

**ANNUAL COUNCIL: 23 MAY 2012**

**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 <a href="#">Council's Forward Plan</a> ?	N/A
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	N/A
Date signed off by <u>Director</u> & name  Is it signed off by the Director of Resources?  Is it signed off by the Acting Assistant Director - Legal & Governance?	David Smith, Director of Resources  Yes  Yes, VR, 14 May 2012
Cabinet member <a href="#">portfolio</a>	Resources

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 and, where required in accordance with the Constitution, by the Corporate Governance & 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 & Audit Committee held on 11 May 2012 and those of the Standards Committee held on 14 May 2012.

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.

Approval of the amendments referred to in paragraph 22 and approval of some of the proposed amendments referred to in paragraphs 23 and 24 below are the responsibility of the Executive but details are included here for information. The Leader's approval of these proposed changes will be sought following the Annual Council meeting.

## **2. Key points**

Proposed changes

Council Procedure Rules

### **(a) 9. Presentation of Petitions by Members of the Council**

- Include additional wording in CPR 9(1)

*"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 or any member of the public to any meeting of the Council (except the Annual Council meeting or the Budget Meeting) or an appropriate Committee, sub-committee or Panel meeting."

Reason – To provide an opportunity for members of the public to present petitions to Council personally.  
To ensure consistency with CPR 10(1)

### **(b) 10. Deputations**

- Insert new paragraphs (4) and (5) into CPR 10 and renumber existing paragraphs (4) to (7) inclusive.

"Deputations which will not be received

- (4) A deputation will not be received if the Chief Executive considers that it includes 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) Information relating to complaints made under statutory provisions which have not been finally dealt with.
  - (c) Information concerning 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) Information of a personal nature which is defamatory, offensive, frivolous, repetitive or vexatious.
- (5) Deputations with the sole purpose of promoting any company's or individual's own business interests or financial position will not be permitted."
- Reason - For consistency with CPR 11(3) and to ensure that the process is not misused.

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

- Include additional wording in the fifth sentence of CPR 11(5)

*"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 for each original question asked. Any question which cannot be dealt with during public question time will be dealt with by a written answer."

Reason - For clarity and to reflect current practice.

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

- (2) Questions/comments on Cabinet Minutes

- Include additional wording in the first sentence of CPR 13(2)(ii).

"(ii) Prior to the start of questions to Cabinet Members, a Portfolio Holder may make a report, not exceeding 10 minutes in length, 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."

Reason - In the interests of the efficient running of Council meetings.

- Include additional wording at the end of CPR 13(2)(iii)

"(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. There is no restriction on the number of questions any Member may ask within the allotted time but each Member is only permitted to ask one question together with one supplementary question at any one time."

Reason - For clarity and to reflect current practice.

- Include new paragraph (vii) into CPR 13(2)

"(vii) In circumstances where the Leader has no specific portfolio allocated to him/her the Agenda will provide that he/she heads the list of Cabinet Members for the purpose of Rule 13(2)(v). Once questions to the Leader have been completed he/she will fall to the bottom of the list and questions to Cabinet Members with specific portfolios will proceed in accordance with the provisions of Rule 13(2)(v)."

Reason - To ensure that an opportunity is provided for the Leader to be held to account in circumstances where no specific portfolio is allocated to him/her.

#### **(e) 14. Notices of Motion**

- Amend CPR 14(1) as follows:

##### *"Submission of Motions*

- (1) Every notice of motion (with the exception of those proposed in accordance with Rules 15 and 19) shall be submitted in writing and delivered to the Assistant Director - Legal, Governance and Monitoring by 9.00 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."

Reason - Administrative correction and to allow an additional hour of processing time to ensure that publication deadlines are met.

- Delete CPR 14(5) in its entirety and renumber CPR 14(6) to (13) (inclusive) accordingly.

Reason - Five Minute Motions serve no useful purpose as they provide no opportunity for constructive discussion or debate.

If deletion of CPR 14(5) is approved by Members, the following consequential amendments will be necessary:

- Delete existing CPR 5(2)(m) and replace with "To consider motions issued under Rule 14, if any, in the order which they have been received by the Assistant Director – Legal, Governance and Monitoring."
- Delete the words "but not rule 14(5)" from CPR 5(3)(r)

- Delete the words “(with the exception of Rule 14(5))” from CPR 18(6)
- Delete the words “and for motions made under Rule 14(5)” from CPR 18(12)
- Delete the words “Except as provided in Rule 14(5)” from CPR 18(15)

Reason - All consequential amendments

- Amend CPR 14(10) as follows:

*“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:-
- (a) by 10.00am on the day of Council if the meeting is to start at 5.00 p.m.  
or
- (b) by 2.00 p.m. on the day before a Council meeting which is to start in a morning”

Reason - To allow additional processing time to ensure that amendments can be checked for legal validity and that changes can be made if necessary.

- Renumber all sub paragraphs of CPR 14 as necessary

Reason - Consequential amendments.

**(f) 18. Rules of Debate**

- Amend CPR 18(4) to read as follows:

*“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 Mayor shall have absolute discretion to alter the order of those wishing to speak and may close the list at any time.”

Reason - For clarity. The technology only allows the names of up to ten members to be displayed at any one time.

- Include additional wording at the end of CPR 18(15) as follows:

*“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. However where an amendment is carried the proposer of that amendment (now the substantive motion) shall have a right of reply at the close of the debate on any subsequent amendment.”

Reason - For clarity and to reflect current practice.

- Include the following additional wording as CPR 18(25)

*“Mayor’s Casting Vote*

- (25) The Mayor, or in their absence, the person presiding at the Council meeting, shall have a second or casting vote in the case of an equality of votes.”

Reason - For clarity.

**(g) 19. Motion to Make Statutory Calculations and to set Amounts of Council Tax**

- Substitute the reference to “Director of Finance” in CPR 19(3) with “Director of Resources”

Reason - Housekeeping amendment.

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

- Amend CPR 38(9) as follows:

- “(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 Committee or the Overview and Scrutiny Panels.”

Reason - Housekeeping amendment.

**(i) 42. Voting in Committees, Sub-Committees or Panels**

- Amend CPR 42(2) to read:

“(2) The Chair at a Committee, Sub-Committee or Panel meeting shall have a second or casting vote in the case of an equality of votes.”

Reason - For clarity.

- Delete the words “to record how each Member present at the meeting intended or decided to vote” from CPR 42(5).

Reason - Superfluous wording and for clarity.

**Articles of the Constitution**

**(j) Article 6 – The Overview of Scrutiny Function**

**Article 6.2 Standing Scrutiny Panels**

- Amend the table set out in Article 6.2.1 to provide that the statutory responsibility for scrutiny of crime and disorder issues is moved from the Well-being and Communities Scrutiny Panel to the Development and Environment Panel.

Reason - The Well-being and Communities Panel currently has a large number of strategic changes on its agenda.

- Amend the table set out in Article 6.2.1 to remove the reference to the Kirklees Partnership Executive from the scope of Resources Panel.

Reason – Not continuing.

- Amend Article 6.2.4 by substituting the words “Local Strategic Partnership body” with the words “partnership bodies”.

Reason - The Local Strategic Partnership no longer exists.

- Amend Article 6.5(e) by deleting the words “Local Strategic Partnership or” and replacing with the word “partnership”.

Reason - The Local Strategic Partnership no longer exists.

**(k) Article 12 – Officers**

**C. Statutory Officers**

- Delete all of the provisions relating to the designation of a Statutory Scrutiny Officer.

Reason - The legislation that required this designation has been repealed by the Localism Act 2011.

## **(l) Article 14 – Finance, Contracts & Legal Matters**

### **14.4 Authentication of documents**

- Delete the second paragraph of Article 14.4 and replace with the following wording:

“Any contracts (other than those relating to Land Assets as defined in the Council’s Contract Procedure Rules) with a value exceeding £80,000 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 duly authorised officers of the authority or made under the corporate common seal of the council attested by at least one officer (as provided in Article 14.5 below).

Subject to CPR 14.7 any contracts for the sale or acquisition of Land Assets and any other deeds or documents relating to Land Assets transactions shall as appropriate be signed by the Assistant Director – Legal, Governance and Monitoring or other person duly authorised by him/her or have the corporate common seal of the council affixed and attested in his/her presence or in the presence of a duly authorised Principal Legal Officer or Senior Legal Officer as provided in Article 14.5 below”.

## **Overview and Scrutiny Procedure Rules**

### **(m) 2. Terms of Reference and Functions of Committees and Panels**

- 2.1.1(xii) delete the reference to the “Local Strategic Partnership Structures” and replace with “Partnership bodies”.

Reason - The Local Strategic Partnership no longer exists.

- 2.2.1(xi) delete the reference to “Local Strategic Partnership ” and replace with “Partnership bodies”.

Reason - The Local Strategic Partnership no longer exists.

- Replace the Note at the end of Section 2 with the following:

“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. The role of the Development and Environment Panel will include the specific responsibilities of the Council for the scrutiny of crime and disorder issues.”



Reason - Consequential amendment.

**(n) 9. Work Programme**

- 9.2 – delete the reference to “Local Strategic Partnership Structures” and replace with “Partnership bodies”.

Reason - The Local Strategic Partnership no longer exists.

**(o) 11. Policy review and development**

- 11.1 – delete the reference to “Local Strategic Partnership Structures” and replace with “Partnership bodies”.

Reason - The Local Strategic Partnership no longer exists.

**(p) 12. Reports from Overview and Scrutiny Management Committee**

- 12.2 – delete the reference to “Local Strategic Partnership Structures” and replace with “Partnership bodies”.

Reason - The Local Strategic Partnership no longer exists.

- Delete rules 12.3 to 12.7 inclusive and replace with the following:

“12.3 The Cabinet member (portfolio holder)/Cabinet/Cabinet Committee/partnership body/officers shall comment on any issues or factual inaccuracy within the report. Scrutiny shall consider the comments and make such changes to the report as it considers appropriate. The Cabinet portfolio holder, in consultation with the relevant Director/Asst Director(s) shall prepare a draft response to the scrutiny recommendations in the form of an action plan. 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. The draft response to the recommendations, set out in the form of an action plan, should be completed within three weeks of receipt of the Scrutiny report. During that time the portfolio holder, senior officers and the councillor who chaired the scrutiny investigation, may meet to discuss or clarify any aspects of the report.

12.4 The report, together with the portfolio holder’s draft response will be submitted to Cabinet for debate and approval of the action plan response to the recommendations. Once the response to the report is approved the report is considered final and may be submitted to Council and/or any appropriate Committee or partnership body for information or debate , particularly on issues of difference.

12.5 The reports of Overview and Scrutiny referred to the Cabinet shall be given consideration as soon as practicable following the receipt of the draft portfolio response. If the Cabinet does not consider the report and reach a final agreement on the response to the recommendations

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 above.

12.6 If any recommendations would require a departure from or a change to the agreed Budget and Policy Framework these must be considered by Council. (former section 12.5)

12.7 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."

Reason - To clarify the process.

**(q) 13. Making sure that Overview and Scrutiny reports are considered by the Cabinet.**

- Delete rules 13.1 and 13.2

Reason – Incorporated within the changes to rule 12 set out above.

**(r) 15. Members and Officers giving account**

- Include the following wording as rule 15.6:

"Where a Cabinet Member in response to a request from the Overview and Scrutiny Management Committee/Panels refuses to attend or fails to confirm that they will be present, the Leader will attend to explain the reasons for the Cabinet Member's absence."

Reason – To ensure that Cabinet Members can be held to account by Scrutiny.

**(s) 16. Attendance by others**

- 16.2 – Replace the reference to "Town and Valley Committees" with "Area Committees".

Reason – General housekeeping.

**(t) 18. Notice of Concern – Procedure**

- 18.1 – Delete the final sentence and replace with:

"This must be sent 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 Management Committee within 3 working days starting the day after

the Cabinet/Cabinet Committee agenda is published and finishing at 5.30pm on the third day."

Reason – For clarity.

- 18.2 – Delete and replace with:

"If possible all efforts should be made by a Lead member to consult with panel members before issuing a notice of concern. If not possible there must at least be consultation with the Chair of Overview and Scrutiny Management Committee."

Reason – For clarity.

**(u) Section B of Part 3 of the Constitution – Responsibility for Council (Non Executive) Functions**

- Replace all references to "Town & Valley Committees" with "Area Committees"

Reason - General housekeeping.

- Amend the Terms of Reference for the Corporate Governance & Audit Committee to include:

"To determine appointments of individuals to outside bodies (except school governing bodies) and revocation of such appointments".  
(Local choice function)

"To determine nominations for charitable trustees in cases where Area Committees fail to reach agreement".

- Include details of Membership and Terms of Reference of the Employee Relations Sub-Committee as follows:

**"Employee Relations Sub-Committee**  
**(Sub-Committee of the Personnel Committee)**

**Membership**

8 members of the Council on a ratio of 3:3:2.

**Quorum**

3 members (providing that these are not all from the same political group)

**Terms of Reference**

Delegated responsibility for:

1. Following a referral from the Assistant Director Support Services, to review decisions of an Officer Appeal Panel relating to employment matters in situations where it is alleged that:

(a) The findings of an Officer Appeal Panel are based on a judgement that is considered perverse ie the rationale for the decision of the panel is not supported by the evidence submitted and there is evidence that is contrary to the findings; or

(b) Due process has not been followed.

2. Following the review, to make one of the following recommendations:

(a) To confirm that the process followed by the panel and/or the judgement reached by the panel was appropriate and reasonable and that the final decision should stand;

(b) To determine that the process followed by the panel and/or the judgement reached by the panel was not appropriate and that either:

(i) The panel should reconsider its findings in the light of the comments of the Sub Committee; or

(ii) A new Officer Appeal Panel should be convened to re-hear the appeal.

(c) To determine whether the process followed and/or judgement of the original service hearing was inappropriate and/or unreasonable and whether this had been taken into consideration by the Officer Appeal Panel and, if so:

(i) To ask the panel to reconsider the case taking these views into account; or

(ii) If feasible, ask for the case to be re-investigated/re-heard with a new commissioning manager etc.

3. To hear disputes that have previously been presented to the Central Negotiating Team and which result in either or both parties disagreeing with the outcome.

Reason - General housekeeping. Changes approved by the Personnel Committee on 27 October 2011

#### **(v) Section C of part 3 of the Constitution – Responsibility for Executive Functions**

##### **Delegations**

- Replace the Terms of Reference for the Cabinet Committee – Local Issues with the following:

“(i) To consider and ultimately determine whether to uphold or overrule objections to the establishment of pedestrian crossings, the

installation of road humps and other traffic calming measures, the making of speed limit orders, traffic regulation orders or on-street or off-street parking places orders;

- (ii) To consider all highways petitions including those referred for consideration and/or decision from Council following a Council debate;
- (iii) To consider reports on disposals of Council assets, with a capital value not exceeding £500,000, that have previously been approved by officers;
- (iv) To consider and determine requests for the alleygating of footpaths under section 129A to 129G of the Highways Act 1980.

Reason - General housekeeping. Changes previously approved by the Leader.

**(w) Section F of Part 3 of the Constitution – Scheme of Delegation to Officers**

- Amend the delegated powers of the Director of Resources in relation to Section E. Governance & Democratic Services Matters to include:

“Without prejudice to the generality of the above, such functions and responsibilities referred to in E1 and E2 above include but are not limited to :

- a) The determination (in consultation with Group Business Managers) of nominations to outside bodies in circumstances where the Council or, in default, the Corporate Governance & Audit Committee have agreed in principle to nominate representatives and the political ratios.
- b) The acceptance of nominations for charitable trustees agreed by Area Committees.

All such nominations will be reported for information to the Corporate Governance & Audit Committee.”

**(x) Section H of Part 3 of the Constitution – Boards of Council Officers**

- Delete the wording “In 2011/12, the four main Officer working groups that report in to the Director Group and Management Board are set out below” from the third paragraph and replace with “Director Group and Management Board are supported by such panels, comprising individual directors and assistant directors, as are necessary to discharge the business of these groups. The panels include a focus on the achievement of savings across the whole budget, people management, organisational development and communications.”

- Delete the details of the four officer working groups currently set out in (i) to (iv) inclusive.

Reason – To allow for greater flexibility.

**(y) Executive Decision Making - Article 6, Access to Information Procedure Rules and the Overview & Scrutiny Procedure Rules**

- Amend Article 6.5(c) to include the following additional wording:

“c) Exercise the right to call-in and review decisions of the Cabinet/Cabinet Committees/individual Cabinet Members/Officers 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.”

Reason - To make it clear that the call-in procedure applies to all executive decisions.

- Amend Article 6.5(m) to include additional wording as follows:

“m) Question Council Officers in relation to the overview and scrutiny of service performance/delivery and the reports on which Cabinet/Cabinet Committee/individual Cabinet Member/Officer decisions are based. Such officers are required to attend meetings of the relevant Overview & Scrutiny Management Committee/Panel if so requested.”

Reason - To make it clear that the overview and scrutiny process applies to all executive decisions.

- Amend Article 6.5(q) to include additional wording as follows:

“q) Make recommendations to Cabinet/Cabinet Committee and/or Council on issues arising from the overview and scrutiny of Cabinet/Cabinet Committee/individual Cabinet Member/Officer decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.”

Reason - To make it clear that the overview and scrutiny process applies to all executive decisions.

- Amend the first sentence of Rule 12.1 of the Access to Information Procedure Rules to read:

Application of Rules to the Cabinet and Key Decisions

“12.1 Rules 13-24 apply to the Cabinet and its committees and, unless otherwise stated, to executive decisions taken by individual Cabinet Members and Officers.”

Reason - For clarity

- Amend Rule 23.2 of the Access to Information Procedure Rules as follows:

“23.2 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Head of Governance & Democratic Services to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, any conflict of interest declared and a note of any dispensation granted by the local authority’s standards committee. The provisions of Rules 7 & 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant. Records of such decisions will also be reported to the next appropriate meeting of the Cabinet.”

Reason - Legal requirement

- Amend Rule 23 of the Access to Information Procedure Rules to include the following wording as Rule 23.3:

“23.3 Access to reports before decisions made

Where an individual member of the Cabinet or an officer receives a report which he/she intends to take into consideration when he/she makes a key decision, he/she shall not make that decision until the report has been available for public inspection for at least five clear days.”

Reason - Legal requirement

## **Overview & Scrutiny Procedure Rules**

- Numerous amendments are required to these rules, in particular Rules 2.1, 2.2, 9, 10, 17, 19 and 20. Rather than list all of the proposed amendments, Council is requested to delegate authority to the Acting Assistant Director – Legal, Governance and Monitoring to amend the Overview & Scrutiny Procedure Rules to make it clear that the overview and scrutiny process, including the call-in arrangements, apply to all executive decisions.

## **(z) Revisions to the Planning Protocol**

- On 14 May 2012 the Standards Committee considered a report on proposed changes to the Planning Protocol approved by Council on 8 December 2010. The current Protocol was prepared having regard to the

then current law on bias and predetermination. However, on 15 January 2012, section 25 of the Localism Act 2011 came into force and this amended the legal position regarding predetermination. It has therefore been necessary to amend the current Protocol to ensure that it complies with the provisions of section 25 of the Localism Act 2011. The report that was presented to the Standards Committee is attached to this report as Appendix 1. (The proposed amendments are shown underlined in Appendix 2 of that report.)

- The Standards Committee resolved to refer the proposed amendments to the Planning Protocol to Annual Council for formal approval.

### **3. 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. It is also essential that the Constitution complies with current legislation. Failure to do so could lead to legal challenges, unnecessary procedural delays and less transparency in the Council's democratic practices.

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

Various officers in the Legal, Governance and Monitoring Service and the Investment and Regeneration Service have been consulted regarding these proposed revisions. The proposed changes have also been considered at a meeting of Corporate Governance and Audit Committee held on 11 May 2012. As stated above, the revisions to the Planning Protocol were considered by the Standards Committee on 14 May 2012 as the consideration and approval of protocols relating to member conduct fall within the terms of reference of that Committee.

The report presented to the Corporate Governance and Audit Committee on 11 May 2012 is attached as Appendix 2 and members of that Committee resolved as follows:

#### **Proposed Changes to the Council's Constitution**

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 that she felt would provide clarity and consistency throughout the Council Procedure Rules and reflect current practice. The Acting Assistant Director – Legal, Governance and Monitoring also brought to the Committee's attention the need for amendments to be made to Article 6 of the Constitution, the Access to Information Procedure Rules and the Overview and Scrutiny Procedure Rules to make it clear that the overview and scrutiny process, including the call-in arrangements, apply also to executive decisions taken by individual cabinet members and officers.



**RESOLVED** - That the proposed changes to the Constitution and Council Procedure Rules, as set out in the submitted report and also discussed at the meeting, be agreed and recommended to Annual Council for approval subject to the following comments:-

- (i) In relation to the proposed change to Council Procedure Rule 18(15) - "Right of Reply", there was not consensus amongst the members of the committee as to whether this should be recommended for approval. In particular, strong views were expressed by at least one member that the proposer of the original motion should always have the final right of reply, regardless of whether any amendments have been carried.
- (ii) The Acting Assistant Director – Legal, Governance and Monitoring was instructed to prepare proposed revisions to Article 6 of the Constitution, the Access to Information Procedure Rules and the Overview and Scrutiny Procedure Rules in order to make it clear that the overview and scrutiny process, including the call-in arrangements, apply to all executive decisions.

## **5. 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.

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

Not applicable.

## **7. Next steps**

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

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

Vanessa Redfern  
Assistant Director – Legal, Governance & Monitoring

Tel: 01484 221720  
Internal: 860 1720  
Email: [vanessa.redfern@kirklees.gov.uk](mailto:vanessa.redfern@kirklees.gov.uk)

## **Background Papers:**

Reports to Corporate Governance and Audit Committee dated 11 May 2012 and Standards Committee dated 14 May 2012.