

Name of meeting: Corporate Governance and Audit Committee  
 Date: 6 March 2014

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?	Not Applicable
Is it in the <a href="#">Council's Forward Plan</a> ?	Not Applicable
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	Not Applicable
Date signed off by <u>Director</u> & name  Is it signed off by the Director of Resources?  Is it signed off by the Assistant Director - Legal & Governance?	No financial implications  Yes
Cabinet member <a href="#">portfolio</a>	Resources

Electoral [wards](#) affected: **ALL**  
 Ward councillors consulted:

Public or private: **PUBLIC**

## 1. Purpose of report

To consider proposed changes to the Council's Constitution and make any comments and/or observations on the proposed changes before the proposals are presented to Council on 26 March 2014.

## 2. Key points

2.1 The Constitution consists of various documents including (in no particular order of importance):

- Articles of Constitution:
- Council Procedure Rules
- Contract Procedure Rules
- Financial Procedure Rules
- Access to Information Procedure Rules
- Decision Making

- Various Protocols relating to e.g. Planning decisions, Licensing, Officer /Member working, Officer conduct
- Members Code of Conduct
- Terms of Reference of various Committees

2.2 It is customary to consider amendments to the document at Annual Council. An annual review is required in the Articles of Constitution.

2.3 It is proposed this year to start that process early with this meeting of Corporate Governance and Audit Committee (CGA) on 6 March 2014 followed by Council on 26 March 2014. It will be followed by further reports to CGA on 26 April 2014 and then a report to Annual Council on 4 June 2014. There may also be other reports later in the year. There will also be a review of the Members Code of Conduct by Standards Committee and Corporate Governance and Audit Committee over the summer months.

2.4 We are doing this for a number of reasons including:

- Waiting until the Annual meeting has sometimes made this a rushed process and amendments have been concentrated in key areas like Council Procedure Rules/Articles/Contract Procedure Rules etc.
- It would be helpful to review the whole document. It consists of lots of distinct parts with different type face, different numbering etc. and needs a refresh and general update. This might be better done and presented in stages.

2.5 This first report is based on proposals/amendments from the new Monitoring Officers observations so far, as well as comments from Officers (in Resources e.g. governance) and members. This will concentrate on proposing amendments to:

- Part 1 Summary and Explanation (Appendix 1)
- Articles of Constitution (Part 2) (Appendix 2) – **See Articles 2.3, 4, 5, 6.5, 7.5 and New Article 17 where amendments are made**
- Council Procedure Rules (Part 3) (Appendix 3)

2.6 Further reports on the Committee agenda look at Contract Procedure Rules and Financial Procedure Rules.

2.7 Track change documents are attached at Appendices 1 to 4 with the detailed amendments to these parts of the Constitution as well as an explanation of why changes are needed if not immediately obvious. The amendments primarily are to:

- Update the document to reflect changes to the way things are done e.g. in Part 1 of the Constitution at Appendix 1 of this report
- Update for legislative changes (Appendices 2 and 3)
- Tidy up/clarify issues (Appendices 2 and 3)

2.8 Further reports will follow to CGA in April looking at other parts of the Constitution to, for example, update the Access to Information Procedure Rules and to update delegations.

2.9 Officers also seek general agreement from members to tidy up the document which will come back to this Committee and Council during the next municipal year. By general tidying up this means:

- Consistent Numbering/layout/typeface
- Use of definitions/ terminology to be consistent
- Updating references to legislation where needed
- Update cross references
- Comprehensive index

### **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, business like 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 Legal, Governance and Monitoring Service and Resources.

Discussions at meeting with Group Leaders and/or their representatives.

### **5. Next steps**

This will be considered by Council on 26 March 2014. Feedback from and comments from this meeting will be included in that report.

### **6. Officer recommendations and reasons**

That this Committee consider the proposed changes set out in:

- 6.1 Appendix 1 – Part 1 – Summary and Explanation
- Appendix 2 – Articles of Constitution (Part 2)
- Appendix 3 – Council Procedure Rules (Part 3)

and make any comments/observations before the changes are considered by Council.

6.2 Note that future reports will be tabled with constitutional amendments at the next meeting of CGA and later in the year.

6.3 Note and agree that an exercise to tidy up the document as referred to in paragraph 2.9 take place and reports come back to the CGA and Council as appropriate.

### **7. Cabinet portfolio holder recommendation**

Not applicable.

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

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**APPENDIX 1**

**PART 1**  
**SUMMARY AND EXPLANATION**

## Summary and Explanation

### 1. The Council's Constitution

Kirklees Council has a Constitution which sets out how the Council operates and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures, responsibilities and Codes of Practice are provided in separate sections, which follow the Articles.

### 2. What's in the Constitution?

Article 1 of the Constitution commits the Council, working as a community leader in partnership with others, to providing high quality services that address inequalities and give opportunity for all, with governance arrangements that deliver efficient, open and accountable decision making.

Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Role of the Mayor (Article 5)
- The Overview and Scrutiny Function (Article 6)
- The Executive (Cabinet) (Article 7)
- Regulatory and Other Committees (Article 8)
- The Standards Committee (Article 9)
- Area Committees (Article 10)
- Joint Arrangements and Joint Committees (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

The Schedule sets out which parts of the Constitution form the “executive arrangements” which are required by law.

### 3. How the Council Operates

The Council is composed of 69 Councillors with one third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree a **Code of Conduct** to ensure high standards in the way they undertake their duties. The Council's **Standards Committee** advises them on and monitors and reviews the Code of Conduct, recommends the adoption of protocols supplementary to the Code of Conduct, arranges training and ~~considers complaints about~~ establishes Sub-Committees to consider reports into alleged breaches of the Member Code of Conduct referred to it by the Monitoring Officer.

All Councillors meet together as the Council. **Meetings of the Council** are normally open to the public. Here Councillors decide the Council's overall policies and set the Budget each year. The Council appoints the Leader and Members of the Cabinet and it also appoints the various committees of the Council. At Council meetings, Members of the Council may:

- Put forward motions for debate on issues of concern;
- Question the Members of the Cabinet on their functions and the Council's services;
- Ask questions of the Chairs of other Council Committees and Council representatives on joint authorities such as the West Yorkshire Police Authority;
- Present petitions to the Council on behalf of local people;
- Debate and decide the Budget and major Council policies.

Members of the public are also entitled to ask questions at Council meetings; and to attend and speak as a deputation. They Members of the public may also take part in debates which are specifically identified for that purpose.

#### **4. How Decisions are Made**

Some Council functions, such as decisions on planning applications or licensing matters, are the responsibility of the Council itself. The Council has set up committees to deal with most of these.

~~However, t~~he Executive, which is known as the Cabinet, is the part of the Council which is responsible for most day to day decisions. It is made up of the Leader and between 2 and 9 other Council Members appointed by the Council. When major decisions are to be discussed or made 28 days notice must generally be given and also published in the Forward Plan on the Council's website. ~~these are published in the Cabinet's Forward Plan insofar as they can be anticipated.~~ If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. In practice all decision-making by the Cabinet is similarly open to the public.

The Cabinet has to make decisions which are in line with the Council's overall policies and Budget which have to be decided by the Council as a whole. If the Cabinet wishes to make a decision which is outside the Budget or policy framework, this must be referred to the Council as a whole to decide.

| The Leader and Cabinet ~~is~~are allowed to delegate decision-making to Cabinet committees, to individual Cabinet Members or to officers. The Council or its committees can also delegate decision-making to sub-committees or to officers.

## **5. The Overview and Scrutiny Function**

The Council appoints the Overview and Scrutiny Management Committee from among the non-executive Councillors to support the work of the Cabinet and the Council as a whole. The Overview and Scrutiny Management Committee co-ordinates and manages the work of any Scrutiny panels which may be set up. They look into matters of concern and make reports and recommendations which advise the Cabinet and the Council as a whole on its policies, Budget and service delivery. They also monitor the decisions of the Cabinet and can call in a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## **6. Area Committees**

In order to give local people a greater say in Council affairs, the Council has created a structure of Area Committees. They involve Councillors for each particular area and may have local people co-opted onto them. In parished areas, special arrangements with the local Town or parish Council may apply. The role of Area Committees is to consult local people and consider issues of local concern or significance and to advise the Cabinet and the Council on them. They also have the role of drawing up a local community action plan designed to address the particular needs of the area. The Council or the Cabinet may give any Area Committee specific delegated powers to make decisions on some matters relating specifically to that area. Area Committees each cover one or more wards of the Council.

## **7. The Council's Staff**

The Council has people working for it (called officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some work in schools and may be responsible to the School's Governing Body. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and Members of the Council.

## **8. Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local citizens' advice bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example, as a parent or carer of a child at school or as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- Vote at local Elections if they are registered;
- Contact their local Councillor about any relevant matters of concern to them;
- Be treated equally and have equal opportunity with other citizens;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its committees, except where, for example, personal or confidential matters are being discussed;
- ~~Petition to request a referendum on a mayoral form of Cabinet (though no such referendum can legally be held in Kirklees until the expiry of the five years following the referendum of 4 October 2001);~~
- Participate in Council meetings as indicated in paragraph 3. ~~A~~above;
- Contribute to investigations by the Overview and Scrutiny Management Committee and ~~s~~Scrutiny ~~p~~Panels;
- Find out, from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- Attend meetings of the Cabinet, particularly where key decisions are being discussed or decided, except where, for example, personal or confidential matters are being discussed;
- See reports and background papers and any record of decisions made by the Council and the Cabinet except where they contain personal or confidential matters;
- Complain to the Council about a problem with a Council service – a leaflet and form are available which explain how this can be done;
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints procedure;
- Complain in writing to ~~Kirklees the~~ Council's ~~Standards Committee Monitoring Officer~~ if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- At the time of the external audit of the Council's accounts, inspect those accounts and make their views known to the external auditor~~:-~~;

~~The Council's procedures also allow members of the public to~~

- ~~p~~Present deputations or ask questions at Council or Cabinet meetings.

A statement of the rights of citizens to inspect agendas and reports and attend the meetings (the Access to Information Procedure Rules) is set out in Part 4 of the Constitution and is available on request from Legal, Governance and Monitoring, 2<sup>nd</sup> Floor, High Street Buildings, Huddersfield, HD1 2ND or on the Council's website.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact ~~the Decision Support Unit (address etc speak to Richard Farnhill or Carl Whittlecraft)~~ Governance and Democratic Services, Crown Court Buildings, Princess Street, Huddersfield, HD1 2TT or telephone 01484 221000.

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# PART 2

## ARTICLES OF THE CONSTITUTION

[Part 2](#)

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## ARTICLE 2 - MEMBERS OF THE COUNCIL

### 2.1 Composition and Eligibility

#### (a) Composition

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

#### (b) Eligibility

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

### 2.2 Election and Terms of Councillors

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

### 2.3 Roles and functions of all Councillors

#### (a) Key Roles

The key roles of councillors are set out below:-

##### *Leadership at Ward Level*

- To lead and champion the interests of the local community and effectively represent the interests of the ward and its constituents.
- To meet and liaise regularly with local interested parties and involve and consult them on key council decisions.
- To support and promote citizenship locally and empower the community to participate in the governance of the area.

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- To undertake case work for constituents and act as an advocate in resolving concerns or grievances.
- To communicate with local people and answer enquiries:
  - about decisions that affect them
  - about opportunities in the community
  - regarding the rights of constituents within Kirklees
  - as to why decisions are taken

#### *Localism and Local Area Committees*

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

#### *Representation*

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

#### *Other*

- To fulfil the legal (in accordance with the council's Code of Conduct for Councillors) and local requirements placed on an elected member.

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- To prepare an annual report to be published every June.
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

(b) **Rights and Duties**

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

Comment [KC1]: drafting

## 2.4 Conduct

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

## 2.5 Allowances

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

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## 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 Development Plan  
Youth Justice Plan 2011/12  
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  
Equality and Diversity Strategy  
Joint Health and Wellbeing Strategy  
Making it Personal – Commissioning Strategy for Adults  
Community Cohesion Strategy  
Commissioning Housing Strategy  
Carbon Reduction Strategy  
Early Learning and Childcare 2011-2014

- 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.

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- b. Approving or adopting the **p**Policy **f**Framework, the **b**Budget (including the capital plan) and any application to the Secretary of State in respect of any **h**Housing **l**Land **t**Transfer.
- c. Subject to the urgency procedure contained in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the **p**Policy **f**Framework or the **b**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 **b**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.

Comment [KC2]: drafting

### 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.

# ARTICLE 5 - ROLE OF THE MAYOR

## 5.1 Role and Function

The Mayor and Deputy Mayor will be elected by the council annually at its annual meeting as set out in the Council Procedure Rules in Part 4 of this Constitution. The Mayor and in his/her absence (for whatever reason), the Deputy Mayor will have the roles and functions set out in the following paragraphs.

**Comment [KC3]:** Clarification. See also the amendments to the Council Procedure Rules in Appendix 3A

## 5.2 Chairing the Council meeting

The Mayor will have the following responsibilities:-

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

## 5.3 First Citizen

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

## 5.4 Promotion of the Council

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

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

## 5.5 Ceremonial Role

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

## 5.6 Urgent Decisions

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

# ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION

## 6.1 Overview and Scrutiny Management Committee

6.1.1 The council will appoint the Overview and Scrutiny Management Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act and any subsequent legislation conferring overview and scrutiny functions, including that relating to scrutiny of health service provision. The Management Committee will also co-ordinate, oversee and manage the performance of those functions carried out by overview and scrutiny panels. 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 that reflects the composition of the Council, 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

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	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. The Panel's role includes the specific responsibilities of the council for the scrutiny of Crime and Disorder matters.
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 other relevant partner bodies within the portfolio. The Panel's role includes the specific responsibilities of the council for scrutiny of health 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 any 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:-

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- (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 partnership bodies.

### **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.

#### Part 2

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## 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) Except where the reports recommend referral to Council, Exercise the right to call-in and review Executive decisions ( see Scrutiny Procedure Rules 2.2.3 for definition of Executive decisions) 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 partnership bodies , 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

Comment [KC4]: Clarification

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 executive decisions are based, including those executive decisions taken by individual officers. 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 executive decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.
- r) Identify issues for attention within the terms of reference of overview and scrutiny.

# ARTICLE 7 - THE EXECUTIVE

## 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 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.

### **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.

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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;

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

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; or

7.5.5.5 The Leader resigns from or dies in office in which case the Deputy Leader shall act as Leader and continue to hold office until the election of a new Leader.

Comment [KC5]: Clarity

And for the avoidance of doubt in the circumstances described in Articles 7.5.5.4 or 7.5.5.5 the Deputy Leader whilst acting as Leader shall be entitled to appoint a Cabinet in accordance with Article 7.3.

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

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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 am 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.

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 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.

## ARTICLE 17 – HEALTH

Comment [KC6]: This is to reflect the new health obligations. Part 3 will also be updated

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### 17.1 General Duties

The authority must in exercising any functions, have regard to its:

- joint strategic needs assessment; and
- joint health and wellbeing strategy.

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### 17.2 Health and Wellbeing Board

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The Council will appoint a Health and Wellbeing Board as set out in Part 3 Section B of this Constitution to discharge the functions described.

By law, the **minimum membership** of the Health and Wellbeing Board must include:

- At least one Councillor nominated by the Leader;
- A representative from each local Clinical Commissioning Group;
- The Director of Public Health;
- The Director of Children's Services;
- The Director of Adult Social Services; and
- A representative of the local Healthwatch organisation.

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Membership may also include such other persons or representatives of such other persons as the council or the Health and Wellbeing Board thinks appropriate.

The current membership of the Kirklees Health and Wellbeing Board is set out in Part 3 Section B of the Constitution.

All members of the Health and Wellbeing Board shall be able to vote, unless full Council direct otherwise.

### 17.3 Director of Public Health

The council acting jointly with the Secretary of State will appoint a Director of Public Health in accordance with Section 73A NHS Act 2006.

### 17.4 Health Scrutiny Functions

The council has arranged for its health scrutiny functions to be discharged by the Wellbeing and Communities Scrutiny Panel – see further Article 6.

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## COUNCIL PROCEDURE RULES

(Approved by ~~Annual~~ Council on ~~22 May [ ] 2013~~ 2014)

## **(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 and determine his/her term of office (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;
- (l) consider any other business set out in the notice convening the meeting; and
- (m) no other business will be considered at the Annual Meeting other than in exceptional circumstances to be determined by the Mayor in consultation with the Chief Executive.

## (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) ~~(1)~~ All meetings of the ~~Council~~Council, with the exception of:
- any called as Extraordinary Meetings; or
  - changes made to meeting dates as proposed by the Corporate Governance and Audit Committee and agreed by Council during the municipal year,
- shall be held on dates fixed by the Council at the Annual Meeting on the recommendation of the Corporate Governance and Audit Committee

Comment [KC1]: drafting

Comment [KC2]: To clarify

### *Extraordinary Meetings*

- (2) Those listed below may request the Assistant Director - Legal, Governance and Monitoring to call Council meetings in addition to ordinary meetings:
- (a) the Council by resolution;
  - (b) the Mayor, following consultation with the Chief Executive or following a written requisition signed by five Members of the Council;
  - (c) the Chief Executive, the monitoring officer and section 151 officer;
  - (d) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition; or

#### *Venue and Start Time*

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

#### *Council Summons*

- (4) The date, time and venue for each Council meeting will be shown in the summons for the meeting which will be issued by the Assistant Director - Legal, 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.

#### *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) ~~(4)~~ 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 **and External Bodies** (as defined at Rule 13)

Comment [KC3]: Drafting point for consistency

- 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**

Comment [KC4]: drafting

- m) 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.

### **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, if any, in the order which they have been received by the Assistant Director – Legal, Governance and Monitoring.

## 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) or (p) to (s) or (t) (as appropriate in the case of Key Discussion Meetings) may be changed or any of the items omitted at any one meeting:

Comment [KC5]: consistency

- 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 no later than 7:00 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 urgent 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.

Comment [KC6]: to reflect reference at Rule 15(7)

## 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 or any member of the public to any meeting of the Council (except the Annual Council meeting, an Extraordinary Meeting or the Budget 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.

Comment [KC7]: So that Extraordinary meetings may consider one item if necessary

*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, an Extraordinary 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.

Comment [KC8]: So that Extraordinary meetings may consider one item if necessary

- (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.

#### *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 or which is defamatory, offensive, frivolous, repetitive or vexatious.
- (5) Deputations with the sole or predominant purpose of promoting any company's or individual's own business interests or financial position will not be permitted.

#### *Size of Deputation and Speech*

- (6) The deputation shall not exceed five persons. Only one person shall speak, and the speech shall not exceed five minutes.
- (7) 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.
- (8) 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.

#### *Referral of Subject Matter*

- (9) The Mayor may, if appropriate, 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.

**Comment [KC9]:** It may not always be appropriate to refer on if it is something that Council is being asked to note

## **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) (a) The period allowed for the asking and answering of questions at any one

meeting shall not exceed 15 minutes.

(b) 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.

(c) 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.

(d) A questioner may also put one supplementary question to the Member for each original question asked.

(e) 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 (subject to Rules 11(3) and 11(8)) refuse to answer the question.

Comment [KC10]: Drafting clarification

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.

#### *Questions Ruled Out of Order*

- (8) In addition to the Chief Executive's power under Rule 11(3), 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.

Comment [KC11]: Drafting clarification

#### *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.

### *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. 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.

- (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-External~~ ~~bodyBody~~, as defined at Rule 13 (4). Subject to the Mayor's discretion, a 3 minute time limit applies for individual questions to be put.
- (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 Rule 12 (1) above, questions will be timetabled in the order which they are received by the Governance Team.
- ~~(5) If a Member who has submitted question in accordance with this Rule 12 is not present at the meeting at the time when the question(s) submitted is/are due to be put to a Member the question(s) will fall.~~
- ~~(6)~~ The Member to whom the question has been put shall give an oral answer at the Council meeting or may nominate at any time before or during a meeting another Member to answer if that Member agrees.
- ~~(67)~~ 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.

Comment [KC12]: Drafting

Comment [KC13]: Clarification

Comment [KC14]: Clarification

(78) The period allowed for written questions at any one meeting shall not exceed 30 minutes. A 5 minute time limit shall apply for individual responses to questions. The same time limit shall also apply to individual responses to supplementary questions, subject in both cases to the Mayor's discretion to increase the time allowed for responses in appropriate circumstances.

(89) 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.

(910) 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. In circumstances where the responding Councillor has elected, pursuant to CPR-~~Rule~~ 12(6)(c), to provide a written answer to a question, no supplementary question will be permitted.

Comment [KC15]: Drafting point

(4911) A written question, as well as any supplementary question, must be relevant to the Terms of Reference or powers or duties of Cabinet or of the relevant Committee / Sub-Committee / Panel Joint Committee or External Body or affect the area of Kirklees and should not be of a personal nature [or one which is defamatory, offensive, frivolous, repetitive or vexatious].

Comment [KC16]: Drafting to include other bodies for consistency and to add reference specifically to personal questions to make it consistent with other questions

(4412) 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.

### 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, 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.
- (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 Members~~ may ask within the allotted time but each **individual** Member is only permitted to ask one question together with one supplementary question at any one time.
- (iv) 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).
- (v) Subject to 5(i) of this Rule, Cabinet members will have a right of reply before questions are put to the Cabinet member next in alphabetical order.
- (vi) 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 purposes of Rule 13(2)(v). Once questions to the Leader have been completed he/she will fall to the bottom of the list and

**Comment [KC17]:** Clarification otherwise contradictory

questions to Cabinet Members with specific portfolios will proceed in accordance with the provisions of Rule 13(2)(v).

(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.

(4) *Questions to Chairs of Committees/Sub-Committees/Panels, Lead Members of Standing Scrutiny Panels and Spokespersons of Joint Committees and External Bodies*

- (i) Any Member may ask the Chair of the relevant Committee/Sub-Committee/Panel or the Lead Member of a Standing Scrutiny Panel a question upon any item within the Terms of Reference of that Committee/Sub-Committee/ Panel or Standing Scrutiny Panel (as applicable). Any Member may also ask a question of the relevant spokesperson for any of the Joint Committees or external bodies (including regional and sub-regional 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~~~~External~~ ~~bodies~~~~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 and Crime Panel
- (f) Joint Services Committee
- (g) Leeds City Region Leaders Board
- (h) ~~West Yorkshire Combined~~ Authority

(The Council's Monitoring Officer may update the above list as appropriate).

(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 (such

Comment [KC18]: Drafting point

Comment [KC19]: This may be deleted by the Monitoring Officer once the new Combined Authority is in place

Comment [KC20]: To reflect the new body

period to commence upon the conclusion of any Portfolio Holder's report made under Rule 13(2)(ii)) 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 15, ~~18(16)~~ 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.

**Comment [KC21]:** This also contains circumstances where motions may be made without notice

##### *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.

##### *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 and which affects the area of Kirklees.

##### *Motions Not Accepted*

- (5) 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*

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

##### *Inclusion on Council Agenda*

- (7) 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.

#### *Moving of Motions*

- (8) 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*

- (9) 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

#### *Motions on Identical Subjects*

- (10) 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.

#### *Alterations to Motions and Amendments*

- (11) 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.
- (12) 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. Notwithstanding, all meetings of Council shall adjourn at 6.50pm for 10 minutes unless the Mayor otherwise directs.
- (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 progress 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.
- (7) Following any processes outlined above, the Mayor shall finally close the meeting

Comment [KC22]: To provide an appropriate comfort break

## 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 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 Mayor shall have absolute discretion to alter the order of those wishing to speak and may close the list at any time. 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 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. **A Member may also ~~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.

**Comment [KC23]:** This clarifies the wording

#### *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.

#### *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 only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.

#### *Motion as Amended*

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

#### *Withdrawal of Motion/Amendment*

- (14) A motion or an amendment may be withdrawn by the proposer with the consent of the seconder and of the Council (which shall be decided upon

without debate). No Member may speak on it after the proposer has been granted permission for its withdrawal.

#### *Right of Reply*

- (15) 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.

#### *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.

*Mayor's 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.

*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.

**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 Resources, that the proposed amendment is financially sound and sustainable.

*Notification of Amendments*

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

*Submission of Further Motions and Amendments*

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

*Limitations*

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

*Recording of Votes relating to Council Tax etc.*

- (7) Immediately after any vote is taken at a Budget Decision Meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

Comment [KC24]: To comply with 2014 Regulations

(8) For the purposes of Rule 19 (7)

a) "Budget Decision" means a meeting of the Council at which it:

(i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(b); or

(ii) issues a precept under Chapter 4 of the Part 1 of that Act;

and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting; and

b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

## **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 ~~an interest which is not a Disclosable Pecuniary Interest~~ ~~personal or prejudicial interest~~ as ~~described~~ ~~by~~ ~~in~~ ~~paragraph~~ ~~5~~ of the Council's Code of Conduct in any matter shall comply with the requirements of that Code in respect of that interest ("Personal Interest"). ~~Those requirements may include:~~

~~(a) — declaration of the interest at meetings~~

Comment [KC25]: Updating to reflect code of conduct

~~(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.~~

~~(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.~~

Comment [KC26]: Not necessary if the requirement is set out in the Code of Conduct

(32) 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.

## 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, Governance and Monitoring, 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, Governance and Monitoring 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, Governance and Monitoring 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

### **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.

33. (Left deliberately blank)

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

- (1) The Council's meetings will be held in public unless the Access to Information Procedure Rules permit the public to be excluded. Those Rules also deal with public access to documents.
- (2) Any person attending a meeting may take written notes of the proceedings. Accredited representatives of the media as determined by the Assistant Director – Legal, Governance and Monitoring 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.

**Comment [KC27]:** It is intended to update this once the position with new legislation is clear

### **(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 Health and Well-being Board, the Overview and Scrutiny Management Committee, the Budget Advisory Board, the Overview and Scrutiny Panels, Area Committees, the Standards Committee and the Standards Sub-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.

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 in which he or she has a disclosable pecuniary interest as defined in the Council's Code of Conduct for Members and Co-optees ("the Code") unless an appropriate dispensation has been granted by the Council's Monitoring Officer.
  - (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, Governance and Monitoring 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 application

shall be entitled to speak once for a maximum of five 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, **Budget Council [and Extraordinary Meetings]**) 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.

**Comment [KC28]:** To reflect drafting elsewhere re Budget council

### **38. Appointment of Chairs and Deputy Chairs of Committees and Sub-Committees/Panels, Lead Members of Scrutiny 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 Lead Members of the Standing Overview and Scrutiny Panels;
  - (iii) appoint the Members of Outside Bodies, except where membership is appointable by the Cabinet or a Committee, and
  - (iv) 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) and the Lead Members of Scrutiny Panels, 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 or Lead Member of the Scrutiny Panel ( where appropriate) from a meeting, a Chair shall be chosen for the duration of that particular meeting or until the official Chair, Deputy or Lead Member (as recognised by Council) arrives. The Chair, Deputy Chair or Lead Member (as appropriate) 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/ Panel and the Lead Member of each Scrutiny Panel shall be a Member of the Council.
- (7) A Member of a Committee, Sub-Committee, or Panel may resign membership and the Chair or Deputy Chair of a Committee, Sub-Committee/Panel/ Sub-Group or the Lead Member of a Scrutiny 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 the Overview and Scrutiny Management Committee or any Lead Member of a Scrutiny Panel 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 or the Overview and Scrutiny Management Committee or as a Lead Member of a Scrutiny Panel.

### **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.

#### **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.
- (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, Governance and Monitoring 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.

#### **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-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 in the case of an equality of votes.
- (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. This proposal for a recorded vote will only be effective if it is supported by at least two other Members of the Committee or Sub-Committee and is made before any votes have been cast.

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

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

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

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

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

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

#### **(D) Miscellaneous**

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

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

#### **47. Suspension of Procedure Rules**

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

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

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

#### **49. Appointment of Leader or Mayor Other than at Annual Meetings of Council**

- (1) In the event that the Leader of the Council resigns part way through his or her term of office or otherwise dies in office the Deputy Leader will act as Leader of the Council in accordance with Article 7 of the Council Constitution until such time as an election takes place and a new Leader of the Council is successfully elected. Such an election shall take place at the next possible meeting of Council or at an Extraordinary Meeting of Council convened for such a purpose
- (2) In the event that the Mayor resigns from office part way through his or her term of office or otherwise dies in office the Deputy Mayor shall act in his or her place for the remainder of the Mayors term of office.

**Comment [KC29]:** For clarity in the case of resignation or death during office

**Comment [KC30]:** For clarity in the case of resignation or death during office

#### **50. Relevant Definitions**

“municipal year” means the period between Annual Meetings of the Council which will normally take place in May

“Group Leaders” means the leaders of each recognised political Group from time to time of the Council

“Key Discussions” a presentation followed by a discussion and debate which takes place over 60 minutes at ordinary meetings of the Council which are designated as Key Discussion meetings.

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