member for children's services is present".

Reason - To remove the requirement for the Lead Member for Children's Services always to be present where any business being dealt with by the Cabinet or a Cabinet Committee has implications for local children, young people and families. Unnecessary and impracticable requirement.

31. Executive Procedure Rule - 2.6 Who can put items on the Cabinet agenda?

Substitute all references to the "Head of Policy & Governance" with the "Head of Governance & Democratic Services".

Reason - To reflect new post title.

32. Section B of the Constitution (Appendix 12)

Substitute all references to "Area Committees" with "Town and Valley Committees"

Reason - General housekeeping.

Substitute all references to the "Assistant Director – Legal & Governance" with the "Assistant Director – Legal, Governance & Monitoring".

Reason - To reflect new post title.

Planning and Highways Committee - Terms of Reference. Substitute all references to "Development Control" with "Development Management".

Reason - To reflect the new terminology.

Planning and Highways Committee - Membership. Reduce membership from 16 members to 11.

Reason - Recommendation of the Leading Members to facilitate improved decision making.

Planning Area Sub-committees - Terms of Reference. Amend the terms of reference for each of the sub-committees to include highways functions currently reserved to the Planning and Highways Committee.

Reason - Public rights of way matters relate predominately to local issues and should therefore be determined on a more local basis at the planning sub-committee.

Amend (i) to read; "Where the proposed decision will be contrary to any saved policy of the Unitary Development Plan"

Reason - For the purposes of clarity.

Standards Committee

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;
- three persons who are not Councillors or officers of the Council or any other body having a Standards Committee (external members);
- three persons who are members of a parish or town Council wholly or mainly in the Council's area (parish members), but who are not also members of Kirklees Council.”

Reason - recommendation from the Standards Committee held on 1 February 2011. To ensure that the Council continues to meet its statutory obligations under the Local Government Act 2000 for a properly constituted Standards Committee with the correct composition of Kirklees, Parish and External members until such time as the standards regime is abolished.

33. Section D of the Constitution (Appendix 13)

Substitute all references to “Area Committees” with “Town and Valley Committees”.

Reason - General housekeeping.

34. Section E of the Constitution (Appendix 14)

“Overview & Scrutiny Management Committee

Pursuant to Article 6 of Part 2 of this Constitution, the Council has established four Standing Panels and will appoint task-orientated, time limited ('ad-hoc') scrutiny panels (as appropriate) to discharge the functions set out in that Article and in s.21 of the Local Government Act 2000.”

Reason - General housekeeping.

35. Section F of the Constitution (Appendix 15)

Proposed amendment to the scheme of delegation relating to the Director of Place.

Investment and Regeneration

B. Highways Transportation matters

Section deleted:

“iv) where there is no majority support for the proposed action by the three ward members;”

Reason - Highway officers often do not receive any responses from the relevant ward Councillors.

Sections deleted;

“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);”

Reason - To allow for greater flexibility within the process. Highway officers would be able to assess the merits of each objection / representation / comment in consultation with the relevant planning committee / sub committee chair and a joint decision can be made as to whether it is appropriate / necessary for the public rights of way matter to be referred to members.

Sections renumbered.

36. Section G of the Constitution (Appendix 16)

Include reference to the Budget Advisory Board and its terms of reference.

“Budget Advisory Board

Membership consists of the Leader and Deputy Leader of each of the Groups who are party to the Budget Implementation Agreement dated 16 February 2011.

- The Board will meet as and when required to consider and comment on proposals, options or recommendations relating to the implementation of Budget decisions regarding business contained within the Budget Implementation Agreement, agreed at Council on 23 February 2011.
- The Board will only meet when proposals have been sufficiently developed for submission to the decision making body.
- The Board will make comments and/or recommendations to inform discussion and deliberations at the decision making body i.e. Cabinet or Council, relating to the budget issue under consideration.”

Reason - To reflect current arrangements.

37. Implications for the Council

It is essential that the Council's Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, businesslike and effective manner. Failure to do so could lead to unnecessary procedural delays and less transparency in the Council's democratic processes.

38. Consultees and their opinions

Various officers in the Legal, Governance & Monitoring Service and the Investment and Regeneration Service have been involved in discussions regarding these proposed revisions. The Chairs of both of the Area Planning Sub-Committees, the Chair of the Planning & Highways Committee and the leaders of the political groups have been consulted on the proposed changes to the terms of reference and membership of the Planning Committee / Sub-Committee.

39. Officer recommendations and reasons

That Corporate Governance & Audit Committee approve the proposed changes referred to in this report (save for those that are the responsibility of the Executive) and recommend approval of the amendments to the Annual Council meeting.

40. Cabinet portfolio holder recommendation

N/A

41. Next steps

If approved by this Committee, the proposed amendments will be referred to the Annual Council meeting on 25 May 2011 for formal approval.

42. Contact member and officer and relevant papers

Vanessa Redfern
Acting Assistant Director – Legal, Governance and Monitoring

Telephone: 01484 221720
Internal: 860 1720
E-mail: vanessa.redfern@kirklees.gov.uk

Background Papers:

Reports to Annual Council dated 26 May 2010 and Standards Committee dated 12 October 2010 and 1 February 2011.

APPENDIX 1

ARTICLE 4 - THE FULL COUNCIL

4.1 Meanings:

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

Children and Young People's Plan
Community Safety Partnership Plan
Sustainable Community Strategy
West Yorkshire Local Transport Plan 3
Plans and strategies which together comprise the Local Development Framework
Youth Justice Plan
The Council's Corporate Plan
Customer Service Strategy
Environment Vision 2025
Municipal Waste Management Strategy
Integrated Investment Strategy
Statement of Licensing Policy under the Licensing Act 2003
Three year Licensing Policy under the Gambling Act 2005

Deleted: <#>Education Development Plan ¶

Deleted: Development Plan

Deleted: [included in the Children and Young People's Plan as above]

- b. **Budget** – The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement. It also includes the council's capital plan, the control of its capital expenditure and investments, and the setting of virement limits.
- c. **Housing Land Transfer** – Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 50 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Council

Only the council will exercise the following functions:-

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

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by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.

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

Deleted: and members of the Cabinet and determining their individual portfolios

4.3 Council Meetings

There are three types of council meeting:

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

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

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4.4 Responsibility for Functions

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

APPENDIX 2

ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION

6.1 Overview and Scrutiny Management Committee

6.1.1 The council will appoint the Overview and Scrutiny Management Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act and any subsequent legislation conferring overview and scrutiny functions, including that relating to scrutiny of health service provision. The Management Committee will also co-ordinate, oversee and manage the performance of those functions carried out by overview and scrutiny panels. There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year.

The council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a standing panel. The Chair of Overview and Scrutiny will be from a different political group from that of the Leader of the council.

Membership

6.1.2 The Management Committee shall be made up of seven members based on a ratio of 2:2:2:1, comprising the Chair of Overview and Scrutiny, the four Scrutiny Panel Lead Members and two other councillors. Any councillor, except a member of Cabinet, may be a member of the Management Committee. The council 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 Investment and Regeneration, Street Scene and Housing) and activities relating to partnerships and partner bodies within the portfolio.
Well-being and Communities Scrutiny Panel (including Health, Homes and Neighbourhoods and CSP)	As above in relation to the Well – being and Communities portfolio (including Health) and activities relating to the Community Safety 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 CSP 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 shared partnership priorities.**
- 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 Committee Management Committee / Panel if so requested.
- n) Request attendance by the council's section 41 representatives (joint authorities) in connection with the scrutiny of those bodies.
- o) Invite attendance by senior representatives of outside organisations and invite reports from them on their activities and performance, where necessary, in accordance with the Management Committee's / Panel's terms of reference.
- p) Question and gather evidence from any person (with their consent)
- q) Make recommendations to Cabinet / Cabinet Committee and / or Council on issues arising from the overview and scrutiny of Cabinet / Cabinet Committee decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.
- r) Identify issues for attention within the terms of reference of overview and scrutiny.

APPENDIX 3

ARTICLE 7 - THE EXECUTIVE

7.1 Title, Role and Transitional Provisions

- 7.1.1 The leader of the Council and Cabinet who are in office at the time of the local elections in May 2010 shall remain in office until the annual meeting of the authority following those elections and the scheme of responsibility for the authority's executive functions set out in Part 3.3 of this constitution as at that time shall continue in force unless and until it is amended by the Leader appointed in accordance with article 7.2.2 below;
- 7.1.2 Subject to 7.1.1 above, the authority will operate executive arrangements under section 11(2A) of the Local Government Act 2000 (known as the leader and cabinet executive model) with effect from three days after the date of the ordinary elections of councillors to the authority to be held in May 2010.
- 7.1.3 Under the leader and cabinet executive model the Executive consists of a councillor elected as Leader by the authority and a minimum of two and a maximum of nine councillors appointed to the Cabinet by the Leader. The Executive will carry out all of the authority's functions which are not the responsibility of any other part of the authority, whether by law or under this constitution;

7.2 Leader and Deputy Leader

- 7.2.1 The Leader will be a councillor elected to the position of Leader by the authority.
- 7.2.2 The first Leader to be elected under the arrangements referred to at article 7.1.2 shall be elected at the annual meeting of the authority following the ordinary elections of councillors to the authority to be held in May 2010. If the authority fails to elect a Leader at that meeting the Leader shall be elected at a subsequent meeting of the authority.
- 7.2.3 Subsequent Leaders shall be elected by the authority whenever there is a vacancy in the office of Leader.
- 7.2.4 The Leader shall designate one of the other Cabinet members to be the Deputy Leader. The Leader shall give written notice to the authority's Chief Executive and ~~Assistant Director - Legal, Governance & Monitoring~~ of the appointment of the Deputy Leader and the appointment shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of the notice. The Leader, if they think fit, may remove the Deputy Leader from office and where a vacancy in the office of Deputy Leader occurs the Leader must appoint another person in their place. The Leader shall give written notice to the authority's Chief Executive and ~~Assistant Director - Legal, Governance & Monitoring~~ of any such removal of the Deputy Leader from office or appointment of a new Deputy Leader and the

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removal or appointment shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of such notice.

7.2.5 If for any reason the Leader is unable to act the Deputy Leader must act in the Leader's place.

7.2.6 If for any reason the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to act in the Leader's place.

7.3 Form and Composition of Cabinet

7.3.1 The Cabinet will consist of the Leader, together with at least two, but no more than nine councillors appointed to the Cabinet by the Leader. One of the Cabinet members must be the Deputy Leader.

7.3.2 The Leader may appoint each Cabinet member to be responsible for a specific portfolio of functions. The Leader may make adjustments to the detail of those portfolios or add additional responsibilities as they consider appropriate in the light of operational need. Any such changes shall be reported to the next meeting of the Cabinet.

7.3.3 The Leader shall appoint one Cabinet member to be "lead member for children's services" for the purposes of section 19(1) of the Children Act 2004.

7.3.4 The Leader shall, within five working days of being elected as Leader, give written notice to the local authority's Chief Executive and ~~Assistant Director - Legal, Governance & Monitoring~~ of the details of which councillors have been appointed to Cabinet, of any portfolios of functions which have been allocated to individual Cabinet members and of which Cabinet member has been appointed as lead member for Children's Services. The Leader shall also notify the Chief Executive and ~~Assistant Director - Legal, Governance & Monitoring~~ if and when he/she makes any changes to these arrangements. Such arrangements shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of such notifications.

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7.4 Other Cabinet Members

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

7.5 Terms of Office and Removal from Office

7.5.1 The Leader's term of office shall commence upon the day of the Leader's election pursuant to article 7.2.1 or 7.2.2 and, unless article 7.5.2 applies, will expire on the day when the authority holds its first annual meeting after

the Leader's normal day of retirement as a councillor. Accordingly the maximum term of office for the Leader is 4 years.

7.5.2 The Leader's term of office will end before the time specified in article 7.5.1 in the following circumstances:

7.5.2.1 The Leader resigns from office. Such resignation shall be effective when the authority's Chief Executive receives written notice of the resignation from the Leader.

7.5.2.2 The Leader is removed from office by resolution of the authority under article 7.6.1.

7.5.2.3 The Leader resigns as a councillor.

7.5.2.4 The Leader otherwise ceases to be a councillor, except in the circumstances provided for in article 7.5.1.

7.5.3 During any period during which the Leader is suspended by the authority's standards committee or by the First-tier Tribunal (Local Government Standards in England) from being a member of the authority the Deputy Leader shall act in the Leader's place and the Leader shall not be a member of the Cabinet during the term of any such suspension.

7.5.4 The Leader may not be removed from office other than in accordance with this article.

7.5.5 The Deputy Leader is to hold office from the day when they are appointed by the Leader until the end of the term of office of the Leader, unless:

7.5.5.1 The Deputy Leader is removed from office by the Leader in accordance with article 7.2.4. Such removal from office shall be effective when the authority's Chief Executive receives written notice of the removal from the Leader;

7.5.5.2 The Deputy Leader resigns as Deputy Leader; or

7.5.5.3 The Deputy Leader ceases to be a member of the authority; or

7.5.5.4 The Deputy Leader is acting as Leader pursuant to article 7.6.3 during a vacancy in the office of Leader, in which case the Deputy Leader shall continue to hold office until the election of a new Leader.

7.5.6 During any period during which the Deputy Leader or any other member of Cabinet appointed by the Leader is suspended by the authority's standards committee or by the First-tier Tribunal (Local Government Standards in England) from being a member of the authority, the member concerned shall not be a member of the Cabinet.

7.5.7 The individual Cabinet members are to hold office from the day when they are appointed by the Leader until the end of the term of office of the Leader, subject to article 7.5.6, unless:

7.5.7.1 They are removed from office by the Leader, or the Deputy Leader acting in the Leader's absence. Any such removal of a Cabinet member from office shall take effect upon the authority's Chief Executive receiving written notice of the removal from office, such notice to be given by the Leader or Deputy Leader as the case may be;

7.5.7.2 They resign as members of the Cabinet; or

7.5.7.3 They cease to be members of the authority.

7.6 Removal from Office of the Leader

7.6.1 The Leader may be removed from office by resolution of the authority.

7.6.2 No such resolution may be considered by the authority unless a notice of motion has been submitted in writing and delivered to the ~~Assistant Director - Legal, Governance & Monitoring~~ by 10.00 a.m. on the tenth day before the date of the council meeting at which the motion is to be considered. The notice of motion must be signed by not less than one third of the members of the authority.

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7.6.3 Where the Leader is removed from office in accordance with article 7.6.1 the authority shall elect a new Leader at the meeting which the Leader is removed from office or at a subsequent meeting. During any period during which the office of Leader is vacant the Deputy Leader will act as Leader.

7.7 Proceedings of the Executive

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

7.8 Responsibility for Functions

7.8.1 The Leader will ensure that a list is maintained in Part 3 of this Constitution setting out which executive functions the Leader has allocated to himself / herself and which executive functions they have delegated to the Cabinet, specified individual members of the Cabinet, specified committees of the Cabinet or specified officers of the authority.

7.8.2 The Leader shall provide a copy of that list to the authority's Chief Executive and ~~Assistant Director - Legal, Governance & Monitoring~~ within five working days of being appointed as Leader and shall notify the Chief Executive and ~~Assistant Director - Legal, Governance & Monitoring~~ in writing of any amendments to that list. Following the appointment of a new Leader, all executive functions will vest in the Leader until the day upon which the Chief Executive gives written acknowledgment of receipt of such a list and any amendments to the list will not take effect until the day upon

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which the Chief Executive gives written acknowledgment of receipt of such notice of amendment.

7.8.3 Unless the Leader otherwise directs:

7.8.3.1 The Cabinet may arrange for the discharge of any of the executive functions delegated to it by the Leader to be exercised by a committee of the Cabinet or by an officer of the authority.

7.8.3.2 Any member of the Cabinet who has been delegated executive functions may arrange for any of those functions to be exercised by an officer.

7.8.3.3 Any committee of the Cabinet which has been delegated functions may arrange for any of its executive functions to be carried out by an officer

7.8.4 Article 7.8.2 shall not prevent the Leader, the Cabinet, a member of the Cabinet or a committee of the Cabinet from exercising functions which they have previously delegated.

APPENDIX 4

ARTICLE 9 – THE STANDARDS COMMITTEE

9.1 Standards Committee

The council will establish a Standards Committee

9.2 Membership

a. The Standards Committee will be composed of:-

- ~~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;
- ~~three~~ persons who are not councillors or officers of the council or any other body having a Standards Committee (external members);
- ~~three~~ persons who are members of a parish or town council wholly or mainly in the council's area (parish members), but who are not also members of Kirklees Council.

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b. No independent member of the Standards Committee may serve more than two terms i.e. 8 years maximum. 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.

g. A vice-chair of the Standards Committee shall be appointed on an annual basis from amongst the independent members.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) To promote and maintain high standards of conduct by members, including co-opted members;
- (b) Establish sub-committees to consider, review, request an investigation into and determine any written allegation 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.
 - To make arrangements for publicity of the member complaints system in such manner as it considers appropriate to comply with statute, regulation and Standards Board for England guidance
 - To agree, review periodically and make publicly available criteria against which complaints will be assessed
 - To agree criteria by which the assessment sub-committee will consider requests for confidentiality
 - To agree and publish a statement setting out how anonymous complaints will be dealt with
- (c) To monitor and review, as appropriate, the members' code of conduct and to advise the council on any changes;
- (d) To provide advice and guidance to members and co-opted members on issues relating to the members code of conduct and ethical standards and to arrange the provision of training on such matters;
- (e) To consider and, if appropriate, grant dispensations to members and co-opted members from requirements relating to interests set out in the members' code of conduct; within the framework set out in Part 4 of the Standards Committee (Further Provisions) (England) Regulations 2009
- (f) To deal with:-
 - any report from a case tribunal or interim case tribunal established under Section 76 of the Local Government Act 2000; and
 - any report from the Monitoring Officer on any matter which is referred to him by an ethical standards officer appointed under that Act
- (g) The exercise of (a) to (f) above in relation to the parish and town councils wholly or mainly within Kirklees and the members of those councils;
- (h) To comment on any matter raised by the council's auditors or the Local Government Ombudsman relating to the above and referred to it by the Chief Executive, the Monitoring Officer or an Overview and Scrutiny Committee;
- (i) To recommend to the council, if appropriate, the adoption of protocols relating to members' conduct supplementary to the members code of

conduct and to determine procedures for dealing with allegations of breaches of such protocols;

- (j) To consider and take action on any reports referred to it by the Corporate Governance and Audit Committee relating to the monitoring of the performance of councillors.

(k) To deal with applications for exemption from political restrictions made by Council officers in respect of their own posts and, where appropriate, to give directions to the Council requiring it to include a particular post in the Council's list of politically restricted posts kept in accordance with section 2(2) of the Local Government and Housing Act 1989.

9.4 Sub-Committees

9.4.1 There shall be six sub-committees as follows:

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- 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

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- A dispensations sub-committee to consider requests for dispensations from councillors, co-opted members with voting rights and parish and town councillors

- A political restrictions sub-committee to consider appeals by officers against their posts being designated as politically restricted and to consider whether directions to the Council should be given in accordance with section 2(2) of the Local Government and Housing Act 1989.

9.4.2 Any member of the Committee may be a member of any sub-committee and the membership of each shall not be fixed, but shall be determined on each occasion it is required to sit except that in the case of the local assessment, review and hearings sub-committees:

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

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

- 9.4.2.3** If the complaint under consideration involves a Kirklees council member, then a Kirklees council committee member must be on each sub-committee considering that complaint
- 9.4.2.4** Each sub-committee shall have 3 members consisting of one independent member who must be the Chair, and two other members of the Standards Committee (subject to the requirements of Article 9.4.2.2 and 9.4.2.3 above). The quorum for a sub-committee shall be three members and if it is not possible to continue with the sub-committee because a member becomes unavailable then a fresh committee must be established to consider the complaint.
- 9.4.2.5** No member may sit on more than one sub-committee considering a particular complaint.
- 9.4.3** 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
- 9.4.4** Any member of the committee may be a member of the political restrictions sub-committee and the membership of the political restrictions sub-committee shall not be fixed, but shall be determined on each occasion it is required to sit. Where possible the political restrictions sub-committee shall consist of at least one independent member who shall chair the sub-committee, provided that in cases where a decision on a political restriction matter is urgently required the membership of the sub-committee may consist of such members as are available.

9.5 Chair attending Council meetings.

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

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

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

APPENDIX 5

ARTICLE 12 – OFFICERS

12.1 Management Structure

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

Deleted: N.B. the following list of functions and responsibilities is still under consideration in the light of recent changes and may be subject to variations

Post	Functions and areas of responsibility
Chief Executive	Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all officers) Provision of professional advice to all parties in the decision making process Together with the monitoring officer, responsibility for a system of record keeping for all the council's decisions Corporate Improvement Priorities Developing and pursuing shared priorities with local, regional and national parties Member/Officer relations The Chief Executive is also the Returning Officer for local elections and the council's Electoral Registration Officer though these arrangements may be changed by the Corporate Governance & Audit Committee
Director of <u>Resources</u>	Strategic financial support to the

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Executive and Scrutiny, including
advice on budgets and issues of probity
and financial accounting (and Chief
Finance Officer)

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Internal Audit

Financial procedures and internal
control

Strategic financial planning and
business advice to services

Customer services

Asset Management and Corporate
Landlord

Facilities Management

Schools Catering and Cleaning

Procurement

Risk Management framework and
insurance

Housing Benefits and Revenue
Services

Performance management
development and reporting

Budget and service planning policies

Innovation and Efficiency

Policy support to the Executive and
Scrutiny and all political parties

Deleted: Director for

Deleted: Organisation Development

Decision making processes

Democratic services to members

Information technology and information
management

Local area agreements and public
service agreements

Kirklees local strategic partnership

Vision and community strategies

Internal and external communications

Equality in service delivery and employment

Legal Services

Leadership, management and workforce development

Change management and organisational development

Payroll and personnel administration

Overall responsibility for human resources and industrial relations including strategic direction, policy and procedure in HR issues

Director for Children and Young People

Implementation and management of children's services

Deleted: Service

Schools, development of children's centres and extended schools

Safeguarding of children

Partnerships for children

Work within her portfolio on local area agreements

The postholder is the council's statutory Director of Children's Services, carrying all the responsibilities which that entails.

Director for Wellbeing & Communities

Implementation and management of strategies for adults and older people

Housing

The council's approach to asylum seekers

Neighbourhood renewal

Community engagement

Community cohesion
Community safety

Devolution and local area structures
Community and voluntary organisations

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

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

Director for
Place

Environment and low carbon

Deleted: Environment

Health and Safety

Deleted: & Public Protection

Emergency Planning

Highways and Streetscene

Bereavement Services

Building Services

Public Protection

Capital project review group

Coordinated sustainable investment
strategies

Deleted: Director for

Deleted: Development

Regeneration and skills strategies

Local development framework and land
use planning

Town centre management

Rural strategies

Service delivery partnerships

Transport Strategy

Director of Public Health
(employed by NHS Kirklees
but professional and
managerially responsible to
both the PCT and the local
authority)

Overall responsibility for working with
the PCT, the local authority and their
agencies to monitor and improve:-
• health improvement
• health protection
• health service quality
and to address health inequalities
issues

c. **Statutory officers**

The council will designate the following statutory officers as shown below:

Legislation	Statutory Officer	Allocated to	
s.4 Local Government & Housing Act 1989	Head of Paid Service	Chief Executive	
s.151 Local Government Act 1972	Chief Finance Officer	Director of Resources	Deleted: Finance & Performance
s.5 Local Government & Housing Act 1989	Monitoring Officer	Assistant Director = Legal, Governance and Monitoring	Deleted: &
s.18 Children's Act 2004	Director of Children's Services	Director for Children & Young People ,	Deleted: of Deleted: Service
s.6 Local Authority Social Services Act 1970	Director of Social Services (Adults)	Director for Wellbeing and Communities	Deleted: of Adults & Deleted:
s.12ZA Local Government Act 2000	Scrutiny Officer	Scrutiny & Governance Manager	
s.31 Local Democracy Economic Development & Construction Act 2009			

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

12.2 Functions of the head of paid service

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

12.3 Functions of the monitoring officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the

proposal or decision being implemented until the report has been considered.

- b. **Supporting the Standards Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- c. **Receiving reports.** The monitoring officer will receive and act on decisions and reports made by the Standards Committee in respect of complaints made to it regarding a breach of the member code of conduct and by ethical standards officers and decisions of case tribunals in respect of matters referred to Standards for England.
- d. **Conducting investigations.** The monitoring officer will conduct investigations into matters referred by a sub-committee of the Standards Committee or by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- e. **Proper officer for access to information.** The monitoring officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f. **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer, with other officers, as appropriate, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g. **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors.
- h. **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- i. **Access to meetings & papers.** For these purposes the Monitoring Officer is entitled to have access to all meetings at which Council business is carried out and to all papers relating to such business.
- j. **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

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12.4 Functions of the chief finance officer

- a. **Ensuring lawfulness of expenditure.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council, or to the Cabinet in relation to an executive function, and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.

- b. **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the council.
- c. **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- d. **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors and will support and advise councillors and officers in their respective roles.
- e. **Give financial information.** The chief finance officer will provide financial information, as appropriate, or as required by law to the media, members of the public and the community.

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

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

12.6 Conduct

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

12.7 Employment

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

APPENDIX 6

ARTICLE 13 – DECISION MAKING

13.1 Responsibility for decision making

The council will issue and keep up to date a record of which part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this constitution. A record will also be kept (see Section G of Part 3 of the Constitution) of those bodies / working groups / boards within the council which do not have formal decision making roles but which have advisory responsibilities and functions.

13.2 Principles of decision making

The following principles apply to decision-making:-

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

13.3 Types of decision

- a. **Decisions reserved to full council.** Decisions relating to the functions listed in Article 4.2 will be made by the full council and not delegated.
- b. **Key decisions**, which means an executive decision which is likely:
 - to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local

authority's budget for the service or function to which the decision relates; or

- to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

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

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

13.4 Decision making by the full Council

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

13.5 Decision making by the Executive

Decision making in relation to the discharge of executive functions is the responsibility of the Leader. The Leader may discharge executive functions personally, or may arrange for the discharge of those functions by the Cabinet, another Cabinet member, a committee of the Cabinet or an officer of the Council.

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13.6 Decision making by officers

The delegation scheme for officers set out in Part 3 of the Constitution provides for the delegation of Council and Executive functions to the Council's chief officers and the Assistant Director - Legal, Governance and Monitoring as set out in Article 12.16. The chief officers may arrange for their delegated powers to be exercised by an officer of suitable experience and seniority. However the Chief Officer or Assistant Director - Legal, Governance and Monitoring remains responsible for any decision taken pursuant to the delegation arrangements.

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

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

13.8 Decision making by other committees and sub-committees established by the council

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

13.9 Decision making by Council bodies acting as tribunals

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

13.10 Decision making by boards of council officers

The chief executive has delegated authority to establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. Details of the currently established officer boards together with their terms of reference and decision making powers are set out in Section H of Part 3 of the Constitution.

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13.11 Access to Information

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

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APPENDIX 7

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

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

14.2 Contracts

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

14.3 Legal proceedings

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

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14.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Assistant Director - Legal, Governance and Monitoring or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person.

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

14.5 Common Seal of the council

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

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- the Assistant Director - Legal, Governance and Monitoring
- a Principal Legal Officer; or
- a Senior Legal Officer nominated by the Assistant Director - Legal, Governance and Monitoring

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

- a. to any mortgage, bond or other security for money advanced to the council;
- b. to any transfer of stock or bonds purchased or sold on behalf of the council;
- c. to any release or re-assignment of any mortgage or other security given to the council for any advance made by the council on repayment of the whole of the money thereby secured;
- d. to any proxy forms or transfer of any investment of funds of the council;
- e. to any grants of exclusive rights of burial and grants of exclusive rights of depositing ashes or cremated bodies in graves.

APPENDIX 8

ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the constitution

a. **Limit to suspension.**

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

b. **Procedure to suspend.**

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

16.2 Interpretation

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

16.3 Publication

- a. The Assistant Director - ~~Legal, Governance~~ **and Monitoring** will ensure that copies of this constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee. Deleted:
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- b. The Assistant Director - ~~Legal, Governance~~ **and Monitoring** will ensure that the summary of the constitution is made widely available within the area and is updated as necessary. Deleted:
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APPENDIX 9

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 (as necessary);
- (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

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Extraordinary Meetings

- (2) Those listed below may request the Assistant Director - Legal, Governance and Monitoring to call Council meetings in addition to ordinary meetings:

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- (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, Governance and Monitoring~~ 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.

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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 petitions (if any) and 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, Governance and Monitoring.

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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

- p) To receive presentations and/or reports on key issues and debate the same in accordance with Rule 18 (23).

OVERVIEW & SCRUTINY

- q) To receive reports from Overview & Scrutiny Management Committee and its panels and to hold a debate in accordance with Rule (18 (22))

MEMBER MOTIONS

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

GENERAL

- s) 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.
 - t) 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:
- a) by the meeting by means of a motion passed without discussion;
 - b) by the Chief Executive in consultation with the Mayor
- (5) Any discussion falling within (p) 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 Assistant Director – Legal, Governance and Monitoring indicating their intention to make the deputation and an outline of the substance of it. No more than six deputations in total may be received at any Ordinary Council meeting.
- (3) The Mayor shall have the discretion to hear a deputation for which the appropriate notice has not been given. The Mayor shall also have the discretion to allow more than six deputations to be heard at any Ordinary Council meeting.

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Size of Deputation and Speech

- (4) The deputation shall not exceed five persons. Only one person shall speak, and the speech shall not exceed five minutes.
- (5) 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. The Cabinet Member's response shall not exceed five minutes.
- (6) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in appropriate circumstances. For example, in order to respond to personal attacks made during the course of a deputation. Such response shall not exceed five minutes.

Referral of Subject Matter

- (7) The Mayor may direct that the subject matter of a deputation be referred to an appropriate Assistant Director 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, Governance and Monitoring shall record in the Minutes of the meeting the question(s) and the name of the respondent.

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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.

- (10) No member of the public who has been part of a deputation to an Ordinary Council meeting (in accordance with Rule 10) may ask a question relating to the subject matter of that deputation, at the same Council meeting.

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, Governance and Monitoring by 10.00 a.m. on the working day before the Council meeting.

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- (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 / Sub-Committee / Panel 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 or if the Member, within 7 days of the Council meeting, has requested a written response to his / her 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 Committee / Sub-Committee / Panel or affect the area of Kirklees.
- (11) The Assistant Director - Legal, Governance and Monitoring 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 recorded and held by the Assistant Director - Legal, Governance and Monitoring 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.

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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 / Comments on Cabinet Minutes*

- (i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those of the 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.

- (vii) No more than one question, and one supplementary question 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.

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- (viii) Any member may, in addition to or instead of exercising their rights under Rule 13(2)(iii), comment once for a maximum of five minutes 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, subject to the portfolio which is the subject of a progress report to the meeting being at the top of the list. During this item Members will have the opportunity to question Cabinet Members (and other Members appearing on the schedule) on meetings/discussions with external organisations. Any such question will be answered immediately in the manner provided for in Rule 13(4).

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(viii) 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.

(3) *Questions / Comments 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. No more than one question and one supplementary question may be asked by any Member of any Committee Chair.
- (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/are 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.

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(4) *Questions to Chairs of Sub-Committees / Panels and Spokespersons of Joint Committees and External Bodies*

(i) Any Member may ask the Chair of the relevant Sub-Committee / Panel a question and one supplementary question upon any item within the Terms of Reference of that Sub-Committee or Panel. Any Member may also ask a question and one supplementary question of the relevant spokesperson for any of the Joint Committees or external bodies identified in Rule 13(4).

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(ii) For the purposes of this Rule, questions may be asked of spokespersons or representatives of the following Joint Committees or external bodies:

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- (a) Kirklees Neighbourhood Housing
- (b) Kirklees Active Leisure
- (c) West Yorkshire Integrated Transport Authority
- (d) West Yorkshire Fire and Rescue Authority
- (e) West Yorkshire Police Authority
- (f) Joint Services Committee
- (g) Leeds City Region Leaders Board

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(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 / Sub-Committees / Panels 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, Governance and Monitoring 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.

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Recording of Motions

- (2) The Assistant Director - Legal, Governance and Monitoring 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.

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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, Governance and Monitoring

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Inclusion on Council Agenda

- (8) The Assistant Director - Legal, Governance and Monitoring 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, Governance and Monitoring also give written notice of a request for the motion to be considered as a later item on the Council agenda.

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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, Governance and Monitoring in accordance with the following timescales:-

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- (a) by noon on the day of Council if the meeting is to start at 5.00 p.m. or
- (b) 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, Governance and Monitoring who will notify the groups or individual Members to allow them to consider the proposals.

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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 at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Assistant Director – Legal, Governance and Monitoring receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.
- (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

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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) Assistant Director - Legal, Governance and Monitoring 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

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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,
 - (iii) by way of personal explanation.

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Amendments to Motions

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

- (d) to insert or add words;

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

Discussion of Amendments

- (12) Except where the voting procedure in Rule 24(6) applies and for motions made under Rule 14(5) only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.

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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) (q) 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.

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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, Governance and Monitoring on behalf of the Monitoring Officer.

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(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, Governance and Monitoring 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.

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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 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 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 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 Assistant Director - Legal, Governance and Monitoring

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32. Interest of Officers in Contracts

The Assistant Director - Legal, Governance and Monitoring 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.

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Deleted: 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 required details of its aims, duties or membership to be kept secret, if he/she is involved.¶

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

¶ <#>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.¶

by the 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, Governance and Monitoring 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.

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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 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 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.
- (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 or wish to make representations rather than participate in the determination of the applicationshall be entitled to speak once for a maximum of five minutes.
- (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.

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, Governance and Monitoring 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

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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.

Deleted: 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, Governance and Monitoring 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.

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- (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 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, Governance and Monitoring receives a request in writing from at least half of the Members of the Committee, Sub-Committee or Panel to do so. Assistant Director - Legal, Governance and Monitoring 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.

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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 speaking more than once) 20, 21, 22, 25, 26, 27 and 34 shall, with any necessary modifications, apply to meetings of Committees, Sub-

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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 or by use of the electronic voting equipment, where appropriate. Alternatively the Committee, Sub-Committee or Panel may require the Assistant Director - Legal, Governance and Monitoring 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.

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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, Governance and Monitoring~~ to include in the report of a Committee, a reference to any particular matters which were considered in the meeting.

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- (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.

APPENDIX 10

**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, including the four scrutiny standing panel Lead Members, 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 **shared partnership priorities**.
- (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 s/he 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, Governance and Monitoring 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 Council 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 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 **Town and Valley 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 **where appropriate** 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 **Town and Valley 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, Governance and Monitoring 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, Governance and Monitoring 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 **the decision summary is published** 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, Governance and Monitoring 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 **and guidance information** will be made available **from the Scrutiny Office** 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) **on the proforma provided** 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 **the end of the call in period**, 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, Governance and Monitoring 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, Governance and Monitoring 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, Governance and Monitoring will also notify all Members that this decision has been called-in.
- 19.8 The Assistant Director of Legal, Governance and Monitoring, **and in his/her absence the Director for Resources**, 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 Once signed and submitted to the Assistant Director of Legal, Governance and Monitoring, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call in.

19.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the Cabinet / Cabinet Committee. The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Assistant Director of Legal, Governance and Monitoring, or in his/her absence the Director for Resources.

19.11 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, Governance and Monitoring.

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.

19.12 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.

- 19.13 A decision may only be reviewed once.
- 19.14 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.
- 19.15 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.
- 19.16 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.
- 19.17 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 **Resources** 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.

APPENDIX 11

Executive Procedure Rules

1. How Does The Executive Operate?

1.1 Who may carry out executive functions?

1.1.1 The discharge of executive functions is the responsibility of the Leader. In accordance with Article 7 of this constitution the Leader shall appoint a Cabinet and a Deputy Leader.

1.1.2 The Leader may discharge executive functions personally, or may arrange for the discharge of those functions by

- 1.1.2.1 the Cabinet; or
- 1.1.2.2 another Cabinet member; or
- 1.1.2.3 a committee of the Cabinet; or
- 1.1.2.4 an officer of the Council.

1.1.3 The discharge of executive functions under rule 1.1.2 is a matter for the Leader. The Council has no authority to prevent the Leader from making such arrangements as the Leader thinks fit for the discharge of executive functions and in particular has no authority to prevent the Leader from arranging for executive functions to be discharged by an individual member of the Cabinet.

1.2 Further Delegation of Executive functions

1.2.1 Where by virtue of rule 1.1.2 any functions may be discharged by the Cabinet then, unless the Leader otherwise directs, the Cabinet may arrange for the discharge of any of those functions—

- 1.2.1.1 by a committee of the Cabinet, or
- 1.2.1.2 by an officer of the Council.

1.2.2 Where by virtue of rule 1.1.2 any functions may be discharged by a member of the Cabinet, then, unless the Leader otherwise directs, the member of the Cabinet may arrange for the discharge of any of those functions by an officer of the Council.

1.2.3 Where by virtue of rule 1.1.2 any functions may be discharged by a committee of the Cabinet, then, unless the Leader otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the Council.

1.2.4 Any arrangements made by virtue of rules 1.1.2, 1.2.1, 1.2.2 or 1.2.3 by the Leader, the Cabinet, a Cabinet member or a committee of the Cabinet for the discharge of any functions by the Cabinet, a Cabinet member, a committee of the Cabinet or officer are not to prevent Leader, Cabinet, a Cabinet member or committee of the Cabinet by whom the arrangements are made from exercising those functions.

1.2.5 Where executive functions are delegated or further delegated pursuant to rule 1.1 or rules 1.2.1 to 1.2.4, the Cabinet, a committee of the Cabinet or a member of the Cabinet to whom the delegation has been made may arrange for those functions to be discharged:

1.2.5.1 by an area committee of the authority, and such an arrangement may include provision for the area committee to arrange for the allocation of any of those functions to an officer of the authority; or

1.2.5.2 by another local authority (within the meaning of section 101 of the Local Government Act 1972) or by the executive of another local authority (within the meaning of Part II of the Local Government Act 2000) provided that the statutory requirements in respect of such arrangements are complied with; or

1.2.5.3 by way of the joint exercise of those functions with another local authority or authorities or their executives as the case may be under arrangements provided for in section 101(5) of the Local Government Act 1972 (which deals with arrangements for the joint discharge of functions by two or more local authorities) provided that the statutory requirements in respect of such arrangements are complied with.

1.2.6 Any arrangements for the discharge of functions under rules 1.2.5.1 or 1.2.5.2 shall not prevent the person or body making those arrangements from exercising those executive functions.

1.3 The council's scheme of delegation and executive functions

1.3.1 The council's scheme of delegation in so far as it relates to executive functions will be subject to approval by the Leader and may only be amended by the Leader. The details of delegations of executive functions approved by the Leader shall be set out in Part 3 of this constitution as required by Article 7. Any change to such delegations which are approved by the Leader will be reported to the next Cabinet and council meetings.

1.4 Conflicts of interest

1.4.1 Where the Leader has a conflict of interest this should be dealt with as set out in the council's Code of Conduct for Members in Part 5 of this constitution.

1.4.2 If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the council's Code of Conduct for Members in Part 5 of this constitution

1.4.3 If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Cabinet member or an officer of the council, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the council's Code of Conduct for Members in Part 5 of this constitution.

1.5 Cabinet meetings – when and where?

1.5.1 The Cabinet will meet as often as is required to transact the business of the Executive efficiently and effectively. The Cabinet shall meet at the Town Hall, Huddersfield unless otherwise specified by the Leader.

1.6 Public or private meetings of the Cabinet?

1.6.1 Cabinet meetings will normally be held in public. The Access to Information Rules in Part 4 of this constitution set out the relevant requirements and specify when meetings of the Cabinet may be held in private.

1.7 Principles of executive decision making

1.7.1 The Leader and the Cabinet will have regard to the principles of decision making set out in Article 13.2 of this constitution.

1.8 Quorum

1.8.1 The quorum for a meeting of the Cabinet, or a committee of Cabinet, shall be not be less than two in any case.

Deleted: provided that where any business to be transacted by the Cabinet or a committee of the Cabinet has implications for local children, young people and families any meeting shall not be quorate unless the lead member for children's services is present.

1.9 How are executive decisions to be taken and recorded?

1.9.1 Executive decisions which are to be taken by the Leader or an individual member of Cabinet will be taken and recorded in accordance with the Access to Information Rules in Part 4 of this constitution.

1.9.2 Executive decisions which are to be taken by the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the constitution.

1.9.3 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet.

2. How Are Cabinet Meetings Conducted?

2.1 Who presides?

2.1.1 The Leader or in their absence, the Deputy Leader will preside at any meeting of the Cabinet at which one of them is present. In their absence, a person appointed to do so by those present shall preside.

2.2 Who may attend?

2.2.1 The details of who may attend meetings of Cabinet and of Cabinet Committees, including rights of the public, are set out in the Access to Information Rules in Part 4 of this constitution and in those Council Procedure Rules which are applied to the Cabinet by Rule 4 of these Rules.

2.3 What business?

2.3.1 At each meeting of the Cabinet, the following business will be conducted:-

- 2.3.1.1 Consideration of the minutes of a previous meeting;
- 2.3.1.2 Declarations of Interest, if any;
- 2.3.1.3 Consideration of items to be discussed in private (at public meetings only);
- 2.3.1.4 To receive any petitions and hear any deputations from members of the public (public meetings only);
- 2.3.1.5 Public question time (public meetings only);
- 2.3.1.6 Up to half an hour for oral questions by Councillors;
- 2.3.1.7 Matters referred to the Cabinet (whether by the Overview and Scrutiny Management Committee, an Overview and Scrutiny panel or by the council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- 2.3.1.8 Consideration of reports from the Overview and Scrutiny Management Committee and panels and determination of any appropriate course of action on the issues so raised for report back to that committee or its appropriate panel;
- 2.3.1.9 Matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Voting

2.4.1 Voting at Cabinet meetings will be by show of hands. The Chair will have a second or casting vote.

2.5 Consultation

2.5.1 All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee or relevant panels, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.6 Who can put items on the Cabinet agenda?

2.6.1 The Leader will decide upon the schedule for the meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Head of Governance and Democratic Services will comply with the Leader's requests in this respect.

Deleted: Head of the Policy & Governance

2.6.2 Any member of the Cabinet may require the Head of Governance and Democratic Services to make sure that an item is placed on the agenda of the next appropriate meeting of the Cabinet for consideration.

Deleted: Head of Policy & Governance

2.6.3 The Head of the Paid Service, Monitoring Officer or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Governance and Democratic Services to call such a meeting in pursuance of their statutory duties.

Deleted: Head of Policy & Governance

2.7 Reports to Council

2.7.1 The Leader may determine which items of business at any meeting shall be the subject of a report to the council.

3 Cabinet Briefing

3.1 The members of the Cabinet may also, if they wish, meet informally with officers for briefing, advice and discussion of any matters relating to their functions. Such briefings may follow an agreed agenda but will not constitute meetings of the Cabinet. No decisions can be taken at such meetings. The Access to Information Procedure Rules will not apply to such meetings, except as specified in Rule 22 of those Rules.

4 Application of Council Procedure Rules

4.1 The Council Procedure Rules referred to below will apply to meetings of the Cabinet as they apply to meetings of committees:-

Rule 9 - Deputations

Rule 10 - Petitions by Members

Rule 11 - Questions by members of the public

Rule 34 - Confidentiality of meetings and recording of proceedings

Rule 36 - Observer attendance by Members

Rule 37 - Attendance by members of the public - permission to speak

APPENDIX 12

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
- Town & Valley Committees (NB: These committees may exercise both non-executive functions and executive functions.)

Deleted: Area

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 and Monitoring.

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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.
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 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 and Monitoring.~~

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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 and Monitoring~~ 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.

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

- Member of the Cabinet with responsibility for Corporate Governance
- The Chair of the Overview & Scrutiny Management Committee,
- The Chair of the Standards Committee
- Person having specialist knowledge of treasury management (to be appointed and attend as required).

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

Proportionality need not apply to this 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

| ~~11~~ Members of the council

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Terms of Reference

| Delegated authority in respect of all Planning, Development, ~~Management~~ 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:-

Deleted: Control

| **Planning and Development ~~Management~~**

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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.
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, ~~development,~~ management and highways functions of the Planning & Highways committee except:-

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- (i) Where the proposed decision will be contrary to any saved policy of 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 and Monitoring in consultation with the Chair of the Personnel Committee. The Chair of Overview and Scrutiny may select a representative to attend as observer.

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Terms of Reference

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

Standards Committee

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;
 - ~~three~~ persons who are not councillors or officers of the council or any other body having a Standards Committee (external members); Deleted: five
 - ~~three~~ persons who are members of a parish or town council wholly or mainly in the council's area (parish members), but who are not also members of Kirklees Council. Deleted: four
- 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.
- g. No independent member of the Standards Committee may serve more than two terms i.e. 8 years maximum.

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 six sub-committees as follows:

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- 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~~

Deleted: consider and

Deleted: following investigation and report

- A dispensations sub-committee to consider requests for dispensations from councillors, co-opted members with voting rights and parish and town councillors

~~- A political restrictions sub-committee to consider appeals by officers against their posts being designated as politically restricted and to consider whether directions to the Council should be given in accordance with section 2(2) of the Local Government and Housing Act 1989.~~

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.
4. Any member of the committee may be a member of the political restrictions sub-committee and the membership of the political restrictions sub-committee shall not be fixed, but shall be determined on each occasion it is required to sit. Where possible the political restrictions sub-committee shall consist of at least one independent member who shall chair the sub-committee, provided that in cases where a decision on a political restriction matter is urgently required the membership of the sub-committee may consist of such members as are available.

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.

APPENDIX 13

SECTION D

Town and Valley 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 a Town and Valley 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 cases of dispute

APPENDIX 14

SECTION E

Overview & Scrutiny Management Committee

Pursuant to Article 6 of Part 2 of this Constitution, the Council has established four Standing Panels and ~~will appoint task-orientated, time limited, ('ad-hoc') scrutiny panels (as appropriate)~~ to discharge the functions set out in that Article and in s.21 of the Local Government Act 2000.

Deleted: two Ad-hoc Panels

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.

APPENDIX 15

SECTION F

Director for Place

The holder of the post of Director for Place shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Place 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:

Investment and Regeneration

A. Development Management and Strategic 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 (in their personnel capacity) who works for the Investment and Regeneration Service and any member of their family;
- xvi) all applications submitted by or on behalf of the Chief Executive, any member of the Directors Group or Management Board or any Head of Service or Senior Manager (in their personal capacity) or any member of their family.

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 management 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/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)~~ 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).

Deleted: 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);¶

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APPENDIX 16

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

Budget Advisory Board

Membership consists of the Leader and Deputy Leader of each of the Groups who are party to the Budget Implementation Agreement dated 16 February 2011.

- The Board will meet as and when required to consider and comment on proposals, options or recommendations relating to the implementation of Budget decisions regarding business contained within the Budget Implementation Agreement, agreed at Council on 23 February 2011.
- The Board will only meet when proposals have been sufficiently developed for submission to the decision making body.
- The Board will make comments and/or recommendations to inform discussion and deliberations at the decision making body i.e. Cabinet or Council, relating to the budget issue under consideration.

APPENDIX B

Chief Executive

The holder of the post of Chief Executive is designated the Head of Paid Service for the purposes of section 4 of the Local Government and Housing Act 1989 and shall have overall corporate and operational management responsibility for the Council, its officers, the functions it carries out and the services it delivers. The Chief Executive also has specific responsibility for the operational management of the Policy Unit.

The duties of the Head of Paid Service are to report to the Council where necessary setting out proposals with respect to the co-ordination of the Council's functions, the number and grades of staff required and the organisation, appointment and proper management of the Council's staff.

Subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements and, without prejudice to the foregoing, the Chief Executive shall have power to discharge and is responsible for those functions and areas assigned to him/her in Article 12.1b of the Constitution.

The Chief Executive may also:

- (a) Discharge any function of the Council and Executive which has not been specifically delegated to another officer, committee or otherwise reserved by full Council or the Executive and may direct any Chief Officer not to exercise a delegated function in special circumstances unless they are required to do so by law.
- (b) Deal with emergencies and disasters and the carrying out of civil defence functions.
- (c) Take emergency action in the following circumstances:

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

- (d) Establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. He/she has power to determine the membership and terms of reference of the officer boards that are established. He/she also has power to determine the decision making arrangements of such boards including the delegation of authority to the Chair of each officer board to make decisions on behalf of the board which they are responsible for chairing. NB. The Chief Executive will ensure that regular details of the boards that he/she

establishes and their terms of reference are provided to the Council and the Executive.

APPENDIX C

SECTION H

Boards of Council Officers

In January 2011, the Chief Executive created the Director Group, Management Board and Council Managers Group to replace the former Executive Management Group, Senior Management Group and SMG+ meetings, after the rationalisation of the Councils senior management structures in 2010.

- The Director Group consists of the Chief Executive and Directors.
- The Management Board consists of the Chief Executive, Directors and Assistant Directors.
- The Council Manager Group consists of the Chief Executive, Directors, Assistant Directors and all of the other senior managers (Grades 17-19).

The Chief Executive sets the agendas for these meetings drawing on a forward programme of business that provides a core spine and constant reminder of the key items of management and strategic business that require attention by officers and elected members. These arrangements reflect the significant number of strategic issues which require input from more than one service or portfolio area. The forward programme of business combines work generated by Cabinet Members and their portfolio briefings with strategic work associated with the management of the Council's budget and workforce. The administration and support for these meetings is provided by officers from the Legal, Governance and Monitoring Service.

Each of the items in the forward programme is allocated to a Director or an Assistant Director to consider and develop. Some of these items may also require attention within some informal networks and working groups. In 2011/12, the four main officer working groups that report in to the Director Group and Management Board are set out below.

However, all significant recommendations for change which the lead officers and/or groups do propose have to be referred to the Management Board for consideration and approval.

The items and recommendations for action that require consideration or formal decisions are also shared with the Leader and Cabinet, Leaders, Overview and Scrutiny and Council, as appropriate.

(i) Communications Board

Membership

5 Officers including the Chief Executive (Chair), the Director of Resources and two Assistant Directors.

Purpose:

To protect and enhance the reputation of the council

To ensure that the public get the information which they need to make informed choices about their lives

To ensure that local people know what the council can do for them

To ensure that local people know what the council expects of them

To engage employees to deliver effective and productive local services

Terms of reference:

To communicate effectively the priorities of the council and its partners to the public and employees

To determine, plan and direct major campaigns for the council and partners

To collaborate with partners on major communication initiatives

To ensure that there is regular and effective consultation and dialogue with the public and employees

To develop the council's approach to the use of new media and social media for interaction with the public and employees

To utilise the local knowledge and experience of Kirklees councillors in communication with communities

To ensure that there is good co-ordination of messages for both the public and employees

To ensure that the most effective and value for money communications are used

(ii) The Innovation & Efficiency Programme Board

Membership

6 Officers including the Director of Resources (Chair), the Director of Well-being and Communities and two Assistant Directors.

Terms of Reference

To have an overview of the Programme, driving it forward through resolving issues arising within or between projects; giving direction to project boards where required and referring matters for Director Group/Management Board for information, input or decision. Also, to have an overview of the wider Council budget reductions, receiving reports and reporting to Director Group/Management Board as appropriate.

Specifically the Programme Board will:

1. Regularly review the risk log, take action or refer issues as appropriate, and to give consideration to, and if necessary, direction on, appropriate risk levels and profiles.
2. Receive reports from and have an overview of dashboards from each of the projects within the programme. The Board may invite Project Leads/Project Managers to the Board. The Board will look for and deal with inter-dependencies or risks that are not visible to individual project boards, and has responsibility for taking action to keep the projects on track. Where matters have a significant impact on strategy, they should be referred to Director Group/Management Board for decision, and where they consider that the input of Director Group/Management Board would be valuable, they will refer for input.
3. Have oversight of significant service reviews generally, particularly progress against financial targets. To provide a check and balance for significant service reviews in terms of ensuring proposals are in line with agreed broad principles; reflect the general direction in which the Council is moving and checking for opportunities to reduce duplication in services. To agree whether more detailed update reports on specific high risk reviews should be brought to the Board for consideration and to give direction.
4. Resolve directional issues between projects which need the input and agreement of senior stakeholders to ensure the progress of the programme.
5. Review the benefits realisation regularly to ensure progress against targets, taking timely and appropriate action where they consider benefits will not be achieved, including making recommendations to Director Group on any alteration of targets considered necessary and appropriate. Specifically to have an overview of and take decisions on principles, and if necessary on amounts to be removed from service budgets if there is dispute between services and/or with professional finance or the I&E team.

6. Consider proposals of strategy/corporate direction e.g. the IT strategy and changes to the back office function and from the HR Business re-organisation project on the Admin workstream, and refer to Director Group for decision.
7. Have an overview of delivery against agreed parameters of the programme generally i.e. cost, organisational impact and expected/anticipated benefits.
8. To assist the Programme team in driving forward the programme by ensuring that adequate resources are provided to the team and each workstream including agreeing prioritisation where necessary.
9. Agree programme management arrangements that are necessary to deliver effectively e.g. the establishment of project boards/other governance forums.

(iii) The Employee Relations Panel

10 Officers including the Director for Place (Chair), 6 Assistant Directors and the Head of Human Resources.

Terms of Reference

- a) provide support in developing the IR strategy, ensuring responsiveness to opportunities
- b) support the I&E programme in terms of ER and IR strategies and tactics
- c) provide contingency plans and comms strategy to address IR issues/strikes
- d) have oversight of council wide reviews, 17/18/19 and admin
- e) have overview of the significant service reviews and I&E reviews in the context of ER and IR (not duplicating the roles of the project boards)
- f) manage VER exercises and subsequent "bumps" etc
- g) manage the deployment activity
- h) manage compulsory redundancy exercises
- i) strong link to I&E benefits realisation and challenge where opportunities are not being realised

(iv) The Strategic Investment Board

Membership

6 Officers including the Director of Resources (Chair) and 4 Assistant Directors.

Terms of Reference

To understand and advise members on the investment decisions for all aspects of capital / revenue investments in particular, but not limited to the use of council assets. To ensure via Strategic planning that the council's priorities and aspirations are delivered via our investments and a holistic investment plan is produced. To deliver appropriate business cases and reports to members where required. To refer matters to Director Group/Management Board for information, input or decision as and when required.

Specifically the group will:

1. Regularly review the capital plan, the council's strategic holdings, priorities and aspirations and those of its partners and ensure the council's investments are meeting the same.
2. Receive Outline Business Cases (OBCs) from colleagues who the board may invite to present. The Board will give consideration to the OBCs fit with Council priorities and key plans for example:- Sustainable Community Strategy / LDF/ Integrated Investment Strategy / Housing Improvement Plan / Asset Strategy / Disposals Strategy and those of its partners.
3. The group will receive OBCs from services for capital investments and asset utilisation.
4. The group will agree to progress or otherwise OBCs through the member portfolio and cabinet process and therefore recommend inclusion on the forward plan of key decisions. The may include recommendations to Council to change the council's capital plan. Agree whether more detailed update reports on specific high risk reviews should be brought to the Board for consideration and to give direction.
5. Resolve conflicts between competing priorities, whilst engaging with senior stakeholders.
6. Regularly review the progress of the council's capital plan, including taking timely and appropriate action where they consider benefits will not be achieved.
7. Regularly review the strategy for the council's key assets, including taking timely and appropriate acting to change the strategy to ensure best value.
8. The group will regularly review the impact of investments post delivery to ensure outcomes have been met, including recommending any changes to the capital plan or strategy as a result.

9. The group will utilise the council's investment strategy as a key document to enable decision making.

CGAC7

Contact Officer: Adrian Johnson - Tel. 01484 221712

KIRKLEES COUNCIL

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Friday 13 May 2011

Present: Councillors E Firth, D Hall, Hardcastle, Marchington and Smaje

1 Appointment of Chair for the Meeting

As a result of the recent retirement of the Chair of the Committee, as a Member of the Council, it was

RESOLVED - That Councillor D Hall be appointed Chair for the meeting.

2 Minutes of Previous Meeting

The Minutes of the meeting of the Committee held on 28 April 2011 were approved as a correct record.

3 Interests

No interests were declared.

4 Admission of the Public

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

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No questions were asked.

7 Review of the Council's Constitution and Procedure Rules

In accordance with the annual practice of reviewing the Constitution and Procedure Rules of the Council the Acting Assistant Director, Legal, Governance and Monitoring, submitted a report putting forward proposed revisions, some of which were derived from Committee recommendations and amendments agreed at the Annual Council meeting on 26 May 2010, and others concerning proposals to improve and refine the operation of Council meetings.

RESOLVED -

(1) That the proposed changes to the Constitution and Council Procedure Rules, as set out in the submitted report, be agreed and recommended to

Annual Council for approval subject to Annual Council being advised that the Committee:-

- (i) Does not support specifying a restricted number of deputations which may be received at any ordinary Council meeting (paragraph 10 of the submitted report, CPR 10 (2)).
- (ii) Recommends that the Mayor should have discretion to limit the number of deputations, and the time they are allowed to speak, particularly in relation to deputations concerning the same subject matter (change to the proposal in paragraph 10, CPR 10 (3)).
- (iii) Recommends substitution of the word "exceptional" for the word "appropriate" in relation to the proposal to allow other Members of the Council to respond to deputations (in addition to the Cabinet Portfolio Holder) (paragraph 10, CPR 10 (6)).
- (iv) Recommends that the Mayor shall have discretion not to allow public questions relating to the subject matter of a deputation to an ordinary Council meeting (change to the wording of paragraph 11, CPR 11 (10)).
- (v) Does not support restrictions of questions/comments on Cabinet Minutes, Committee Minutes, and to Chairs of Sub-Committees/Panels and spokespersons of Joint Committees and External Bodies to no more than one question and one supplementary question (paragraph 13, CPR 13 (2) (iii); (3) (iii); and (4) (i)).
- (vi) Recommends a new rule be included to provide for ordinary meetings of the Council to consider written questions **prior** to oral questions to Cabinet Members, Committee Chairs and Chairs of Sub-Committees/Panels and spokespersons of Joint Committees and External Bodies.
- (vii) Recommends revisions to Council Procedure Rule 14 (4) to provide greater clarity for the need for Council Motions to be relevant to the powers and duties of the Council within the Kirklees area.
- (viii) Recommends, in relation to the call-in period for executive decisions, that decisions are not implemented until five working days after the Cabinet/Cabinet Committee meeting (paragraph 28, CPR 19.2).
- (ix) Seeks clarification on the circumstances in which a Member who is a signatory to a call-in notice may withdraw their signature from such notice (paragraph 28, CPR 19.9 refers).
- (x) Recommends Annual Council to call for a report back on the renaming of Town and Valley Committees (paragraph 32 refers).

(2) That the Committee notes the amended Article 4 tabled at the meeting and requests that further discussions take place with Leading Members on whether plans and strategies wider than the Development Plan should be considered by the Council under the Policy Framework.

8 Proposed Amendments to Contract Procedure Rules and Financial Procedure Rules 2011

The Committee considered a report of the Assistant Director, Risk and Performance, putting forward proposed changes to Contract Procedure Rules which included proposals to change the values to reflect inflation and align them more closely with other Authorities in the area, and also proposed changes to Financial Procedure Rules which included amendments to increase the amount of financial delegation to Directors and Cabinet and changes to the rules of budget "rollover" to ensure that rollover could not exceed net under-spending at corporate and directorate level. Documents appended to the covering report illustrated further general and detailed changes.

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, subject to the Director of Resources considering revised wording in Financial Procedure Rules in relation to the issue of the application of changes to the rollover rules to Corporate and Member led budgets, such as those for Town and Valley Committees.

9 Annual Report of Internal Audit

The Committee considered a report of the Assistant Director, Risk and Performance, describing the type and volume of activity and key findings during the year to 31 March 2011 from Internal Audit work in reviewing the Council's financial and business control systems, and containing information about work planned for 2011/12 and issues relevant to the current year. The report concluded that the vast majority of financial and business controls examined were sound, but a small number of risks had been identified in the operation of two key systems, namely Creditors (Marketplace system) and Building Services Charges, which were not sufficiently controlled, or where the level of control was uncertain. The report indicated that, although there was scope for improvement in effectiveness, these two areas did not threaten the integrity of the overall control environment and, accordingly, it was concluded that, overall, the Council had an adequate and effective control environment.

The Committee was also asked to review and indicate its views regarding the effectiveness of its internal audit systems.

RESOLVED -

(1) That the Committee confirms it is content with the effectiveness of the Council's Internal Audit.

(2) That the Committee notes the submitted report and particularly highlights the higher level of unsatisfactory opinion in relation to Well-being and Communities, and calls for action in respect thereof to be reflected in the proposed Audit Plan for 2012.

10 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 under mentioned Minute.

11 Details of Complaint for Corporate Governance and Audit Committee
(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 documentation in relation to complaints from a member of the public and gave detailed consideration to its response thereto.

RESOLVED - That the Chair responds to the complainant on behalf of the Committee setting out the Committee's response.