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**Service Director – Legal, Governance and
Commissioning**

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Thursday 4 May 2017

Notice of Meeting

Dear Member

Corporate Governance and Audit Committee

The **Corporate Governance and Audit Committee** will meet in the **Meeting Room 2 - Town Hall, Huddersfield** at **11.00 am** on **Friday 12 May 2017**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director - Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Corporate Governance and Audit Committee members are:-

Member

Councillor Hilary Richards (Chair)
Councillor Julie Stewart-Turner
Councillor Andrew Palfreeman
Councillor Carole Pattison
Councillor Kath Pinnock
Councillor John Taylor
Councillor Linda Wilkinson

When a Corporate Governance and Audit Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
L Holmes
B McGuin
K Sims

Green

K Allison
A Cooper

Independent

T Lyons
C Greaves
C Greaves
T Lyons

Labour

E Firth
C Scott
M Sokhal
S Ullah
S Hall

Liberal Democrat

R Eastwood
A Marchington
J Lawson

Ex Officio Members

Councillor Nigel Patrick
Councillor Graham Turner

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Interests

1 - 2

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

3: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

4: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

5: Annual Report on Treasury Management 2016-17 3 - 16

To receive the report.

Contact: Tim Mitchell, Finance Manager

6: Proposed changes to the Council's Constitution 17 - 130

To consider the report.

Contact Officer: Julie Muscroft, Service Director – Legal,
Governance and Commissioning.

7: Proposed changes to Financial Procedure Rules 131 -
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To consider the report.

Contact: Martin Dearnley, Head of Audit and Risk

8: Proposed changes to Contract Procedure Rules 173 -
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To consider the report.

Contact: Mark Barnes, Legal Services

9: Proposed amendments to Overview and Scrutiny

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To consider the reports.

Contact: Penny Bunker, Governance Manager

10: Dates of Council - 2017/2018 Municipal Year

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To consider the report.

Contact: Andrea Woodside, Governance Officer

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KIRKLEES COUNCIL				
COUNCIL/CABINET/COMMITTEE MEETINGS ETC				
DECLARATION OF INTERESTS				
Corporate Governance and Audit Committee				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and

(b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Corporate Governance and Audit Committee 12 May 2017
 Cabinet 30 May 2017
 Council (date to be confirmed)

Title of report: Annual Report on Treasury Management 2016-17

Purpose of report

Financial Procedure Rules require that the Council receives an annual report on Treasury Management activities for the previous financial year. The report reviews borrowing and investment performance.

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports) ?	Yes 29 March 2017
The Decision - Is it eligible for "call in" by Scrutiny?	Yes
Date signed off by Director & name	27 April 2017 Debbie Hogg
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	Yes As above
Is it also signed off by the Service Director for Governance and Commissioning Support?	Yes, 28 April 2017
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

1. Summary

1.1 The Council's treasury management operation for the year has followed the strategy approved by Council on 17 February 2016. Investments averaged £41.8 million, were largely deposited in instant access accounts and earned an average interest rate of 0.37%. Total external borrowing increased for the year by £13.3 million to £437.7 million. The increase is largely arising out of the need to replace balances spent. The majority of borrowing is on fixed rate terms and the average borrowing rate for 2016/17 was 4.78%.

1.2 The treasury management function spent £10.9 million on interest payments/received and £12.6 million on providing for the repayment of debt. There was a £11.6 million underspend against the budget, largely arising from the change in policy on Minimum Revenue Provision approved by Council on 15 February 2017. The Council complied with its treasury management prudential indicators, but did unintentionally breach the limits on amounts to be held with counterparties on three occasions due to circumstances explained in 2.8.2 and 2.8.3.

2. Information required to take a decision

2.1 Background

2.1.1 The Council has adopted the CIPFA Code of Practice on Treasury Management and operates its treasury management service in compliance with this Code and various statutory requirements. These require that the prime objective of the activity is to secure the effective management of risk, and that borrowing is undertaken on a prudent, affordable and sustainable basis.

2.1.2 Financial Procedure Rules require that the Council receives a report on Treasury Management activities for the previous financial year. Cabinet is responsible for the implementation and monitoring of the treasury management policies. Corporate Governance and Audit Committee undertake a scrutiny role with regard to treasury management.

2.1.3 In reviewing performance, reference will be made to the Treasury Management Strategy Report approved by Council on 17 February 2016.

2.2 Borrowing and Investment Strategy 2016/17

2.2.1 With the continuation of instabilities in the financial markets and fragility of economic activity, the over-riding policy was one of ensuring the security of the Council's balances. The Council chose to invest externally balances of around £30 million, largely for the purpose of managing day-to-day cash flow requirements, with any remaining balances invested "internally", offsetting borrowing requirements. The investment strategy was designed to minimise risk, investments being made primarily in instant access accounts or short-term deposits, with the major British owned banks and building societies, or Money Market Funds.

2.2.2 It was expected that the Council's external borrowing would increase by up to £30 million, arising mainly from the need to replace balances used. With short-term rates forecast to stay low over the next three years, it is proposed that new borrowing be kept to relatively short periods (up to 10 years).

2.3 The economy and interest rates

2.3.1 Politically, 2016/17 was an extraordinary twelve months which defied expectations when the UK voted to leave the EU and Donald Trump became President of the USA. Uncertainty arising from these outcomes and the slowdown of the Chinese economy in early 2016 all resulted in significant market volatility during the year.

2.3.2 The referendum result caused a sharp fall in the Sterling exchange rate and initial falls in interest rates and equity prices. Higher import prices, together with higher energy prices, resulted in CPI rising to 2.3% year/year in March 2017. Repercussions on economic growth were judged by the Bank of England to be sufficiently severe to prompt a cut in Base Rate to 0.25% in August and embark on further gilt and corporate bond purchases. Despite growth forecasts being downgraded, economic activity was fairly buoyant and the labour market also proved resilient. The UK's sovereignty rating was downgraded to AA by two of credit rating agency.

2.3.3 At the beginning of each quarter, interest rates for the UK were as follows:

		<u>Base rate</u>	<u>50 year PWLB (maturity)*</u>
2016	Apr	0.50%	2.95%
	Jul	0.50%	2.17%
	Oct	0.25%	2.17%
	Jan	0.25%	2.50%
2017	Apr	0.25%	2.34%
*Includes the 0.20% discount that the Council can access as part of the "certainty rate" scheme.			

2.4 Investment activity

2.4.1 The Council's treasury management investments totalled £31.3 million as at 31 March 2017 (£38.3 million 31 March 2016). The Council invested an average balance of £41.8 million externally during the year (£59.0 million 2015/16). Income of £0.153 million was generated through these investments (£0.264 million 2015/16). Appendix 1 shows where investments were held at the beginning of April, the end of September and the end of March, by counterparty, by sector and by country. The Council's average lending rate for the year was 0.37% (0.45% 2015/16), being above the weighted average 7 day London Interbank borrowing rate of 0.33%. The fall in rates between the years reflects the Base Rate cut in August.

2.4.2 The majority of investments were placed in instant access bank deposit accounts/Money Market Funds (MMFs). MMFs offer greater diversification of counterparties and thus lower risk, as well instant access and relatively good returns.

2.4.3 At the end of November, the Bank of England released the results of its latest stress tests on the seven largest UK banks and building societies (Barclays, HSBC, Lloyds/Bank of Scotland, Santander UK, HSBC, RBS/NatWest and Nationwide BS). The 2016 stress tests were more

challenging and designed under a new Bank of England framework, which tested the banks' resilience. No banks failed the test, but Royal Bank of Scotland, Barclays and Standard Chartered Bank were found to be the weakest performers. It should be noted that the tests were based on banks financials as at 31 December 2015 (11 months out of date), but our advisors, Arlingclose, regularly undertake analysis of relevant ratios in order to keep its clients informed of current bank creditworthiness.

2.5 Borrowing requirement and debt management

2.5.1 In terms of borrowing, long-term loans at the end of the year totalled £400.5 million and short-term loans (excluding interest accrued) £37.7 million (£408.4 million and £16.0 million 31 March 2016), an overall increase of £13.8 million. The only new long-term borrowing in the year was an interest free loan for £109k from West York Combined Authority, linked to a housing development scheme being undertaken by the Council. Appendix 2 details repayments of long-term loans during the year and short-term loans outstanding as at 31 March 2017.

	Actual £m
Decrease in Capital Financing Requirement excluding PFI	-4.7
Decrease in net balances	17.8
Increase in external borrowing and deferred liabilities	13.1

The Capital Financing Requirement (CFR) is the authority's underlying need to borrow for a capital purpose.

2.5.2 Fixed rate loans account for 82.5% of total long-term debt giving the Council stability in its interest costs. The maturity profile for fixed rate long-term loans is shown in Appendix 3 and shows that no more than 11% of fixed rate debt is due to be repaid in any one year. This is good practice as it reduces the Council's exposure to a substantial borrowing requirement in future years when interest rates might be at a relatively high level.

2.5.3 The primary source of the Council's borrowing is from the Government ie Public Works Loan Board (PWLB). In January 2015, DCLG announced that the PWLB would be abolished. It is likely that Treasury will take over the PWLB's responsibilities and lending arrangements will remain unaffected.

2.5.4 In June 2016, the Council received deed polls from Barclays Bank stating that it would not exercise its options to increase interest rates on £30 million of LOBO (Lender's Option, Borrower's Option) loans held by the Council. This effectively makes the loans fixed rate maturity loans. The interest rates on these loans range from 3.81% to 4.10%. This effectively brings the total of LOBO loans down to 76.6 million which represents 17.5% of total external borrowing. LOBO loans are when the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option to

either accept the new rate or to repay the loan at no additional cost. No options were exercised during the year.

2.5.5 The Local Capital Finance Company established in 2014 by the Local Government Association as an alternative source of local authority finance. It plans to issue bonds on the capital markets and lend the proceeds to local authorities. It has yet to issue any loans but officers will continue to monitor developments of this potential new funding source.

2.5.6 In terms of debt rescheduling, the premium charge for early repayment of PWLB debt remained relatively expensive for the loans in the Council's portfolio and therefore unattractive for debt rescheduling activity.

2.5.7 The average borrowing rate for 2016/17 was 4.78% (4.95% 2015/16).

2.6 Trends in treasury management activity

2.6.1 Appendix 4 shows the Council's borrowing and investment trends over the last 9 years. The analysis shows that at the onset of the "Credit Crunch" (2008), the Council was externally investing over £100 million, with average investment rates over 5%. From 2009/10 onwards as the banking crisis grew worse and investment rates fell, the Council adopted a policy of holding external investments for cash flow purposes only, initially at around £50 million and then further reduced to £30 million. Any further balances have effectively been "invested internally" to offset new borrowing requirements. For the first time in six years, the net debt position increased as the Council began to use its balances to support budget pressures.

2.6.2 The CFR for General Fund and HRA is currently £412.8 million and £186.2 million respectively. It is funded by external borrowing and balances internally invested.

2.7 Revenue Budget Monitoring

2.7.1 The outturn showed an under-spend of £11.6 million on a net spend of £23.6 million. The under-spend arose largely from the policy on debt repayment being modified (£8.0 million) and the decision to replace service revenue contributions to fund capital with borrowing (£1.8 million).

2.8 Risk and Compliance Issues

2.8.1 The Council can confirm that it has complied with its prudential indicators for 2016/17, which were approved as part of the Treasury Management Strategy. Details can be found in Appendix 5. Indicators relating to affordability and prudence are reported in the Capital Outturn report.

2.8.2 On two occasions (June and September) when the Council has received unexpected monies late in the day, officers have had no alternative but to put the monies into the Barclays Business Reserve

Account overnight. This led to a marginal breach of the investment limit on Barclays on each occasion (£553k and £733k), mainly because the Council was also investing with Barclays at the time, taking advantage of a preferential rate offered as a new current account customer. The offer ended in October and the Council has not invested with Barclays since then.

- 2.8.3 In addition at the end of April, a Barclays' software problem prevented the Council from transmitting funds to other counterparty deposit accounts. This caused the Council to have £11 million in excess of its own investment limit with Barclays over the weekend. The Council was compensated by Barclays for any loss of interest and the problem has not re-occurred.
- 2.8.4 In line with the strategy, the Council has not placed any direct investments in companies as defined by the Carbon Underground 200.
- 2.8.5 The Council is aware of the risks of passive management of the treasury portfolio and, with the support of the Council's consultants (Arlingclose), has proactively managed the debt and investments over the year.
- 2.8.6 The CIPFA Code of Practice requires that treasury management performance be subject to regular member scrutiny. The Corporate Governance and Audit Committee performs this role and members have received reports on strategy, half yearly monitoring and now the outturn for the year 2016/17. Training was provided to Members in March 2015 and consideration should be given to requesting Arlingclose to provide a refresh in the summer.

3. Implications for the Council

- 3.1 Early Intervention and Prevention (EIP) – no impact
- 3.2 Economic Resilience (ER) – no impact
- 3.3 Improving Outcomes for Children – no impact
- 3.4 Reducing demand of services - no impact
- 3.5 Other implications – Any changes in assumed borrowing requirements, balances and interest rates will be reflected in revenue budget monitoring reports during the year.

4. Consultees and their opinions

None.

5. Next steps

Report submitted to Council.

6. Officer recommendations and reasons

Members are asked to note the review of treasury management activity for 2016/17.

7. Cabinet portfolio holder's recommendations

The report be received and noted by Council.

8. Contact officer

Tim Mitchell	Finance Manager
01484 221000	tim.mitchell@kirklees.gov.uk

9. Background Papers and History of Decisions

CIPFA's Code of Practice on Treasury Management in the Public Services.

CIPFA's Prudential Code for Capital Finance in Local Authorities.
Public Works Loan Board Website.

Treasury Management Strategy Report approved by Council on 17 February 2016.

10. Service Director responsible

Debbie Hogg	01484 221000
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APPENDIX 1

Kirklees Council Investments 2016-17										
Counterparty	Credit Rating Mar 2017*	1 April 2016			30 September 2016			31 March 2017		
		£m	Interest Rate	Type of Investment	£m	Interest Rate	Type of Investment	£m	Interest Rate	Type of Investment
Specified Investments										
Bank of Scotland	Bank	F1/A+			6.0	0.40%	Instant Access	1.3	0.20%	Instant Access
Svenka Handelsbanken	Bank	F1+/AA	2.9	0.45%	Instant Access				0.20%	Instant Access
Std Life	MMF**	AAAmf	7.5	0.49%	Instant Access	7.5	0.37%	Instant Access	8.7	0.28%
Aviva	MMF**	Aaa-mf	7.3	0.48%	Instant Access	8.6	0.31%	Instant Access	7.3	0.22%
Aviva - Govt	MMF**	Aaa-mf				1.5	0.17%	Instant Access		
Deutsche	MMF**	AAAmf	6.7	0.46%	Instant Access	6.2	0.32%	Instant Access	6.9	0.20%
Goldman Sachs	MMF**	AAAmf	6.0	0.44%	Instant Access	7.7	0.30%	Instant Access	7.1	0.20%
Santander UK	Bank	F1/A	5.0	0.65%	31 day notice	3.0	0.40%	31 day notice		
Non-specified investments										
Barclays***	Bank	F1/A	2.9	0.10%+0.40%	Instant Access	2.9	0.10%+0.40%	Instant Access		
			38.3			46.5			31.3	
Sector analysis										
			£m	%age		£m	%age		£m	%age
Bank			10.8	28%		10.3	22%		1.3	4%
Building Society										
MMF**			27.5	72%		36.2	78%		30.0	96%
Local Authorities/Cent Govt										
			38.3	100%		46.5	100%		31.3	100%
Country analysis										
			£m	%age		£m	%age		£m	%age
UK			7.9	21%		7.9	17%		1.3	4%
Sweden			2.9	7%		2.4	5%			
MMF**			27.5	72%		36.2	78%		30.0	96%
			38.3	100%		46.5	100%		31.3	100%

*Fitch short/long term ratings, except Aviva MMF (highest Moody rating). See next page for key. ** MMF – Money Market Fund. These funds are domiciled in Ireland for tax reasons, but the funds are made up of numerous diverse investments with highly rated banks and other institutions. The credit risk is therefore spread over numerous countries, including the UK. The exception to this is the Aviva Government Liquidity Fund which invests directly in UK government securities and in short-term deposits secured on those securities.

Key – Fitch’s credit ratings:

		Long	Short	
Investment Grade	Extremely Strong	AAA	F1+	
		Very Strong		AA+
	AA			
	AA-			
	Strong	A+		F1
		A		
		A-		
	Adequate	BBB+		F2
		BBB		
BBB-		F3		
Speculative Grade	Speculative	BB+	B	
		BB		
		BB-		
	Very Speculative	B+		
		B		
		B-		
	Vulnerable	CCC+		C
		CCC		
		CCC-		
CC				
C				
Defaulting	D	D		

Appendix 2

Long-term loans repaid and short-term loans outstanding 31 March 2017

Long-term loans repaid during 2016/17

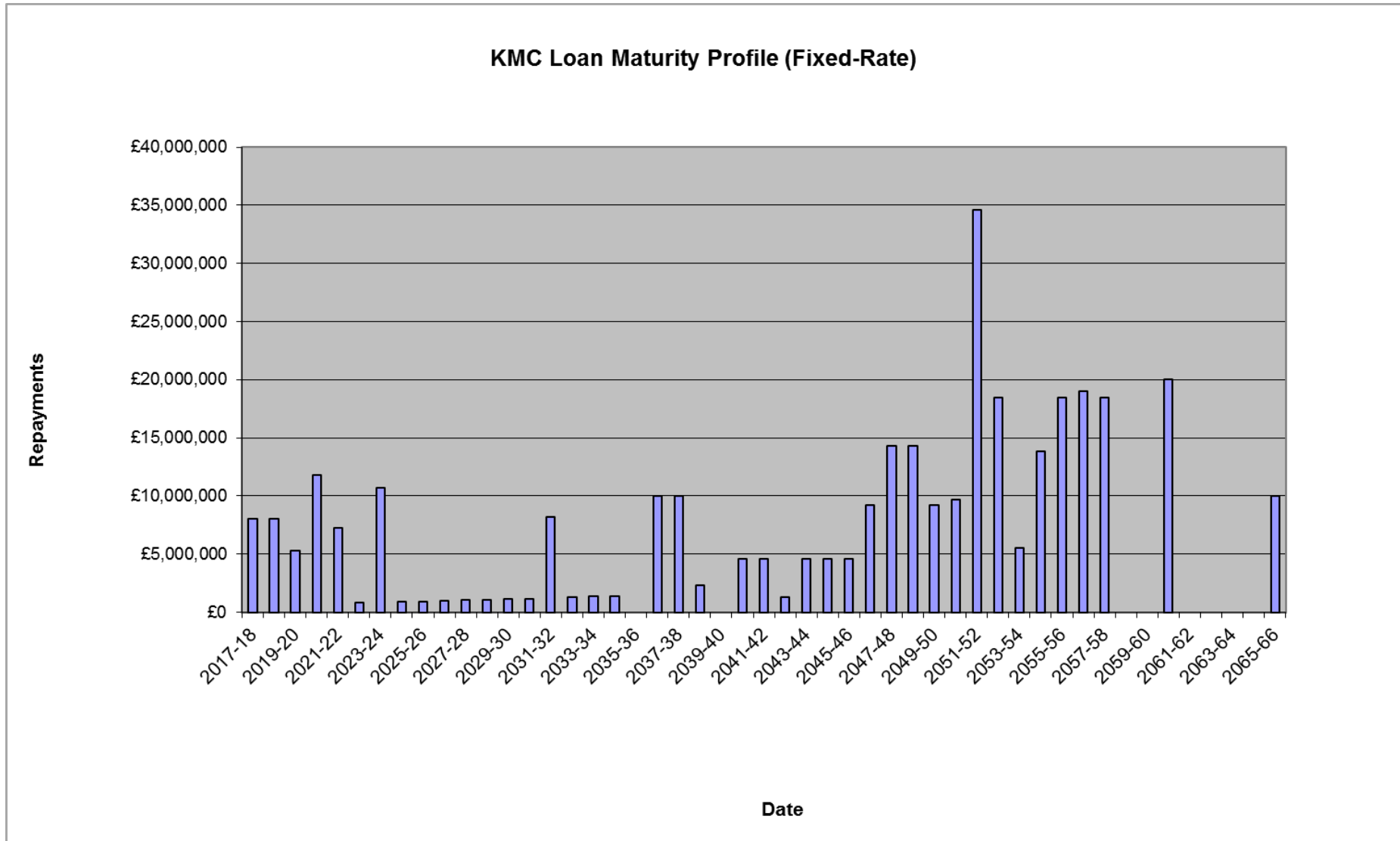
	Amount £000s	Rate %	Date repaid
Repayments on maturity			
PWLB (468634)	9,225	11.0	1 Jul 16
PWLB (498418)	4,613	3.84	15 Mar 17
Repayments on annuity loans			
PWLB (496956)*	308	4.58	29 Sep 16
PWLB (496956)*	315	4.58	29 Mar 17
Total	14,461		

* represents loan extended to Kirklees College, for which the College is making similar repayments to the Council

Short-term loans outstanding 31 March 2017

	Amount £000s	Rate %	Length (days)
Temporary borrowing from the Money Market			
Police and Crime Commissioner Warwickshire	1,000	0.25	35
Leicester City Council	5,000	0.35	18
Halton Borough Council	10,000	0.25	14
Neath Port Talbot Council	5,000	0.25	10
Middlesbrough Council	7,500	0.30	11
Local lenders/Trust Funds	1,196		
Long-term loans due to mature in the next twelve months	8,032		
Total*	37,728		

* excludes interest accrued



Appendix 4

Kirklees Council - Borrowing and Investment Trends

At 31 March	2017	2016	2015	2014	2013	2012	2011	2010	2009
Investments	31.3m	38.3m	38.7m	33.1m	30.2m	19.3m	42.7m	38.7m	102.1m
ST Borrowing (excl interest accrued)	37.7m	16.0m	21.1m	29.6m	27.3m	30.6m	33.2m	18.6m	9.1m
LT Borrowing	400.5m	408.4m	422.6m	432.4m	452.1m	471.5m	527.1m	525.1m	528.4m
Total Borrowing	438.2m	424.4m	443.7m	462.0m	479.4m	502.1m	560.3m	543.1m	537.5m
Deferred liabilities (non PFI)	4.1m	4.3m	4.4m	4.5m	4.7m	4.8m	5.0m	5.1m	5.2m
Net debt position	411.0m	390.4m	409.4m	433.4m	453.9m	487.6m	522.6m	509.5m	440.6m
Capital Financing Requirement (excl PFI)									
General Fund	412.8m	411.3m	422.2m	447.5m	448.5m	458.6m	458.9m	435.9m	369.5m
HRA	186.2m	192.4m	196.6m	203.3m	209.3m	215.6m	242.4m	241.0m	241.0m
Total CFR	599.0m	603.7m	618.8m	650.8m	657.8m	674.2m	701.3m	676.9m	610.5m
Balances "internally invested"	156.7m	175.0m	170.7m	184.3m	173.7m	167.3m	136.0m	128.7m	67.8m
Ave Kirklees' investment rate for financial year	0.4%	0.5%	0.4%	0.4%	0.5%	0.6%	0.8%	1.5%	5.2%
Ave Base rate	0.3%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Ave LT Borrowing rate	2.5%	3.2%	3.7%	4.3%	4.1%	4.4%	5.3%	4.7%	4.6%

APPENDIX 5

Treasury Management Prudential Indicators

Interest Rate Exposures

While fixed rate borrowing can contribute significantly to reducing the uncertainty surrounding future interest rate scenarios, the pursuit of optimum performance justifies retaining a degree of flexibility through the use of variable interest rates on at least part of the treasury management portfolio. The Prudential Code requires the setting of upper limits for both variable rate and fixed interest rate exposure:

	Limit Set 2016-17	Actual 2016-17
Interest at fixed rates as a percentage of net interest payments	60% - 100%	83%
Interest at variable rates as a percentage of net interest payments	0% - 40%	17%

The interest payments were within the limits set.

Maturity Structure of Borrowing

This indicator is designed to prevent the Council having large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates.

Amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate	Limit Set 2016-17	Actual Levels 2016-17
Under 12 months	0% - 20%	0% - 5%
12 months to 2 years	0% - 20%	2% - 3%
2 years to 5 years	0% - 60%	5% - 8%
5 years to 10 years	0% - 80%	5% - 7%
More than 10 years	20% - 100%	80% - 84%

The limits on the proportion of fixed rate debt were adhered to.

Total principal sums invested for periods longer than 364 days

The Council has not invested any sums longer than 364 days.

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Name of meeting: Corporate, Governance and Audit Committee

Date: 12th May 2017

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

Purpose of report

To set out proposed changes to the Council's constitution as described in paragraph 2 and as set out in more detail in the attached Appendices, which show some the proposed amendments.

To seek approval and/or comments and/or recommendations from Committee in relation to these proposed changes to make to Annual Council on 24 May 2017.

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name Is it also signed off by the Service Director for Finance, Information and Transactional Service? Is it also signed off by the Service Director – Legal, Governance and Commissioning Support?	No financial implications Julie Muscroft - 4 May 2017
Cabinet member portfolio	Graham Turner

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

- 1.1 To set out proposed changes in relation to different sections of the constitution and seek approval by members of those proposed changes at paragraph 2. Each section of the Constitution is set out below with information setting out the minor amendments made or details of the proposed change for which approval and/or comments is sought.
- 1.2 The Constitution has been reviewed throughout the year in relation to a number of areas. This is an on-going process to ensure it is correct and up to date and reflects any changes to re-structure, procedures and legislation.

- 1.3 There have been some minor changes using the delegated authority granted to the Monitoring Officer by Council on 20 May 2015 in Report 2 to reflect changes of officer titles, typing or grammatical errors, old references and new legislation.
- 1.4 It should be noted that a separate report setting out proposals in relation to Call In and scrutiny arrangements is also on the agenda of this committee today.
- 1.5 There are also separate reports on the Contract Procedure Rules and Financial Procedure Rules.

2. Information required to take a decision

PART 1 – Summary and Explanation

- 2.01 This provides a summary and explanation of what is included in the constitution. This has been reviewed and there are no requests for approval for any changes.

Changes made by the Monitoring Officer (MO) under the delegation provided to her in Report 2 on 20 May 2015 are set out in the tables below

MO Amendments	
<ul style="list-style-type: none"> • Reviewed and minor amendments made to reflect the 17 articles not 16 • Remove old references to area committees and change to district 	To note for information only

PART 2 – ARTICLES

- 2.02 There are 17 articles that set out how the council operates. This has been reviewed and there have been a number of amendments made by the Monitoring Officer to reflect changes and errors. The following articles have proposed changes as follows:-

2.03 Article 7 – The Executive

During 2016 the Council operated for a period of time when it failed to elect a Leader. Article 7 did not make reference to decision making during such a time and as a result it was necessary to obtain legal advice. Following advice from the QC, it is proposed that paragraph 7.9 is added to Article 7 which will clearly set out who is responsible in the event the Council is without a Leader.

Members are asked to recommend the draft proposal attached at Appendix 1 is adopted and to consider whether they wish the Chief Executive to act in consultation with all political parties. This is optional and can be removed.

2.04 Article 10 – District Committees

Proposals are to be considered at Cabinet for the introduction of a Ward Budget of £10,000 per ward for use by Councillors to replace existing District Committee funding arrangements. This will be either used collectively by three Ward colleagues working together or on an individual basis, with £3,333 allocated to individual Councillors. There will be a proportionate governance arrangements put in place to administer the scheme, with expenditure arising from this allocation being published on the Councils website and with a requirement that there be at least one public Ward Forum meeting to outline details of the way the budget has been used.

It is therefore proposed that District Committees be not re-constituted in the 2017/18 Municipal year and this would require an amendment to Article 10 for the Constitution. Work will take place during 2017/18 to develop long term arrangements for Councillors working within their Communities and this will be informed by the outcomes of the work of the Democracy Commission.

Arrangements for the discharge of outstanding Executive Delegations to District Committees for Street naming and Housing Revenue Account Environmental Improvement Budget allocations will be determined by Cabinet and this will require a subsequent change to Part 3 of the Constitution – Responsibility for Functions.

2.05 Article 11 – Joint Arrangements

Members are asked to recommend the approval of the amendments to Article 11 which has been updated to reflect the changes in legislation.

Members are asked to recommend the proposed amendments to Council set out at Appendix 2.

2.06 Article 14 – Finance, Contract and Legal Matters

This article has been updated to reflect changes in the Contract Procedure Rules and to bring the article up to date.

Members are asked to recommend the proposed amendments set out at Appendix 3.

MO Amendments	
<ul style="list-style-type: none">• Update reference to Local Government Boundary Commission as named changed• Remove old references to area committees and change to district• Changes to reflect new officer titles at Service Director levels• Update legislation as parts of the Anti-Social Behaviour Act has been repealed and replaced with the Anti-Social Crime and Policing Act 2014	To note for information only

PART 3 – RESPONSIBILITY FOR FUNCTIONS

- 2.07 This part details the Council's Cabinet, committees' and other groups' responsibilities, terms of references, delegations and contains each individual Cabinet Member's specific responsibilities.
- 2.08 Section F sets out the Scheme of Delegation to Officers. This includes executive and non-executive delegations to officers. There have been changes to the titles and responsibilities following a review of the Senior Management structure.

A number of transitional changes have already been considered by CGA in an earlier report dated 23 September 2016 which were agreed by Council. These related to the delegations to the Director of Resources. The majority of the amendments relate to executive responsibilities and do not require approval by the Council. Recommendation is sought specifically in relation to the non-executive functions in so far as they have changed

Constitutional Changes to Note

That the non-executive functions under the headings Strategic Financial Advice and Accounting, Risk and Performance be carried out by the Service Director – Finance, Information and Transactional Services (also the s.151 Officer) (this continues the position as set out above from September 2016)

That the non-executive functions under the headings Governance and Democratic Services and in relation to Procurement in Appendix 4 be carried out by the Service Director – Legal, Governance and Commissioning Support (this continues the position as set out above from September 2016)

That the non-executive functions under the headings Support Services Matters be carried out by the Chief Executive

That the non-executive functions under the headings Communities and Leisure be carried out by the Strategic Director of Economy and Infrastructure

The details of the changes are set out at Appendix 4 for the transitional period until the re-organisation of the Senior Management team has concluded. **Members are asked to recommend the approval of the non- executive amendments to Council.**

- 2.09 In recognition of the proposal to be considered separately by Corporate Governance and Audit Committee and Annual Council regarding the reintroduction of Overview and Scrutiny Standing Panels and the focus that will be placed on policy development work as part of their role **it is proposed that the Policy Committee be not re-established in the 2017/18 Municipal Year** and that the terms of reference for Policy Committee be accordingly removed from Part 3 of the Constitution.

- 2.10 As indicated earlier in the report, it is proposed that District Committees be not re-established in the 2017/18 Municipal Year and, accordingly, existing Executive delegations will be considered by Cabinet, requiring amendments to be made to Part 3 of the Constitution.

PART 4 – RULES OF PROCEDURE

- 2.11 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters.

2.12 Council Procedure Rules

Changes made by the Monitoring Officer under the delegation provided to her are set out in the table below.

MO Amendments	
<ul style="list-style-type: none"> • CPR 5(2) Additional wording inserted to deal with written questions to Cabinet Members - new bullet at ‘..(k); <i>The Leader, Deputy Leader and Cabinet Members</i>’ • CPR 9 – Inserted ‘ <i>and Members of the Public</i>’ at the end of the title • CPR 9 and 10(1) - Text amended to read ‘<i>(Except meetings of Annual, Budget or Extraordinary Council)</i>’ • CPR 12(8) – Split into 8(i) and 8(ii) • CPR18(15) – Final sentence changed to ‘<i>...the close of the debate and on any subsequent amendment</i>’ • CPR 19(3) – update title of Director of Resources • CPR 36(1)(a) – Removed 	To note for information only

- 2.13 CPR 10 (4) currently states ‘*The deputation shall not exceed five persons. Only one person shall speak, and the speech shall not exceed five minutes*’.

There is currently a restriction within CPRs that only one person may speak on one deputation. **Members are asked to consider whether they wish to amend this rule, to enable more than one representation to be made to the meeting on a subject matter, within the five minute allocation that is permitted.**

- 2.14 CPR 19 (3) currently states ‘*An amendment to a Motion proposed ...cannot be moved unless it has been approved by the Chief Executive at least seven days prior to the date of the Budget Meeting.*’ It is suggested that the CPR is amended to replace the word ‘*approved*’ with ‘*submitted*’ to reflect the current process, and that the time of 10.00am is inserted to bring it into line with the provisions of CPR 14(9). **Members are asked to approve the amendment.**

The amended CPR would therefore be;

'Any amendment to a motion proposed under Paragraph (1) above, cannot be moved unless it has been submitted to the Chief Executive no later than 10.00am 7 days prior to the date of the Budget Meeting. The Notice of 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, upon the advice of the Service Director – Finance, Information and Transactional Services, that the proposed amendment is financially sound and sustainable.'

2.15 During the year a number of other matters have arisen which members are asked to consider and which include the following:

- a) All council meetings to begin at 5pm
- b) All councils meetings to have a scheduled 15 minute break
- c) Insert 24 hours' notice of deputations for all meetings

Members are asked to give consideration to the suggestions above and provide comments and/or recommendation of the suggested amendments to Council. A copy of the Council Procedure rules showing the amendments is attached at Appendix 5.

Access to Information

2.16 There are proposed amendments to this section to update it but they require further consideration by Officers and will be updated using the Monitoring Officers delegation during 2017/2018.

Financial Procedure Rules

2.17 There are proposed amendments and these will be the subject of a separate report to this committee.

Contract Procedure Rules

2.18 There are proposed amendments and these will be the subject of a separate report to this committee.

Officer Employment Procedure Rules

2.19 This requires more comprehensive updating and will be subject to further report during 2017/18.

Part 5 – CODES AND PROTOCOLS

2.20 This section sets out the council's Codes and Protocols in relation to a number of areas

Members' Code of Conduct

- 2.21 The Members Code of Conduct has been subject to a Standards Review and updates to the Code have been approved by full Council on 26 April 2017. **Members are asked to note the amended Code of Conduct to Council attached at Appendix 6 as a result.**

Monitoring Officer Protocol

- 2.22 This has been updated during this year using the MO delegation to reflect new officer titles, amend references to the previous standards regime and legislation updates.

Standards of Conduct in Public

- 2.23 This will be removed as this has been incorporated in the amended Members Code of Conduct.

Protocol for Planning Committees and Sub-Committees

- 2.24 This has been reviewed and updated using the MO delegation to reflect the new officer titles and current practice.

Decision Making on Ward Issues - Procedural Advice to Cabinet Members

- 2.25 This will be reviewed during 2017/18 and initially referred back to Standards Committee for any proposed changes for consideration. Any recommended changes will be presented in a further report to CGA.

Protocol on the role of Representatives and Key Outside Bodies in representing the interests of the Council

- 2.26 This will be reviewed during 2017/18, once the review of the relationship with outside bodies by Martin Dearnley has concluded and any proposed changes will be presented in a further report to CGA.

Officers' Code of Conduct

- 2.27 This requires more comprehensive updating and will be subject to further report during 2017/18.

Protocol for Public Speaking at Planning Committees and Sub-Committees

- 2.28 This has been reviewed and updated using the MO delegation to reflect the new officer titles and current practice.

Licensing Committee Protocol

- 2.29 No changes are proposed.

Councillors and Officers in Kirklees – A Protocol for Working Effectively

- 2.30 This has been recently reviewed and updated using the MO delegation to reflect the new officer titles.

Safeguarding Protocol

- 2.31 This has been reviewed and no changes are necessary

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 process.

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

4. Consultees and their opinions

- 4.1 Chief Executive and various officers in Legal, Governance and Monitoring and Resources have been consulted.

5. Next steps

- 5.1 This will be considered by Annual Council on 24 May 2017. Any feedback and comments or recommendations from CGA will be included in that report.
- 5.2 Any amendments agreed by Council will be made to the Constitution

6. Officer recommendations and reasons

That CGA:

- 6.1 Consider the proposed changes set out in paragraphs 2.03, 2.04, 2.05, 2.06, 2.08, 2.09, 2.13, 2.14, 2.15 and 2.21 and Appendices 1-6 and make any recommendations/comments/observations before the changes are considered by Council.
- 6.2 Recommend to Council that authority is delegated to the Service Director – Legal, Governance and Commissioning to make appropriate

amendments to the constitution which are agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed and proposed in this report.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Julie Muscroft, Service Director – Legal, Governance and Commissioning

9. Background Papers and History of Decisions

Update in relation to Senior Management Changes and transitional Constitutional changes – 23 September 2016

10. Service Director responsible

Julie Muscroft, Service Director – Legal, Governance and Commissioning Support, 3rd floor, Civic Centre 1. Telephone: 01484 221000. Email Julie.muscroft@kirklees.gov.uk

Appendices

App 1 – Article 7

App 2 – Article 11

App 3 – Article 14

App 4 – Section F – Delegations

App 5 – CPR rules

App 6 – Code of Conduct

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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 Service Director – Legal, Governance and Commissioning Support 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 Service Director – Legal, Governance and Commissioning Support 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 Service Director – Legal, Governance and Commissioning Support 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 Service Director – Legal, Governance and Commissioning Support 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.

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.

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 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:

- 7.5.6.1 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;
- 7.5.6.2 They resign as members of the Cabinet; or
- 7.5.6.3 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 Service Director – Legal, Governance and Commissioning Support 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 Service Director – Legal, Governance and Commissioning Support within five working days of being appointed as Leader and shall notify the Chief Executive and Service Director – Legal, Governance and Commissioning Support 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.

7.9 Executive arrangements in the event of no leader being elected

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7.9.1 If at any time there is no leader and no Deputy Leader in office, any act or function that could otherwise be performed by the Leader may be performed by the Chief Executive [who will act in consultation with the leaders of all political parties]

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ARTICLE 11 – JOINT ARRANGEMENTS AND JOINT COMMITTEES

11.1 Arrangements to Promote Well Being General Power of Competence

The council or the Cabinet, ~~may subject to restrictions and limitations, exercise its general power of competence¹ to make joint arrangements in order to promote the economic, social or environmental wellbeing of its area, may:~~

- ~~a. enter into arrangements or agreements with any person or body;~~
- ~~b. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and~~
- ~~c. exercise on behalf of that person or body any functions of that person or body.~~

In particular, the Cabinet may enter into a **Local Strategic Partnership** with other persons and bodies within Kirklees for the purposes of bringing together the public, private, business, community and voluntary sectors so that different initiatives and services support each other and work together. As at May 2008 this consists of the **Kirklees Partnership Board** and four **Local Public Service Boards** covering Safer Stronger Communities; Children and Young People; Adults and Healthier Communities; and Regeneration and Sustainable Development. Subject to the oversight of and decision making by the Cabinet they also work together on and monitor progress on the Local Area Agreement for Kirklees.

Cabinet may vary these arrangements at any time in agreement with the partners concerned.

11.2 Joint Committees Arrangements²

- a. The council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions, or to advise the council on such functions. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- b. The council may also establish such arrangements in respect of a mixture of executive and non-executive functions, but will require the agreement of the Cabinet before doing so. Where the council appoints more than one member to such a joint committee, at least one of those members must be a member of the Cabinet.

¹ In accordance with Section 1 Localism Act 2011

² The Police Reform and Social Responsibility Act 2011 also requires the local authorities for the West Yorkshire Police Area to establish a Police and Crime Panel for the police area. City of Wakefield Metropolitan District Council is the support services authority for the Panel

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- c. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions³. Such arrangements may involve the appointment of joint committees with those other local authorities.
- d. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- e. The Cabinet may appoint members to a joint committee from outside the Cabinet where:-
 - (i) The joint committee relates to five or more local authorities;
 - (ii) The function concerned is required by statute to be exercised by a joint committee; or
 - (iii) The joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

The political balance requirements do not apply to such appointments. The Cabinet may not appoint to joint committees anyone who is not a member of the council.
- f. Details of any joint such arrangements, including any delegations to joint committees will be found in the council's scheme of delegations in Part 3 of this Constitution.

11.3 Access to Information

- a. The Access to Information Rules in Part 4 of this Constitution apply.
- b. If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executives by or under the Local Government Act 2000.
- c. If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

- a. The council may delegate non-executive functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- b. The Cabinet may delegate executive functions to another local authority or the executive of another local authority.

³ [Arrangements are established in accordance with the Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2012](#)

- c. The decision whether or not to accept such a delegation from another local authority to this local authority (but not to the Cabinet) shall be reserved to the council meeting unless otherwise specified in Part 3 of this Constitution.

11.5 Contracting out

The council, for functions which are not executive functions, and the Cabinet, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision making.

11.6 General

The council or the Cabinet may enter into any other joint arrangements for any purpose for which they may lawfully do so.

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ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

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

14.2 Contracts

~~Every~~ The procurement and execution of every contract made by the eCouncil ~~will~~ must comply with the Contract Procedure Rules set out in Part 4 of this constitution.

14.3 Court, Tribunal, Arbitration, Regulatory, or Other Similar Legal Proceedings

The Service Director – Legal, Governance and Commissioning Support Assistant Director – Legal, Governance and Monitoring is authorised to:

- institute, defend or participate in any Court, Tribunal, Arbitration, Regulatory, or other similar legal proceedings; and
- to withdraw or settle such proceedings (having consulted such officers and/or members as he/she reasonably considers appropriate in all the circumstances):

~~in any case where such action is necessary to give effect to decisions of the council or in any case where the~~ Service Director – Legal, Governance and Commissioning Support Assistant Director – Legal, Governance and Monitoring reasonably considers that such action is necessary to protect the council's interests it is appropriate to do so.

14.4 Authentication of documents for Legal Proceedings

Where attestation of any document is necessary to any legal ~~procedure or~~ proceedings contemplated by Article 14.3 ~~on behalf of the council~~, it will be signed by the ~~Assistant Director – Legal, Governance and Monitoring~~ Service Director – Legal, Governance, and Commissioning Support or another person authorised by him/her, unless any enactment otherwise authorises or requires, or the eCouncil has given requisite authority to some other person.

~~Any contracts (other than those relating to Land Assets as defined in the Council's Contract Procedure Rules) with a value exceeding £100,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two duly authorised officers of the authority or made under the corporate common seal of the council attested by at least one officer (as provided in Article 14.5 below).~~

~~Subject to Contract Procedure Rule 14.712.6 any contracts for the sale or acquisition of Land Assets and/or any other deeds or documents relating to Land Assets transactions shall as appropriate must either be signed by, or have the corporate common seal~~

~~affixed in the presence of, the Assistant Director – Legal, Governance and Monitoring (or by a legal officer nominated by him or her) other person duly authorised by him/her or have the corporate common seal of the council affixed and attested in his/her presence or in the presence of a duly authorised Principal Legal Officer or Senior Legal Officer as provided in Article 14.5. below.~~

14.5 Common Seal of the council

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

- the Service Director – Legal, Governance and, Commissioning Support ~~- or~~
- ~~a Principal Legal Officer Deputy Head of Legal Services; or~~
- any other Senior Legal Officer nominated by the Service Director Legal, Governance and Commissioning Support

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

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

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COUNCIL PROCEDURE RULES

(Approved by Council on 25 May 2016)

(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 by-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);

CONSTITUTIONAL BUSINESS

- (h) 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);
- (i) 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);
- (j) approve a programme of ordinary meetings of the Council for the year;

- (k) consider any other business set out in the notice convening the meeting; and
- (l) 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) 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. Ordinary and Additional Meetings of Council, Notice of and Summons to Meetings

Dates of Council Meetings

- (1) All meetings of the Council, with the exception of:
 - any called as Extraordinary Meetings; 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

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

Venue and Start Time

- (3) All ordinary meetings of the Council will be held at 5.00 ~~6.00~~ 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) 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.
- f) To receive petitions submitted by Members of the Council
- g) To receive any petitions/hear depositions from Members of the Public.
- h) To receive and consider any petitions referred in accordance with the Council's Petitions Scheme.
- i) To receive Minutes of meetings of the West Yorkshire Combined Authority.

DECISION MAKING

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

- k) To deal with written questions by Members to the following under Rule 12:
- [The Leader, Deputy Leader and Cabinet Members](#)
 - Chairs of Committees, Sub Committees and Panels
 - Spokespersons of Joint Authorities and External Bodies (as defined at Rule 13)
- l) To receive reports from Cabinet members in accordance with Rule 13.
- m) 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

- n) To receive responses to Motions agreed at previous meetings of Council
- o) 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

- p) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
- q) 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

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

OVERVIEW & SCRUTINY

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

MEMBER MOTIONS

- t) To receive responses to Motions agreed at previous meetings of Council

- u) 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

- v) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
 - w) To deal with any business expressly required by statute to be dealt with by the Council.
- (4) The order of items (j) to (l) or (m) (as appropriate) or (j) to (r) or (s) (as appropriate in the case of Key Discussion Meetings) may be changed or any of the items omitted at any one meeting:
- a) by the meeting by means of a motion passed without discussion;
 - b) by the Chief Executive in consultation with the Mayor.
- (5) Any discussion falling within (r) above shall begin no later than 7:00 pm irrespective of whether the business before it on the agenda has concluded, such 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.

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 and Members of the Public

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 meetings of Annual-Council, Budget or Extra-ordinary Council-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.

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.

9a. Council's Petition Scheme – Council Debates

In accordance with the Council's Petition Scheme (as approved by Cabinet on 6 June 2012), if a validated petition contains more than 3000 signatures, the Petition Organiser will be permitted five minutes to present their petition to Council and the subject matter will then be debated by Council for a maximum of 15 minutes.

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 meetings of Annual, Budget or Extra-Ordinary Council-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.

Deputations which will not be received

- (2) 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.
- (3) 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

- (4) The deputation shall not exceed five persons. ~~Only one person shall speak,~~ and the speech shall not exceed five minutes.
- (5) When a deputation is received at a Council meeting, no discussion shall take place on the item but the relevant Cabinet Member shall respond to the deputation. The Cabinet Member's response shall not exceed five minutes.
- (6) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in 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

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

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

Who Can Ask A Question?

- (1)(a) Any Member of the public resident in Kirklees may, subject to the provisions of this Rule, ask the Leader, or any Members of Cabinet, a question on any issue which comes within that individual's area of responsibility and which affects the area of Kirklees.
- (b) The Cabinet Member may, subject to the provisions of this Rule, ask that a question be referred to the Mayor or any Chairs of a Committee or any joint authority spokesperson and the Mayor, Chair or joint authority spokesperson shall respond within a reasonable period of time to such question.

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 at;
- (a) the Annual Council Meeting
 - (b) the Budget Council Meeting;
- or during the period from:
- (c) the announcement of a General Election to polling day (inclusive) or
 - (d) 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 Chair or Leader may decline to answer a proposed question if in his or her opinion it is not within the terms of reference of the Cabinet, Committee, Sub-Committee or Panel concerned or is not relevant to the functions of the Cabinet, Committee, Sub-Committee or Panel concerned.

Time Allowed for Questions

- (5) The period allowed for the asking and answering of public questions at any one meeting shall not exceed 15 minutes. Any Member of the Cabinet, Committee or Panel may move an extension of this period should there be questions unanswered. Such a motion shall be moved and

seconded and be put without discussion. At any one meeting no person may ask more than two questions and no more than two questions may be asked on behalf of one organisation. A questioner may also put one supplementary question to the Member for each original question asked. Any question which cannot be dealt with during public question time will be dealt with by a written answer.

Answers to Questions

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

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

An answer may take the form of:

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

Recording in Minutes

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

Questions Ruled Out of Order

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

Referral of Subject Matter

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

12. Written Questions by Members

The exemptions as set out at CPR 11 (3) also apply to this Rule (CPR 12)

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, a Chair of a Committee, Sub-Committee or Panel or a spokesperson of a Joint Committee or External Body, as defined at Rule 13 (4). Subject to the Mayor's/Chair's discretion, a 3 minute time limit applies for individual questions to be put.
- (2) The Mayor/Chair 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) 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.
- (4) If a Member who has submitted a question in accordance with 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.
- (5) 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.
- (6) An answer may take the form of:
 - (a) a direct oral answer; or
 - (b) a reference to a publication of the Council which contains the desired information; or
 - (c) a written answer circulated to all Members within 7 days of the Council meeting.
- (7) The period allowed for written questions at any one meeting shall not exceed 30 minutes. 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.
- (8) (i) 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.
(ii) Written questions to spokespersons of Joint Authorities or any Other Bodies not dealt with within the above timescale will be answered by means of a written reply within 7 days of the meeting and be circulated to all Members of the Council.

- (9) When an answer to a written question has been given, the Member who asked it may ask one supplementary question relating to the same topic. Such a supplementary question must follow straight on from the Member's answer to the original question. In circumstances where the responding Councillor has elected, pursuant to Rule 12(6)(c), to provide a written answer to a question, no supplementary question will be permitted.
- (10) 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.
- (11) The Assistant Director - Legal, Governance and Monitoring shall record in the Minutes of the meeting the question(s) and the name of the respondent. This will not include any supplementary question and the answer thereto. Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility for a period of 12 months.

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 Committee – Local Issues.
 - (ii) Prior to the start of questions to Cabinet Members, Portfolio Holders may make a report, not exceeding 10 minutes in length per Cabinet Member, setting out his / her Portfolio Plan for the municipal year, or on progress against that Plan. Comments and statements by Cabinet Members shall not exceed 30 minutes in duration including any questions arising from the information provided. 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 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 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*

(The exemptions as set out at CPR 11 (3) also apply to this Rule (CPR 13)

- (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 Bodies:
 - (a) Kirklees Neighbourhood Housing
 - (b) Kirklees Active Leisure
 - (c) West Yorkshire Combined Authority (and its Committees)
 - (d) West Yorkshire Fire and Rescue Authority
 - (e) West Yorkshire Police and Crime Panel
 - (f) West Yorkshire Joint Services Committee

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

(iii) The list to persons (by virtue of position) to whom questions can be asked will be set out in the agenda in alphabetical order and questions will be addressed in the order listed. At the next meeting, the list will begin where it ended at the previous meeting.

(5) *Time Permitted*

- (i) Subject to the time limit for speaking set out in CPR 13 (2) the maximum time permitted for consideration of matters in CPR (1) – (3) including comments and questions on Minutes to Cabinet Members shall be a maximum of 60 minutes, and the time permitted 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 CPR 13.

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. Motions (including re-submitted Motions pursuant to CPR 16(5)) will only be accepted

for the next scheduled Council meeting (except Annual and Budget Councils) from 10.00am onwards following the day of the previous Council meeting. Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) motions will be listed after re-submitted Motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.

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.

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 6.00 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 (made in accordance with Council Procedure Rule 18(11) 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.

Need for Debate

- (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 Leader or a Committee, or Member thereof arising from an item on the Agenda for the meeting.

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

16. Termination and Adjournment of Meeting

- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time.
- (2) A meeting of the Council (except the Annual Meeting) shall terminate at 9.00 p.m. unless a Member moves, prior to 9.00pm, 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.

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 move, second or speak to one amendment. If consideration of an amendment begins before a Member has had the opportunity to speak on the motion he/she may still exercise the right to speak on the motion.

Exceptions to Speaking Only Once

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

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 and 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 'that the question be now put' 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 under discussion 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) (n) 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 the Leader

- (2) If the Cabinet is not able to recommend a motion to the Council meeting, the Leader 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 it has been ~~approved- submitted by to~~ the Chief Executive **at least no later than** 7 days prior to the date of the Budget Meeting. The Notice of 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, upon the advice of the Service Director of Resources, Finance, Information and Transactional Services, that the proposed amendment is financially sound and sustainable.

Notification of Amendments

- (4) The Chief Executive shall inform all Members of the Council of any amendments received.

Debating the Motion and Amendments

- (5) (i) The Mover of any Amendment to the Budget Motion shall speak for no longer than ten minutes, or for the same time taken by the Mover of the Budget Motion, whichever is the longer.

(ii) 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.

(iii) In the event that an amendment is approved, thereby becoming the substantive motion, this resolution shall become the Council's budget and no further amendments shall be debated or voted upon.

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 on any decision or amendment relating to the approval of the General Fund, or the statutory calculation for the setting of the Council Tax, 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,
- (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.

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 (4).

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. Interests of Members which are not Disclosable Pecuniary Interests

- (1) Any Member who has an interest which is not a Disclosable Pecuniary Interest as described 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 ("Other Interest").
- (2) 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. Third Party Recording¹ of Committees, Boards and Panels

- (1) The Council wants to be open and transparent in the way in which it conducts its decision-making.
- (2) Recording is allowed at all meetings of the authority² to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- (3) Filming or other recording of all meetings of the authority, whilst those meetings are to the public, is permitted^{3 4}.
- (4) Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the meeting of their intentions to record prior to the commencement of the meeting.
- (5) Recordings may only be taken overtly from the area designated for the public and;
 - a. Recording devices must be in silent mode;
 - b. No flash or additional lighting is permitted;
 - c. Recordings must be taken from one fixed position and must not obstruct others from observing proceedings.

¹ This includes both video and audio recording.

² Including full Council, committees (boards and panels) established by full Council.

³ In accordance with any regulations relating to such matters.

⁴ All agendas will indicate that records may be made at the meeting by third parties; signage will also be displayed indicating this.

- (6) The Chair of a meeting has the authority to instruct that recordings be stopped where⁵:
- a. The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed;
 - b. There is public disturbance or a suspension/ adjournment of a meeting;
 - c. The recording has become disruptive or distracting to the good order and conduct of the meeting;
 - d. Continued recording is against the wishes of an individual⁶.

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.
- (3) A Member or employee of the Council shall not disclose to any person any document or any matter contained in any document which is marked "Confidential" or "not for publication" except with the permission of the Council, Cabinet, Committee, Sub-Committee, or Panel which considered the item, or if the person concerned has a legal right to inspect the document.

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

35. Appointment of Committees, Sub-Committees and Panels

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

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

⁵ In all cases recording equipment must be switched off.

⁶ Where members of the public raise an objection to being recorded, then those individuals will not be filmed. However continued audio recording will be permitted where the contributions are material to the resolutions to be made.

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.

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 Overview and Scrutiny Panels, District Committees, Employee Relations Sub Committee, 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 six clear working 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.~~

(ab) 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.

(be) attend for any item of business on the Committee, Sub-Committee or Panel agenda which personally relates to them as a Councillor or otherwise.

(ce) 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.

(de) 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 or the Budget Council) a Committee, Sub-Committee, or Panel (or any other meeting open to the public) may, with the permission of the Mayor/Chair, speak on any item of business to be transacted at that meeting. This speaking right shall not apply to persons who have presented a deputation on the same subject matter at the same meeting. That person shall not be permitted to remain in the meeting when consideration is being given to confidential or exempt information.

38. Appointment of Chairs and Deputy Chairs of Committees 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 Appeals Panel, Corporate Governance and Audit Committee, Licensing and Safety Committee, an Planning Area Sub-Committee, Overview and Scrutiny Management Committee (or as the Chair of Health Scrutiny Panel), or Standards Committee.

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 Strategic Planning Committee or a Planning Sub-Committee a recorded vote of decisions on Planning Applications shall take place.

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. The Motion should specify the relevant Council Procedure Rule/s to be suspended.
- (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 is incapacitated (to such an extent that they are no longer able to reasonably carry out their duties and responsibilities as Leader) 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.

50. Relevant Definitions

“Municipal Year” defines the period between each meeting of Annual Council, which normally take place during May.

“Group Leaders” is the term referring to the Leader of each political group which is represented on the Council.

“Key Discussion” is the description of format for 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.

“Council Petitions Debate” is the description of part of the Council's Petition Scheme as referred to in CPR 9a, which provides that if a petition is validated to be containing 3000 signatures (or more) from different persons on a subject matter that is relevant to the powers and duties of Kirklees, a debate on the matter shall be scheduled at a meeting of Council.

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PART 3

RESPONSIBILITY FOR FUNCTIONS

SECTION F

Scheme of Delegation to Officers [NOTE: Section F is under review to update current delegations]

General Provisions

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

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

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

12. Where relevant, the delegations within this Scheme also include the appointment of the Chief Officer as “proper officer” for the purpose of any function delegated to him/her under these arrangements.

Chief Executive

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

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

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

The Chief Executive may also:

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

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

- (d) Establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. He/she has power to determine the membership and terms of reference of the officer boards that are established. He/she also has power to determine the decision making arrangements of such boards including the delegation of authority to the Chair of each officer board to make such decisions as he/she considers appropriate.

Support Services Matters

Human Resources

Non-Executive Functions

1. In addition the Chief executive may discharge of all functions and responsibilities of the Council included within the terms of reference of the Personnel Committee (save for the appointment of staff at Service Director level and above), subject to the exceptions that:

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

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Determinations as to the grading of posts of the Chief Executive and Strategic Directors;
- iii) Sanctioning of compulsory redundancy proposals for Strategic directors;
- iv) Sanctioning of early retirement/voluntary severance or ill health retirement proposals for Strategic directors;
- v) Decisions as to the implementation of the discretionary areas of nationally negotiated agreements relating to rates of pay and terms and conditions of employment; and
- vi) Approval of all local terms and conditions of employment including discretionary holiday days.

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

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

Executive Functions

2. Discharge of all functions and responsibilities of the Council relating to human resources that are not included within the terms of reference of the Personnel Committee and are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

General Service Support

Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to general service support including, but not limited to:

- (a) Leadership, management and workforce development;
- (b) Human Resources;
- (c) Learning and Organisational Development;
- (d) Communications and Marketing;
- (e) Employee Healthcare;
- (f) Payroll and Personnel;
- (g) Recruitment and Temp Direct; and
- (h) Pensions.

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

Matters are referred to the Executive in the following cases:

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

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Strategic Director for Children and FamiliesYoung People

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

A. Learning matters

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

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

- (a) Transforming the school system.
- (b) 14-19 education and skills and adult learning.
- (c) School and early years improvement.
- (d) Inclusive learning.
- (e) Learning support for vulnerable children and young people.
- (f) Promoting and supporting school attendance.
- (g) School and early years planning and school admissions.

B. Family Support and Child Protection matters

Executive functions

1. Discharge all of the functions and responsibilities conferred on or exercisable by the Council, which are Social Services functions and responsibilities (within the meaning of the Local Authority Social Services Act 1970) so far as they relate to children together with the Council's youth offending functions under

the Crime and Disorder Act 1998 that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include, but are not limited to:

- (a) Support for children and families
- (b) Safeguarding of children including effectiveness of Kirklees Safeguarding of Children Board.
- (c) Social care and assessment.
- (d) Services for disabled children.
- (e) Corporate parenting for Looked After Children.
- (f) Integrated youth support.
- (g) Specialist support for children with special needs and additional needs.
- (h) Implementation and management of strategies for children.
- (i) Partnerships for children.
- (j) Children's Trust.
- (k) Managing, developing and leading strategic commissioning for childrens social care
- (l) Driving Service Quality and development.
- (m) [Independent Review and advocacy]
- (n) Cross-sector Development.
- (o) Regulation and Quality.
- (p) Cross-directorate Strategic Support.
- (q) [Strategic Partnerships and] Commissioning relevant services to support these functions and responsibilities

Strategic Director for Economy and Infrastructure

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

Investment and Regeneration

A. Development Management, Strategic and Neighbourhood Planning and Public Rights of Way Matters

Non-Executive Functions

(1) All functions and responsibilities of the Council as

- Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 2 of the Hedgerow Regulations 1997))
- Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990)
- Relevant Authority (within the meaning of the Part 8 of the Anti-Social Behaviour Act 2003)
- Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990)

relating to development management, strategic and neighbourhood planning, public rights of way, high hedges and hazardous substances included within the terms of reference of the Strategic Planning Committee except:

(1) The determination of planning applications for full or outline planning permission which are specifically reserved to the Strategic Planning Committee, namely:

- a) Planning applications where the proposed decision will be contrary to any saved policy of the Unitary Development Plan save for:
 - Planning applications involving the development of no more than 60 residential units where the proposed decision will only be contrary to saved Policy D5.
- b) Planning applications that straddle administrative boundaries¹.

¹ Unless the Strategic Director of Economy and Infrastructure in consultation with the Chair of the Strategic Planning Committee determines that it would be more appropriate for the planning application to be decided by the relevant Area Sub-Committee

- c) Planning applications that straddle Planning Area Sub-Committee boundaries².
- d) Planning applications for residential developments exceeding 60 units.
- e) Non-residential planning applications (including employment, leisure and education development) where the application site boundary exceeds 0.5 hectares³.
- f) Planning applications for wind turbines which involve the generation of more than 1MW collectively.
- g) Other energy production planning applications exceeding 5MW or where the application site boundary exceeds 1 hectare.
- h) Planning applications for major infrastructure proposals.
- i) Planning applications for major infrastructure proposals.
- j) Planning applications for new minerals sites or physical extensions to existing minerals workings where the area to be developed exceeds 0.5 hectares.
- k) Planning applications for retail developments exceeding 1250 square metres gross in floorspace which officers are proposing to approve.
- l) Planning applications for gypsy/traveller sites.
- m) Any other planning applications that are considered appropriate for referral to the Strategic Planning Committee by the Strategic Director for Economy and Infrastructure in consultation with the Chair of the relevant Area Sub-Committee e.g. planning applications for residential development which will significantly increase the size of an individual settlement.
- n) Planning applications for exploration, appraisal and production of oil and gas resources by fracking.
- o) Planning applications for the disposal of special hazardous wastes where the application site boundary exceeds 0.5 hectares.
- p) Planning application for mixed use developments that include more than 50 residential units and employment, leisure and/or non-residential development where the application site boundary exceeds 0.5 hectares.
- q) Matters that fall to be considered by the relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions and in the following

² Unless the Strategic Director for the Economy and Infrastructure in consultation with the Chair of the Strategic Planning Committee determines that it would be more appropriate for the planning application to be decided by the relevant Area Sub-Committee

³ As above

cases:

- i) planning applications for residential development where the area to be developed is in excess of 0.5 hectares but propose fewer than 61 units;
 - ii) planning applications for retail development in excess of 750 sq metres gross floor area which officers are proposing to approve;
 - iii) if the delegated officer so decides:
 - a) with the agreement of the Chair of the relevant Sub-Committee; or
 - b) due to the significant volume of local opinion;
 - iv) where any ward member so requests in relation to any planning application or submission⁴ within their ward and the Chair of the relevant Sub-Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees and Sub-Committees; and
 - v) where any member for the wards of Almondbury, Ashbrow, Colne Valley, Crosland Moor and Netherton, Dalton, Denby Dale, Golcar, Greenhead, Holme Valley North, Holme Valley South, Kirkburton, Lindley and Newsome so requests with regard to any application/submission⁵ for development falling wholly or substantially within Huddersfield Town Centre and the Chair of the relevant sub-committee has confirmed that the ward member's reasons for making the request are valid having regard to the Councillor's Protocol for Planning Committees and Sub-Committees and that the application / submission does relate to development falling wholly or substantially within Huddersfield Town Centre
- (Ward members are required to specify in writing their reasons for making the request which shall reasonably relate to some aspect of the site or the development. The reason will be incorporated in full in the Sub-Committee report)
- vi) applications for listed building consent involving the partial or total demolition of Grade I or Grade II* listed buildings;
 - vii) the serving of building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in non-urgent cases;

^{4, 8} "Submission" means:

- applications for approval of reserved matters relating to extant outline planning permissions that were not determined by the Strategic Planning Committee
- applications under s73 TCPA 1990 relating to extant permissions that were not determined by the Strategic Planning Committee

- viii) planning applications for the disposal of special hazardous wastes on sites up to and including 0.5 hectares;
- ix) applications to court for an injunction to restrain:-
 - a. any actual or apprehended breach of planning control;
 - a. any actual or apprehended offence under the Hedgerow Regulations 1997;
 - b. any actual or apprehended offence under Sections 210 or 211 of the Town and Country Planning Act 1990;
 - c. any actual or apprehended contravention of Section 9(1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990;

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

- x) Applications for the stopping up and diversion of footpaths, bridleways and restricted byways under Section 257 of the Town and Country Planning Act 1990 where;
 - a. any member so requests in relation to an application within their ward. The member shall specify in writing his/her reasons for making the request; or
 - b. there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).
 - c. the revocation of certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development;
 - d. all applications submitted by or on behalf of any elected member of the Council (in their personal capacity) or any member of their family;
 - e. all applications submitted by or on behalf of any member of staff (in their personal capacity) who works for the Investment and Regeneration Service and any member of their family;
 - f. all applications submitted by or on behalf of the Chief Executive, any member of the Directors Group or Management Board or any Head of Service or Senior Manager (in their personal capacity) or any member of their family.

- r) The determination of all submissions⁶ (relating to extant outline or full planning permissions that were originally considered by the Strategic Planning Committee) where the following circumstances apply:
- i) if the delegated officer so decides:
 - a) with the agreement of the Chair of the Strategic Planning Committee; or
 - b) due to the significant volume of local opinion
 - ii) where any ward member so requests in relation to any submission within their ward and the Chair of the Strategic Planning Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees and Sub-Committees;

Without prejudice to the generality of the above, but subject to the specific exceptions set out in (1), (2) and (3) above, such functions and responsibilities referred to in A1 above include but are not limited to:

- (a) Determination of applications under section 73 of the Town and Country Planning Act 1990
- (b) Determination of applications under section 96A of the Town and Country Planning Act 1990
- (c) Determination of the applications/submissions to discharge planning conditions on all planning permissions and reserved matters approvals
- (d) Determination of all applications for the approval of reserved matters.
- (e) Determination of planning applications to modify elements of approved developments that benefit from extant planning permissions (e.g. modified house types, minor layout changes)

Executive Functions

2. All relevant functions and responsibilities of the Council as:
- Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 2 of the Hedgerow Regulations 1997)
 - Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990)

⁶ "submission" means applications for approval of reserved matters and applications under s73 TCPA 1990

- Relevant Authority (within the meaning of Part 8 of the Anti-Social Behaviour Act 2003)
- Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990)

relating to development management, strategic and neighbourhood planning, public rights of way, high hedges and hazardous substances not included within the terms of reference of the Strategic Planning Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above such functions and responsibilities referred to in A2 above include but are not limited to:

In relation to Part 6 Chapter 3 and Schedule 9, 10, 11, 12 of the Localism Act 2011 to:

- g. Advice and assistance to applicants
- h. Recommendations to the Neighbourhoods Committee as to the designation of forums and areas
- i. Receive and respond to the consultation
- j. Check compliance with procedures, all relevant legislation and conformity with plans
- k. Undertaking publicity
- l. Determining content of representation at examination

B. Highways Transportation matters

Non-Executive Functions

1. All relevant functions and responsibilities of the Council as:

- Local Highway Authority (within the meaning of s.1 Highways Act 1980)
- Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981)
- Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000)
- Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991)
- Traffic Authority (within the meaning of Section 121A of the Road Traffic

Regulation Act 1984)

- Local Housing Authority (within the meaning of Section 1 of the Housing Act 1985)
- Acquiring Authority (within the meaning of section 7(1) of the Acquisition of Land Act 1981)

relating to highways transportation, public rights of way and highways development management included within the terms of reference of the Planning Areas Sub-Committees.

- (1) Matters are referred to the relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions and in the following cases:
- i) where the delegated officer so decides:
 - a) with the agreement of the Chair of the relevant Planning Area Sub-Committee; or
 - b) due to the significant volume of local opinion (including through ~~District Committees or~~ Parish/Town Councils);
 - ii) where the Chair of the relevant Planning Area Sub-Committee so requests;
 - iii) where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request;
 - iv) where there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal);
 - v) in respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking or re-enacting that Act with or without modification).

Executive Functions

1. All relevant functions and responsibilities of the Council as:

- Local Highway Authority (within the meaning of s.1 Highways Act 1980)
- Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981)
- Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000)
- Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991)
- Traffic Authority (within the meaning of section 1 of the Housing Act 1985)

- Acquiring Authority (within the meaning of Section 7(1) of the Acquisition of Land Act 1981)

relating to highways transportation, public rights of way, on and off street car parking (including enforcement) and highways development management not included within the terms of reference of the Strategic Planning Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Determinations relating to any proposed increases to on or off street car parking tariffs

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

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

C. Strategic Environmental Matters

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

D. Housing Strategy

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's housing strategy, including commissioning, not by virtue of any legislation present or future prevented from being the

responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

E. Economic & Skills Strategy

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

F. Regeneration and Business Support Matters

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

G. Building Control Matters

Non-Executive Functions

1. All functions and responsibilities of the Council relating to building control and

registration included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

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

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

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

Matters are referred to the relevant ~~Local Issues~~ District Committee in the following cases:

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

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H. Licensing Matters

Non-Executive Functions

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

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

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

The Strategic Director of Economy and Infrastructure is authorised to discharge the following applications:

- i) Grant and renewal of a Hackney Carriage or Private Hire Drivers Licence
- ii) Suspend or revoke a Hackney Carriage or Private Hire Drivers Licence

I. Environmental Matters

Non-Executive Functions

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

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

- i) Refusals to grant licences under:
 - a) Section 1 Animal Boarding Establishments Act 1963
 - b) Section 1 Breeding of Dogs Act 1973 as amended by the Breeding and Sale of Dogs (Welfare) Act 1999
 - c) The Caravan Sites and Control of Development Act 1960 as amended by the Local Government (Miscellaneous Provisions) Act 1982
 - d) Section 1 Dangerous Wild Animals Act 1976
 - e) The Performing Animals Act 1925
 - f) Section 1 Pet Animals Act 1951
 - g) Section 269 Public Health Act 1936
 - h) Section 1 Riding Establishments Act 1964 and Section 1 Riding Establishments Act 1970
 - i) The Zoo Licensing Act 1981 and the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002
- ii) Refusals to approve arrestment plant for furnaces under Section 6 Clean Air Act 1993
- iii) Refusals to approve plant for arresting grit and dust under Section 8 Clean Air Act
- iv) Refusals to grant prior approval for noise levels from construction sites under Section 61 Control of Pollution Act 1974
- v) Refusals to grant consent to exceed registered levels in noise abatement zones under Section 65 Control of Pollution Act 1974
- vi) Refusals of authorisations in respect of prescribed processes under

Section 6 Environmental Protection Act 1990

- vii) Revocation of authorisation for non-payment of subsistence fee under Section 8(8) Environmental Protection Act 1990
 - viii) Initial consideration of appeals against the revocation of authorisations under Section 8(8) Environmental Protection Act 1990
 - ix) Revocation of authorisation where the prescribed process has not been carried on for a period of 12 months under Section 12 Environmental Protection Act 1990
 - x) Initial consideration of appeals against the revocation of authorisations under Section 12 Environmental Protection Act 1990
 - xi) Refusals to issue permits under Part II Regulation 10 Pollution Prevention and Control (England and Wales) Regulations 2000
 - xii) Accepting the surrender of permits under Part II Regulation 19(8) Pollution Prevention and Control (England and Wales) Regulations 2000
 - xiii) Revocation of permits under part II Regulation 21 Pollution Prevention and Control (England and Wales) Regulations 2000
 - xiv) Authority to institute proceedings in the High Court under Part II Regulation 33 Pollution Prevention and Control (England and Wales) Regulations 2000
- (i) Power to require the proper maintenance of land under Section 215 of the Town & Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

Streetscene and Housing

J. Highways Matters

Non-Executive Functions

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

Matters are referred to the Strategic Planning Committee/relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions above and in the following cases:

- i) Where the delegated officer so decides:
 - a) with the agreement of the Chair of the Strategic Planning Committee or Chair of the relevant Planning Area Sub-Committee (as appropriate); or
 - b) due to the significant volume of local opinion (including through Town & Valley Committees or Parish/Town Councils).
- (ii) Where the Chair of the Strategic Planning Committee or Chair of the relevant Planning Area Sub-Committee (as appropriate) so requests.
- (iii) Where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request.
- (iv) Where there is not majority support for the proposed action by the 3 ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

K. General Streetscene Matters

Executive Functions

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

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

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

Matters are referred to the Executive in the following cases:

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

L. Bereavement Matters

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

M. Routine Enforcement Matters

Non Executive Functions

1. Power to require the proper maintenance of land under s215 of the Town and

Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

N. Strategic Housing and Management of Kirklees Neighbourhood Housing

Executive Functions

1. Discharge of all functions and responsibilities of the Council, as local housing authority, that are not delegated to Kirklees Neighbourhood Housing, pursuant to an agreement with the Council under Section 27 of the Housing Act 1985, and the discharge of all functions and responsibilities of the Council relating to the management of Kirklees Neighbourhood Housing that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

O. Physical Resources and Procurement

Executive Functions

Discharge of all functions and responsibilities of the Council relating to its Physical Resources and Procurement Service including, but not limited to:

- (a) Asset management;
- (b) Corporate Landlord;
- (c) Capital development;
- (d) Capital construction delivery;
- (e) Catering, cleaning and caretaking (Facilities Management);
- (f) Procurement;
- (g) Emergency Planning and Corporate Health & Safety; and
- (h) Building Services.

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

Matters are referred to the Executive in the following cases:

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

- (ii) Payment of disturbance payments to tenants exceeding £10,000;
- (iii) Approval of heads of terms for the disposal of any rights, estates or interests in land and property of the Council where the estimate of value exceeds £500,000;
- (iv) Approval of heads of terms for the acquisition of rights in and estates in land and property in cases where the purchase price or consideration exceeds £500,000;
- (v) Disposal of any Council interests in public or quasi open space, common land or village greens where objections to the proposed disposal have been received from members of the public; and
- (vi) Decisions to submit planning applications relating to land and property owned or to be acquired by the Council in circumstances where ward members have been consulted and have made adverse comments.

P Communities and Leisure

Executive Functions

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

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in P1 above include but are not limited to:

- (a) Area working and Local governance;
- (b) Consulting and engaging with communities;
- (c) Supporting partnership working and managing key partnerships;
- (d) Support and strengthening the voluntary and community sector;
- (e) Community Safety, particularly dealing with Anti-Social Behaviour and preventing violent extremism;
- (f) Sport and Physical Activity;
- (g) Arts and Creative Economy;
- (h) Events, festivals and concerts;
- (i) Museums, galleries and heritage;
- (j) Corporate Improvement Priorities; and
- (k) Policy support.

Service Director – Finance, Information and Transactional Services **Director of Resources**

The holder of the post of **Service Director – Finance, Information and Transactional Services****Director of Resources** is designated as the officer responsible for the proper administration of the Council's financial affairs pursuant to s151 of the Local Government Act 1972 and is responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the **Resources** Directorate and, without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

A. Strategic Financial Advice and Accounting

Non-Executive Functions

1. All functions and responsibilities of the Council relating to strategic financial advice and accounting subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

Executive Functions

2. All functions and responsibilities of the Council relating to strategic financial advice and accounting that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above such functions and responsibilities referred to in A1 and A2 above include but are not limited to:

- (a) Strategic Finance;
- (b) Business and finance advice to directorates; and
- (c) Treasury Management.

B. Customer & Exchequer Services Matters

Executive Functions

1. All functions and responsibilities of the Council relating to its customer and exchequer services and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include but are not limited to:

- (a) Customer Strategy;
- (b) Customer Contact (KD, KIP, LIC);
- (c) Housing Benefits;
- (d) Revenues and Income;
- (e) Advice;
- (f) Complaints; and
- (g) Town and Public Halls
- (h) Registrars' Service
- (i) Client Financial Affairs
- (j) Free School Transport
- (k) Free School Meals
- (l) Disabled Parking Badges

~~**C. Governance & Democratic Services Matters**~~

~~**Non-Executive Functions**~~

- ~~1. Discharge of all functions and responsibilities of the Council relating to governance and member relations (including elections) subject to the exceptions that:~~

~~Matters are referred to Council:~~

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

~~Matters are referred to Corporate Governance and Audit Committee:~~

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

~~Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 above include but are not limited to:~~

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

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

~~Executive Functions~~

- ~~2. Discharge of all functions and responsibilities of the Council relating to governance, member relations and information management not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~Matters are referred to the Executive in the following cases:~~

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

CD. Information Technology Matters

Executive Functions

- 1. All functions and responsibilities of the Council relating to its information technology activities and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

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

- a) IT Strategy and Change.

DE. Risk and Performance

Non-Executive Functions

1. All functions and responsibilities of the Council relating to risk and performance matters subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

Executive Functions

2. All functions and responsibilities of the Council relating to risk and performance matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

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

- (a) Performance;
- (b) Risk Management;
- (c) Internal Audit; and
- (d) Insurance.

~~Director for Communities, Transformation and Change~~

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

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~~A. Support Services Matters~~

~~Human Resources~~

~~Non-Executive Functions~~

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

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

- ~~i) As specified in paragraph 3 of the General Provisions above;~~
- ~~ii) Determinations as to the grading of posts of the Chief Executive and Strategic Directors;~~
- ~~iii) Disagreements as to employee terms and conditions between the Director of Communities, Transformation and Change (or their nominated officer) and representatives of the recognised Trade Unions that have not been resolved by the Central Negotiating Team;~~
- ~~iv) Sanctioning of compulsory redundancy proposals for directors;~~
- ~~v) Sanctioning of early retirement/voluntary severance or ill health retirement proposals for directors;~~
- ~~vi) Decisions as to the implementation of the discretionary areas of nationally negotiated agreements relating to rates of pay and terms and conditions of employment; and~~

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~~vii) Approval of all local terms and conditions of employment including discretionary holiday days.~~

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

~~— (i) Any grievance raised by the Chief Executive.~~

~~— Executive Functions~~

~~2. Discharge of all functions and responsibilities of the Council relating to human resources that are not included within the terms of reference of the Personnel Committee and are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~Matters are referred to the Executive in the following cases:~~

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

~~General Service Support~~

~~Executive Functions~~

~~1. Discharge of all functions and responsibilities of the Council relating to general service support including, but not limited to:~~

~~(a) Leadership, management and workforce development;~~

~~(b) Human Resources;~~

~~(c) Learning and Organisational Development;~~

~~(d) Communications and Marketing;~~

~~(e) Employee Healthcare;~~

~~(f) Payroll and Personnel;~~

~~(g) Recruitment and Temp Direct; and~~

~~(h) Pensions.~~

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

~~— Matters are referred to the Executive in the following cases:~~

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

~~B. Communities and Leisure~~

~~Executive Functions~~

- ~~1. Discharge of all functions and responsibilities of the Council relating to communities and leisure matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~Matters are referred to the Executive in the following cases:~~

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

~~Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include but are not limited to:~~

- ~~(a) Area working and Local governance;~~
- ~~(b) Consulting and engaging with communities;~~
- ~~(c) Supporting partnership working and managing key partnerships;~~
- ~~(d) Support and strengthening the voluntary and community sector;~~
- ~~(e) Community Safety, particularly dealing with Anti-Social Behaviour and preventing violent extremism;~~
- ~~(f) Sport and Physical Activity;~~
- ~~(g) Arts and Creative Economy;~~
- ~~(h) Events, festivals and concerts;~~
- ~~(i) Museums, galleries and heritage;~~
- ~~(j) Corporate Improvement Priorities; and~~
- ~~(k) Policy support.~~

Strategic Director of Commissioning, Public Adults and Health and Adult Social Care

The holder of the post of **Strategic Director of Adults and Commissioning, Public Health and Adult Social Care** is the statutory officer for Section 6 of the Local Authority Social Services Act 1970 and is responsible for the strategic direction and overall management and delivery of the local authority's functions relating to commissioning, Public Health and Adult Social Care (other than those public health functions for which the authority's Director of Public Health is directly statutorily responsible under the NHS Act 2006 (set out below), the Health and Social Care Act 2012 and related regulations) without prejudice to the foregoing, the Director shall have power, subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements, to discharge the functions set out below

It should be noted that the holder of the post of Director of Public Health (DPH) is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006 **and works within the Directorate for Commissioning, Public Health and Adult Social Care.**

A. Public Health Matters

Executive Functions

- a) ~~taking appropriate steps to improve the health of the people in the authority's area⁷;~~
- b) ~~dental public health⁸;~~
- c) ~~joint working with the prison service⁹;~~
- d) ~~the medical inspection of pupils and the weighing and measuring of children¹⁰;~~

⁷ ~~Section 2B of the 2006 Act. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making available the services of any person or any facilities; and providing grants or loans~~

⁸ ~~As prescribed by the Secretary of State under Section 111 of the 2006 Act~~

⁹ ~~In relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners – Section 249 of the 2006 Act~~

¹⁰ ~~Under Schedule 1 of the 2006 Act~~

- ~~e) — research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise¹¹;~~
- ~~f) — planning for, or responding to, emergencies involving a risk to public health;~~
- ~~g) — co-operating with arrangements for assessing risks posed by violent or sexual offenders¹²~~
- ~~h) — any public health function of the Secretary of State (or functions exercisable in connection with those functions)

 - ~~• — which the authority is required by regulations to exercise¹³; or~~
 - ~~• — in respect of which arrangements have been made¹⁴;~~~~
- ~~i) — any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;~~
- ~~j) — the oversight of clinical governance arrangements;~~
- ~~k) — making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act 2003; and~~
- ~~l) — provision of contraceptive services¹⁵.~~

~~Matters are referred to the Executive in the following cases:~~

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

BA. Adult Support and Safeguarding matters

Executive functions

1. Discharge all of the functions and responsibilities of the Council relating to adult support and safeguarding matters that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

~~¹¹ For any purposes in connection with the authority's functions in relation to the health service — paragraph 13 of Schedule 1 of the 2006 Act~~

~~¹² Under Section 325 Criminal Justice Act 2003~~

~~¹³ Section 6C(1) and (3) of the 2006 Act~~

~~¹⁴ Under Section 7A of the 2006 Act~~

~~¹⁵ Under Schedule 1 of the 2006 Act~~

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in [B4-A1](#) above include but are not limited to:

- (a) Safeguarding of adults including effectiveness of Kirklees Safeguarding Adults Board.
- (b) Implementation and management of strategies for adults and older people.
- (c) Social Care Transformation and Integration.
- (d) Partnerships for adults.

CB. Personalisation and Commissioning matters (Adults)

Executive functions

1. Discharge all of the functions and responsibilities of the Council relating to commissioning services for Health and Social Care that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in [C4-B1](#) above include, but are not limited to:

- a) Managing, developing and leading strategic commissioning for adult social care
- b) Driving Service Quality and development.
- c) Independent Review and advocacy.
- d) Cross-sector Development.
- e) Regulation and Quality.
- f) Cross-directorate Strategic Support.
- g) Strategic Partnerships and Commissioning.

Service Director – Legal, Governance and Commissioning

The holder of the post of Service Director – Legal, Governance and Commissioning is designated as the Council's Monitoring Officer and is also responsible for the

strategic direction and overall management and delivery of the legal functions and responsibilities of the Legal, Governance and Monitoring Service and without prejudice to the foregoing shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

Legal Matters

General

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

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

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

Executive Functions

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

- a) to give undertakings on behalf of the Council;
- b) to prepare, sign or apply the Council's common seal to documents;
- c) to authorise other officers to apply the Council's common seal in accordance with Article 14.5 of Part 2 of the Constitution and to sign documents that are not required to be under seal;
- d) to complete all property transactions and contractual arrangements where terms have been agreed by the Council, its committees or sub-committees or Directors acting under the scheme of delegation;
- e) to authorise officers who are not admitted solicitors to appear in the

Magistrates' Court on behalf of the Council pursuant to Section 223(1) of the Local Government Act 1972.

- f) To authorise officers of the Council to conduct actions on behalf of the Council in the County Court before a District Judge pursuant to Section 60 of the County Court Act 1984, in respect of:
- the recovery of possession of houses or other property belonging to the Council; and
 - the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house.
- g) to accept on behalf of the Council the service of notices, orders and legal procedures;
- h) to exercise the functions of the Council pursuant to Section 1 of the Crime and Disorder Act 1998 (Anti-Social Behaviour Orders);
- i) to determine exemptions under Section 36 of the Freedom of Information Act 2000; and
- j) to postpone the Council's statutory charge where a property is mortgaged to an approved lending institution under the Housing Act 1985, is mortgaged to another lending institution, or where a secure loan is required from the original approved lending institution or from another approved lending institution, subject in each case to consultation with the Assistant Director for Streetscene and Housing and all costs incurred by the Council in the granting of the postponement being met in full by the applicant.

Governance & Democratic Services Matters

Non-Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to governance and member relations (including elections) subject to the exceptions that:

Matters are referred to Council:

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

Matters are referred to Corporate Governance and Audit Committee:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 above include but are not limited to:

(a) The determination (in consultation with Group Business Managers) of nominations to outside bodies in circumstances where the Council or, in default, the Corporate Governance & Audit Committee have agreed in principle to nominate representatives and the political ratios; and

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

Executive Functions

2. Discharge of all functions and responsibilities of the Council relating to governance, member relations and information management not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Service Director – Policy, Intelligence and Public Health

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The Service Director is the holder of the post of Director of Public Health (DPH) is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006

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A. Public Health Matters

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Discharge of all functions and responsibilities of the Council relating to Public health by virtue of any legislation present or future not prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within this Part that have been allocated to the Executive including

Executive Functions

- a) taking appropriate steps to improve the health of the people in the authority's area^{16.}₁
- b) dental public health^{17.}₁
- c) joint working with the prison service^{18.}₁
- d) the medical inspection of pupils and the weighing and measuring of children^{19.}₁
- e) research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise^{20.}₁
- f) planning for, or responding to, emergencies involving a risk to public health;
- g) co-operating with arrangements for assessing risks posed by violent or sexual offenders²¹

¹⁶ Section 2B of the 2006 Act. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making available the services of any person or any facilities; and providing grants or loans

¹⁷ As prescribed by the Secretary of State under Section 111 of the 2006 Act

¹⁸ In relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners - Section 249 of the 2006 Act

¹⁹ Under Schedule 1 of the 2006 Act

²⁰ For any purposes in connection with the authority's functions in relation to the health service – paragraph 13 of Schedule 1 of the 2006 Act

²¹ Under Section 325 Criminal Justice Act 2003

h) any public health function of the Secretary of State (or functions exercisable in connection with those functions)

- which the authority is required by regulations to exercise²²; or
- in respect of which arrangements have been made²³;

i) any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;

j) the oversight of clinical governance arrangements;

k) making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act 2003; and

l) provision of contraceptive services²⁴;

Matters are referred to the Executive in the following cases:

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

Approved by Annual Council 22 May 2013

²² Section 6C(1) and (3) of the 2006 Act

²³ Under Section 7A of the 2006 Act

²⁴ Under Schedule 1 of the 2006 Act

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Code of Conduct for Members

1 Application

1.1 This Code applies to you as a member of Kirklees Council (“the authority”) and it is your personal responsibility to comply with the requirements of this Code. This Code **sets out the standards of behaviour required of you** and applies to you whenever you act in the capacity of an elected or co-opted member of the authority, including –

- 1.1.1 at meetings of the authority
- 1.1.2 when acting as a representative of the authority
- 1.1.3 in taking any decision as a Cabinet member or a Ward Councillor
- 1.1.4 in discharging your functions as a Ward Councillor
- 1.1.5 at briefing meetings with officers and
- 1.1.6 at site visits
- 1.1.7 when corresponding with the authority other than in a private capacity

1.2 Where you act as a representative of your authority on another local authority, you must, when acting for that other authority, comply with that other authority’s code of conduct.

1.3 Where you act as a representative of your authority on a body which is not another local authority you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

2 Interpretation

For the purposes of this Code –

2.1 “member of the authority” includes:

- 2.1.1 elected members; and
- 2.1.2 co-opted members who are entitled to vote on any questions which fall to be determined by the committees, sub-committees, joint committee, joint subcommittees or area committees upon which they sit.

2.2 “meeting” means any meeting of:

- 2.2.1 the authority;
- 2.2.2 the executive of the authority; or
- 2.2.3 any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees or area committees.

2.3 “body” means any body of which you are a member or in a position of general control or management and –

- 2.3.1 to which you are appointed or nominated by your authority; or
- 2.3.2 which is a body –

- (a) exercising functions of a public nature; or
- (b) directed to charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

2.4 “relevant person” for the purposes of paragraph 5 of this Code means any person or body with whom you have a family, social or business relationship.

3 General Principles

Your conduct as a member should be consistent with the following principles –

3.1 Preamble

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, Non-Departmental Public Bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

3.2 Selflessness

Holders of public office should act solely in terms of the public interest.

3.3 Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3.4 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

3.5 Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

3.6 Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

3.7 Honesty

Holders of public office should be truthful.

3.8 Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

3A General Principles and Obligations

1. You must treat others with respect
2. You must not bully or intimidate any person, or attempt to bully or intimidate them
3. You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
4. You must not do anything which may cause the Council to breach any of the equality duties. This includes refraining from behaviour or comments which might reasonably be regarded as being racist, sexist or otherwise discriminatory towards other people
5. You must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute
6. You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably be aware, is of a confidential nature, except where:-
 - (i) You have the consent of a person authorised to give it;
 - (ii) You are require by law to do so;
 - (iii) The disclosure is made by a third party for the purposes of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) The disclosure is –
 - (A) Reasonable and in the public interest
 - (B) Made in good faith and in compliance with the reasonable requirements of the authority; and
 - (C) You have consulted the Monitoring Office prior to its release
7. You must not prevent another person gaining access to information which that person is entitled to by law
8. You must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are not. Nor should you express your own views in a way which misleads anyone reading or listening that it is official or agreed policy or position of the Council when it is your own personal view or those of a political party or group of people which you are a member
9. You must respect the impartiality and integrity of the authority's statutory officers and its other employees. You must not do anything which compromises the impartiality and integrity of anyone who works for or on behalf of the Council, or do anything that is likely to compromise their impartiality and integrity
10. When you use or authorise the use by others of the resources of the Council you must:

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- (i) Abide by the Council's reasonable requirements; and
- (ii) Ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (iii) Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

11. You must co-operate with the Standards process when you are the subject of a complaint and respond to a complaint that is brought against you, except where there are extenuating circumstances

12. You must comply with the decision of the Standards process if you are found to be in breach of this Code of Conduct

13. You must comply with the standards as described in the Council's Behaviours and in particular the protocol on Member/Officer Relations as well as all other relevant policies and guidance related to standards of appropriate behaviour and responsibilities from time to time agreed by the Council or which the Council is required to comply with or have appropriate regard to

14. You must comply with the rules and procedures of meetings you attend. This includes compliance with the Council's Standing Orders and the authority and rulings of the Mayor or Chair.

15. When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's –
(a) chief finance officer (the statutory s.151 Officer); or
(b) monitoring officer (the Service Director of Legal, Governance and Commissioning),
where that officer is acting pursuant to his or her statutory duties.

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4 Disclosable Pecuniary Interests

4.1 Disclosable Pecuniary Interests ("DPs") are those interests defined as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ("the 2012 Regulations") or in any subsequent regulations which amend, vary or revoke the 2012 Regulations. For the purposes of illustration only, a summary of the 2012 Regulations is set out in the Schedule to this Code of Conduct.

4.2 You must, within 28 days of:

- 4.2.1 adoption of this Code of Conduct by the authority; or
- 4.2.2 taking office as a member or co-opted member of the authority notify the authority's Monitoring Officer of any DPI, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

4.3 When you are present at a meeting of the authority and you have a DPI in any matter to be considered or being considered at the meeting, and where the matter does not relate to 'sensitive information' as defined below, you must disclose the existence and nature of the interest to the meeting.

4.4 Following any disclosure of a DPI not on the authority's register or the subject of pending notification, you must notify the authority's Monitoring Officer of that interest within 28 days beginning with the date of disclosure.

4.5 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a DPI and must withdraw from the meeting while the matter is under consideration.

4.6 You must within 28 days of becoming aware of any new DPI or the need to change or update a current DPI registration, notify the authority's Monitoring Officer of those new or revised register entries.

5 Interests which are not Disclosable Pecuniary Interests (Other Interests)

~~5.1 You also have an interest in any business of your authority if you attend a meeting at which any item of business is to be considered and you are aware that you have an interest that does not amount to a DPI. You will have an 'Other' interest where a decision in relation to that business~~

- ~~— 5.1.1 relates to or is likely to affect any body of which you are a member or in a position of general control or management; or~~
- ~~— 5.1.2 which might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.~~

~~5.2 You must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.~~

~~5.3 You do not have an interest for the purposes of paragraph 5.1 unless the interest is only have an 'Other' interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.~~

~~5.1 In addition to the requirements relating to DPIs, if you attend a meeting at which any item of business is to be considered and you are aware that you have an interest which does not amount to a DPI you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.~~

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5.2 You have an Other interest where –

(a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

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(b) it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

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5.2 In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

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5.3 You do not have an Other ~~'Other'~~ interest if the interest relates to any business of the authority in respect of –

- 5.3.1 housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- 5.3.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- 5.3.3 statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- 5.3.4 an allowance, payment or indemnity given to members;
- 5.3.5 any ceremonial honour given to members; and
- 5.3.6 setting council tax or a precept under the Local Government Finance Act 1992.

~~5.5 You must withdraw from the meeting where your interest is one—~~

- ~~5.5.1 which relates to the determining of any approval, consent, licence, permission or registration in relation to you or a relevant person; or~~
- ~~5.5.2 affects your financial position or the financial position of a relevant person you must also withdraw from the meeting while the matter is under consideration.~~

~~5.6 You only need to declare or withdraw from a meeting where you are aware or ought reasonably to be aware of the existence of the interest.~~

~~5.7 Where you have an interest which is not a DPI but, by virtue of paragraph 6, information relating to the interest is sensitive information you must indicate to the meeting that you have an interest, but need not to disclose the sensitive information to the meeting.~~

~~5.8 Where you have an interest which is not a DPI in any business of your authority and you are—~~

- ~~5.8.1 a member of a body making an executive decision;~~
- ~~5.8.2 an individual member making an executive decision; or~~
- ~~5.8.3 a member consulted by an officer making an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest.~~

~~5.9 For the purposes of paragraph 5.8, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.~~

Sensitive Interests

5.4 Where you have an interest which is not a disclosable pecuniary interest and information relating to the interest is sensitive information, you must indicate to the meeting that you have an interest, the details of which are withheld.

6 Sensitive information

6.1 Where you consider that the information relating to any of your interests is sensitive information, and your authority’s monitoring officer agrees, you need not include that information when registering that interest under paragraph 4.

6.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 6.1 is no longer sensitive information,

notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

6.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person connected with you may be subjected to violence or intimidation.

7 Gifts and Hospitality

7.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted from or has been offered to you by any person or body other than the authority.

7.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

7.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

SCHEDULE

Regulation 1(2)

Disclosable Pecuniary Interests

Disclosable Pecuniary Interests are the interests specified in the second column of the following table and for the purposes of that table the following definitions apply:

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) (Disclosure of pecuniary interests upon taking office) or section 31(7) (Interests not entered on the authority's register and not subject to a pending notification), as the case may be, of the Act;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act

2000 and other securities of any description, other than money deposited with a building society.

Table

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (along or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Name of meeting: Corporate Governance & Audit Committee
Date: 12th May 2017

Title of report: Changes to Financial Procedure Rules June 2017
Purpose of report; To recommend changes to Council to update Financial Procedure Rules

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name	D Hogg, Service Director: Finance IT & Transactional services (2-5-17)
Is it also signed off by the Service Director for Finance, IT & Transactional Services	
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Yes
Cabinet member portfolio	Not applicable

Electoral wards affected: All
Ward councillors consulted: Not applicable

Public

1. Summary

- 1.1 Each year this Committee is asked to consider and recommend to Council changes to the Financial Procedure Rules(FPRs), to reflect changed operating arrangements, requirements and needs.

2. Information required to take a decision

- 2.1 The changes in FPRs largely reflect changes in post titles, (which are not highlighted, except where the designated post is changed significantly). So for example, most roles previously allocated to the Director of Resources are now shown as the Chief Finance Officer- the legal role currently performed by the Service Director Finance, IT & Transactional Services.
- 2.2 Changes are highlighted by track changes (except as above). Certain text changes are designed to clarify, but not change the meaning.
- 2.3 The specific changes in FPRs are designed to reflect the move to Strategic and Service Directors; Initially Strategic Directors will continue to have an involvement in direct supervision of financial management and budgetary control, and the word changes in FPR 2 and 3 reflect this. Other changes relate to:
- Some definitions.
- (1.6) Internal Audit is jointly commissioned by the Chief Executive, Service Director Legal, Governance and Commissioning alongside the Chief Finance Officer
- (1.8) Additional wording to make clear that the Service Director Legal, Governance & Commissioning, and the Head of Audit & Risk can issue instructions and guidance regarding FPRs.
- (2.1)The medium term financial plan is now over 4 years.
- (2.22, 2.23) The limit of finance which a strategic director may transfer in consultation is increased from £0.5m to £1.0m, and the Cabinet has authority hence to vire amounts over £1.0m
- (2.26, 2.29) clarification of rollover arrangements
- (3.9, 3.10) Cabinet authority to vire funds in respect of capital projects is increased from £0.5m to £1.0m, and Service director authority is increased from £0.1m to £0.5m.
- (11.1) Index of retail prices amended to consumer prices index
- (11.6) The anti-money laundering responsibilities of the council are set as a duty for the Service Director Legal, Governance & Commissioning
- (14, 15, 21) Introductory text requiring annual review of SAP authorisations
- (14.6) Amended to align with Employee Handbook
- (20.7) Clarification of expectations of competitive requirements rules when grants are awarded
- (20.8) Minor changes to rights of a service director to issue grants
- (20.10) The potential of other member lead forums offering grants is an addition to the clause regarding district committees
- (20.11) Amended from £100,000 to £160,000 to align with contract procedure rules.
- (20.13, 20.14) additional texts relating to publication and asset transfer
- (21) Additional note highlighting need to comply with Contract Procedure Rules as well.

- 2.4 In due course, as Strategic Directors move to a commissioning role, and Service Directors take more responsibility for budget management, further changes to FPRs may be required.
- 2.5 Post titles may need to be amended during the year, as roles and responsibilities become clearer.

3. Implications for the Council

- 3.1 Early Intervention and Prevention (EIP) -None directly
- 3.2 Economic Resilience (ER) -None directly
- 3.3 Improving Outcomes for Children -None directly
- 3.4 Reducing demand of services -None directly
- 3.5 Other Implications – Legal, financial or otherwise

Although each of the sub categorisations above suggest no direct implications, the procedure rules and compliance with them are a key part to ensuring sound governance in all of the councils operations and to ensure that all expenditure is targeted appropriately, to bring effectiveness, efficiency and value for money.

4. Consultees and their opinions

- 4.1 The Directors for Finance, IT & Transactional Services and Legal Governance and Monitoring have been involved and the suggested changes align with their views.

5. Next steps

- 5.1 Annual Council considers these proposals and any recommendations by this committee. If approved, the new rules take effect from 1st June 2017.

6. Officer recommendations and reasons

- 6.1 That the recommended changes in Financial Procedure Rules as outlined in this report be approved for recommendation to Council with effect from 1st June 2017.
- 6.2 It be noted that the Service Director Finance, IT and Transactional Services, the Service Director Legal Governance and Commissioning, and the Head of Audit & Risk may prepare additional guidance as appropriate to supplement these Financial Procedure Rules.
- 6.3 That the Service Director Finance, IT and Transactional Services, and the Service Director Legal Governance and Commissioning be authorised to make any recommended changes or drafting changes they consider are necessary to these FPRs before presenting them to Council for approval.
- 6.4 The Service Director Legal, Governance & Commissioning is empowered to amend post titles to reflect those used in practice by officers fulfilling the stated functions.

7. Cabinet portfolio holder recommendation

- 7.1 Not applicable.

8. Contact officer

Martin Dearnley, Head of Audit & Risk

9. Background Papers and History of Decisions

The Financial Procedure Rules are attached with the amendments proposed shown by track changes.

10. Directors responsible

Director for Finance, IT & Transactional Services
Director of Legal Governance and Commissioning

KIRKLEES COUNCIL

FINANCIAL PROCEDURE RULES

June2017

Financial Procedure Rules

Introduction

These Financial Procedure Rules set out the framework which the Council will use in managing its financial affairs. They set out levels of responsibility and give authority to the Cabinet, Members and Officers and are intended to promote good practice in the use of public funds.

A guide to the Financial Procedure Rules will be published on the Intranet to help users understand and implement good financial management. Users should contact the Chief Finance Officer or their staff if assistance or clarification is needed.

Contents

1. Financial Governance
2. Revenue Budget Preparation and Management Revenue Budget
3. Capital Investment Plan Preparation and Management
4. Financial Systems, Procedures and Grants
5. Internal Audit
6. Insurance
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8. Security
9. Treasury Management
10. Banking Arrangements, Cheque Signing and Imprest Accounts
11. Income
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15. Travel, Subsistence and other Allowances
16. Taxation
17. Gifts and Hospitality
18. Working with Clients and Contractors
19. Unofficial and Voluntary Funds
20. Financial Control of Partnerships, Joint Ventures, Associated Organisations and Similar Arrangements.
21. Purchasing of Works, Goods and Services

Financial Procedure Rules
Definitions

Activity Budget	A standard sub division of a Strategic Directors budgets ; normally equivalent to the service portfolio operationally managed at Service Director level;
Asset	An item belonging to the Council that has a value ; It can include buildings, equipment, vehicles, stocks, stores, money and items of intellectual value
Associated Organisation	An organisation in which the Council has a majority or substantial shareholding, or exercises substantial influence through its funding of the organisation.
Business Case	A written document, setting out the reasons for a project, including analysis of options, risks and resources needed.
Cabinet Member	A single member of the Cabinet.
Central Budget	A budget which is held centrally and for which statutory Chief Finance Officer is accountable (in accordance with any rules established in these procedures, or by Council, or Cabinet)
Chief Finance Officer	The person so designated as the section 151 of the Local Government Act 1972 from time to time by the Chief Executive, currently the Service Director Finance, IT and Transactional Services
Controllable Budget	A budget which is allocated to a Director , and for which the Director is accountable, in accordance with any rules established in these procedures, or by the Chief Finance Officer, or by Council, or Cabinet
Director	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive. This is a Service Director, except where these rules or a determination of the Chief Executive is that the delegation falls only to a Strategic Director
Director of Resources Finance	The Director – or other officer – who is the council’s statutory Chief Financial Officer. The current post holder has the title “Director of Finance, IT and Transactional Services”. Any rules applying to a Director apply equally to the Director of Resources Finance when behaving as a service Director.
Directorate	The consolidated group of Service plans and activity budgets that fall within the responsibility of any one Strategic Director, including the Chief Executive
Fixed Asset	Any physical item having a long term value –such as a vehicle, or property.
His or her Nominees	Refers to the ‘Head of Service level’ to which Service Directors, including the Chief Finance Officer can nominate on their behalf, to enact Service Director delegated authorities as set out in these FPR’s
Irregularity	An unexpected or inappropriate event or behaviour
Land Asset	Means the property of the Council that is freehold or

	leasehold property (including any buildings on it), rights of possession of land, easements and/or other estates or interests in land.
Medium Term Financial Plan (MTFP)	Three year Revenue Budget Plan and Capital Investment Plan, <u>normally for 4 financial years.</u>
Monitoring Officer	<u>The person appointed under section 5 of the Local Government & Housing Act 1989, currently the Service Director, Legal, Governance & Commissioning</u>
Named Project	A project (forming part of a Capital Programme) identified by Cabinet (or any other body or person so authorised by Cabinet) for inclusion in the Capital Plan.
Officer	An employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules apply.
Partnership	Any organisation with which the Council has a formal or informal agreement to act together.
Programme Area	A group of projects having a similar purpose in the Capital Investment Plan.
Project	A single scheme included separately in the Capital Investment Plan, or as a part of a programme area.
Rollover	A mechanism for transferring budgets between financial years.
Service Director	<u>The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive.</u>
Service Plan	A statement of objectives plans, performance measures and the use of resources for a Service.
Specified Project	A project specified by Council for inclusion in the Capital Plan.
Strategic Director	<u>The person responsible for the commissioning of activity at a Directorate level, and includes the Chief Executive</u>
Virement	The transfer of resources from one budget to another.

1. **FINANCIAL GOVERNANCE**

- 1.1 The Council has a statutory duty to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has responsibility for the administration of those affairs. The Council has resolved that the Chief Finance Officer is the responsible officer.
- 1.2 The Council will approve Financial Procedure Rules to be used by all members and officers.
- 1.3 The Corporate Governance & Audit Committee is responsible for approving the Council's Annual Statement of Accounts
- 1.4 The Cabinet is responsible for ensuring that the Financial Procedure Rules are followed across the Council. The Corporate Governance & Audit

Committee is also responsible for reviewing the Financial Procedure Rules annually and for making recommendations for any changes to the Council.

- 1.5 The Corporate Governance & Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management arrangements. The Cabinet is responsible for assessing the risk of activity undertaken by the Council.
- 1.6 The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs, and particularly for:-
 - a) Providing financial advice and information to members and officers;
 - b) Setting standards for good financial management and monitoring compliance with those standards;
 - c) Advising on the key financial controls necessary to secure sound financial management;
 - d) Ensuring that proper systems of internal control are operated;
 - e) Co-ordinating the preparation of the Revenue Budgets and the Capital Investment Plan;
 - f) Determining the accounting policies and financial procedures and records for the Council;
 - g) Preparing the annual financial statements in accordance with the relevant accounting standards and codes of practice;
 - h) Treasury management activities;
 - i) Preparing a risk management policy statement and promoting it throughout the Council;
 - j) Maintaining an effective internal audit function, jointly with the Chief Executive, and Service Director of Legal Governance & Commissioning;
 - k) Ensuring proper professional practices are maintained within the finance function; and
 - l) Managing the Council's taxation affairs.
- 1.7 The Chief Finance Officer must report to the Council's Monitoring Officer and to the Council if:-
 - a) A decision has been made, or is about to be made, which involves the incurring of expenditure which is unlawful; or
 - b) There has been, or is about to be, an unlawful action resulting in a financial loss to the Council;and the Council's Monitoring Officer will take all appropriate and necessary steps to deal with the matter.
- 1.8 The Chief Finance Officer may issue any instruction intended to fulfil these responsibilities and is entitled to any information or explanations as he/she may require. The Head of Audit & Risk, and the Service Director Legal, Governance & Commissioning may also issue instructions or guidance in relation to these financial procedure rules.

- 1.9 Service Directors must ensure that financial systems and procedures used in their service areas are adequate to record and control all transactions and to achieve adequate levels of internal check and control.
- 1.10 Service Directors must make arrangements to ensure that all officers involved in financial matters are aware of, and competent in the use of, these Financial Procedure Rules. The extent of delegated authority to officers must be recorded.
- 1.11 Strategic Directors must ensure that any report to Cabinet contains the financial implications of any proposals. These financial implications must be agreed with the Chief Finance Officer.
- 1.12 Where, as a result of legislation or decision of the Council, part of the Council's functions are delivered by an associated organisation including any partnerships of which the Council is a member or participant, funded partly or wholly by the Council, the organisation must submit for approval by the Council its own arrangements for corporate governance. These arrangements will incorporate the spirit of the Council's Financial Procedure Rules, and will include the Council's right of access to financial information about the associated organisation.
- 1.13 Schools with delegated budgets are subject to, and must comply with, the 'Kirklees Scheme for Financing Schools', which has tailored these Financial Procedure Rules for use in those Schools.
- 1.14 A reference in the Financial Procedure Rules:-
- a) To the Cabinet includes Cabinet Committees;
 - b) ~~a)~~ To a Strategic Director includes where appropriate the Chief Executive.
 - ~~a)c)~~ To a Service Director includes his or her nominees (except where otherwise specifically forbidden);
 - d) To the Chief Finance Officer includes his or her nominees; and
 - e) To an officer means any employee of the Council, or other persons contracted to carry out functions where these Financial Procedure Rules apply.

2. **REVENUE BUDGET PREPARATION AND MANAGEMENT**

Responsibilities

- 2.1 The Council is responsible for determining the Council's Medium Term Financial Plan (MTFP) comprising a multi-year General Fund Revenue

Budget Plan (including the revenue consequences from the Capital Investment Plan) and setting the level of Council Tax for the following financial year. The multi-year plan will normally be for a period of ~~four~~ 3 years.

- 2.2 The Cabinet is responsible for recommending to the Council a Medium Term Financial Plan comprising a multi-year General Fund Revenue Budget Plan and Capital Investment Plan and for implementing it when determined.
- 2.3 The Cabinet is responsible for approving the setting of Council Tenant Rents, and other rents and service charges within the Housing Revenue Account (HRA), each year, within the scope of existing HRA rent and charging policies.

Budget Preparation

- 2.4 The Cabinet will submit no later than the October meeting of the Council each year a provisional budget strategy for the following ~~three~~ four years. The starting point will be the existing multi-year plans rolled forward from the previous year, including a high level review of Council funding and spend assumptions across the next ~~3~~ four years. Any resultant gap between funding and spend forecasts will inform target spending controls over the new MTFP period
- 2.5 The Chief Finance Officer is responsible for establishing budget procedures, including determination of the following:
 - i) target spending controls for the Council budget over the MTFP, and their allocation to Directors, as appropriate,
 - ii) the format for budget documentation,
 - iii) a corporate budget timetable, and
 - iv) to report on any amendments put forward as part of the Council's budget process
- 2.6 The provisional budget strategy will include arrangements for wider public engagement on budget options being considered.
- 2.7 Strategic Directors will produce draft budget proposals to meet target spending controls for Council budgets over the MTFP, in accordance with budget procedures and the annual budget timetable as set out by the Chief Finance Officer. These draft budget proposals will show how resources are to be allocated across activities, taking into account any service changes, performance targets, and the specific requirements of any relevant legislation, including service equalities impacts, in formulating budget options for Cabinet consideration.
- 2.8 The Cabinet will consider these proposals in detail and make its recommendations to the Council at least 14 days before the date set for the meeting of the Council which will determine the Council's Budget for the next financial year.

- 2.9 The Chief Finance Officer will advise the Cabinet and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need for contingency budgets, and on the risks involved in the forecasts of spending levels and income. The annual budget report must make reference to all matters required by legislation or appropriate professional guidance, including matters such as the Pay Policy Statement and strategy.

Budget Management

- 2.10 The Cabinet is responsible for implementing the Corporate Plan within the resources allocated in the Revenue Budget. The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.
- 2.11 The Chief Finance Officer will determine which budgets are “controllable” by [Strategic](#) Directors, and will allocate the specific budgets that each [Strategic](#) Director has responsibility to manage.
- 2.12 These budgets will normally align with the Directorate structure of the Council, but may also reflect the cross council (transformational) structure of the Council. The Chief Finance Officer will determine which budgets may be considered together for the purposes of delegated virement authority (per FPR 2.20 to 2.24 below).
- 2.13 [Service](#) Directors are responsible for managing controllable budgets within their delegated authority and should exercise proper budgetary control in order to achieve Corporate Plan and Service Plan objectives.
- 2.14 [Service](#) Directors are authorised to incur any expenditure included in the approved revenue budget, as amended by any Virement including obtaining and accepting quotations and providing grants and loans, subject to other requirements of CPRs and FPRs.
- 2.15 [Service](#) Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the [appropriate Strategic Director and](#) the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.
- 2.16 Where a [Service](#) Director is reporting a projected overspending of more than £500,000 on an activity that cannot be addressed through budget virement, this will be highlighted by the Chief Finance Officer as part of the report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year, setting out the reasons for the overspending and management options for eliminating or reducing the overspending.

The Cabinet is responsible for reviewing management options and for recommending such further steps as are necessary to align activity with resources.

- 2.17 The Chief Finance Officer is accountable for all central budgets, which will be managed in the same way as activity budgets.
- 2.18 The Chief Finance Officer has delegated authority to review the requirement for existing Council Provisions and earmarked Reserves, in-year, and to report any new Reserves or Provisions requirements to Cabinet.
- 2.19 [Service](#) Directors should delegate authority to commit budgets to the appropriate level of management, make arrangements to set out clearly the extent of authority of managers, and review the performance of managers in managing these budgets.

Virements

- 2.20 [Service](#) Directors are authorised to transfer resources within an activity budget without limit providing the Service Plan for the activity is not changed in a material way.

Virement which is associated with a change in the level of service from that set out in the service plan must be approved by the Cabinet.

2.21 [Virements must recognise funding arrangements. Virement is not permitted between HRA funded and General Fund funding streams](#)

- 2.22 [Strategic](#) Directors, in consultation with the appropriate executive member(s), are authorised to transfer resources between controllable activity budgets subject only to the cumulative Virements on any one activity not exceeding 10% of the original [gross-net controllable Directorate](#) budget or £1,500,000, whichever is the smaller.

- 2.23 The Cabinet is authorised to transfer resources (undertake a Virement) of more than ~~£500~~[£1,000](#),000 between activity budgets, subject only to the cumulative Virements on any one Directorate not exceeding 10% of the original gross budget, or £2m, whichever is the smaller. Cumulative Virements above these thresholds requires Council approval.

The Cabinet may authorise the transfer of up to ~~£500~~[£1,000](#),000 , cumulative in any one financial year, from the revenue budget to add additional resources to the capital plan. [Service](#) Directors can authorise the transfer of up to ~~£400~~[£500](#),000 cumulative in any one financial year, from the revenue budget to add additional resources to the capital plan, [but subject to approval by the Chief Finance Officer.](#)

- 2.24 Virement is specifically not allowed where the transfer of resources is from budgets for capital charges, [Council support functions](#) -or statutory taxes and levies.

- 2.25 All Virements will be recorded in a way prescribed by the Chief Finance Officer who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet.

Rollover

- 2.26 Rollover is a mechanism for transferring budget provisions from one year to the next, or vice versa. [Rollover arrangements apply equally to the General Fund and the Housing Revenue Account.](#)
- 2.27 The Council, in determining the Revenue Budget for a particular year, will also determine the arrangements for rollover for that year. The Council will determine changes to the Council's Revenue Budget arising from the rollover process.
- 2.28 The Cabinet is responsible for recommending changes to the Revenue Budget arising from the rollover process.
- 2.29 In the rollover process, there will be a presumption that the overall level of resources available to support rollover proposals will not exceed [the any reported net under-spend of the Council as a whole for that year. If the Council as a whole does not have a reported under spend, the presumption is that there will be no revenue rollover for that year.](#)
- 2.31 Subject to the parameters set out in FPR's 2.28 and 2.29 above, there will be a presumption that rollover entitlement will be considered at a Directorate level in the first instance, and will not exceed the Directorate's net under spend position for that year.

Other

- 2.32 Where during any year a material change of funding (and or any change associated activity) arises this must be reported to Cabinet along with a statement of any associated change in the risk profile.(for example a change from outsourced to direct employment may have the same overall cost, but may significantly increase the Council's risk).
- 2.33 Where, as a result of a mistake or error by an officer, the Council becomes liable for any charges, penalties or additional expenses, such costs will be met by the activity in which the error is made.
- 2.34 Whenever the Cabinet becomes aware –following a report from the Chief Financial Officer- that a reduction in resources during the current or future years may impact on the Councils financial position, it may take such steps as it considers necessary to reduce activity immediately or at a stage prior to the next budget Council in order to address this factor.
- 2.35 The Chief Finance Officer will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year. At least a summary of this information will be published on the council website.

- 2.36 After the end of each financial year, the Chief Finance Officer will report to the Cabinet and the Council on the outturn financial performance and proposed rollover of each Directorate and of the Council as a whole.

3. **CAPITAL INVESTMENT PLAN PREPARATION AND MANAGEMENT**

General

- 3.1 All capital investment must be made in recognition of the CIPFA 'Prudential Code for Capital Expenditure', and take account of affordability, prudence and financial sustainability, value for money, stewardship, organisational objectives, and practicality.

Responsibilities

- 3.2 The Council is responsible for determining the Council's Capital Investment Plan and approving the prudential indicators and limits that support the capital investment.
- 3.3 The Cabinet is responsible for recommending to the Council at the same time as the proposed Revenue Budget, a multi-year Capital Investment Plan and the prudential indicators and limits that support the recommended capital investment.
- 3.4 The Council will determine allocations of capital resources to programme areas, or to specified projects.
- 3.5 The Cabinet is responsible for implementing the Capital Plan approved by Council, in line with any stated Council policies, or strategies
- 3.6 The Chief Finance Officer will advise the Cabinet and the Council on the overall Capital Investment Plan and levels of funding available. The Chief Finance Officer must confirm the robustness of the capital plan and assess and report to Cabinet on the revenue effects of the capital plan (financing, additional running costs, savings and income) and indicating the prudential indicators and limits that support the capital investment.

Capital Investment Plan Preparation.

- 3.7 The Chief Finance Officer will prepare draft investment plans in accordance (where set) with the planning totals. Service Directors are responsible for providing details of all programmes and projects in a format prescribed by the Chief Finance Officer.

Plan Management

- 3.8 Where the Council has allocated resources to a programme area, the Cabinet will determine the allocation of resources from the programme area to named

projects.

3.9 The Cabinet is authorised to;

- (1) Transfer resources within a programme area without restrictions.
- (2) Transfer resources between any project or programme area up to a maximum of £~~1,050~~1,000,000 in any financial year.

3.10 [Service](#) Directors are responsible for managing programmes and projects, and must make appropriate arrangements to control projects and avoid overspending.

[Service](#) Directors are authorised to transfer resources to or from any project, or to or from any unallocated resources within a programme area up to a maximum of £~~5400~~5,000,000 in any financial year, subject to the approval of the Chief Finance Officer.

Cabinet may transfer up to £~~5001,000~~5,000,000 and [Service](#) Directors up to £~~400500~~4,000,000, cumulatively in any one year, from the revenue budget to add resources to provide additional resources to current or new projects included in the capital plan. Service Director transfers are subject to approval from the Chief Finance Officer.

3.11 Transfer of resources must recognise funding arrangements. Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project to the extent that it is funded by a project specific third party grant.

3.12 The Cabinet may delegate its authority under Financial Procedure Rules 3.9 and 3.10 to the Board of Kirklees Neighbourhood Housing Limited. The Cabinet may also allow additional delegated authority to [Service](#) Directors. This is to be agreed on an annual basis.

3.13 Any decision on resource allocation by Cabinet, [Strategic and Service](#) Directors or Subsidiary Organisations (3.9 to 3.12) must recognise any policy decisions of Council; Any decision on resource allocation by ~~[Service Directors](#)~~ Directors or Subsidiary Organisations (3.10-3.12) must recognise any policy decisions of Cabinet.

3.14 The Chief Finance Officer will report to the Cabinet on the overall management of the Capital Investment Plan on a quarterly basis through the year (including the reporting of virements in respect of each programmes and project The Cabinet will provide summary monitoring information to the Council at least twice per year.

Progressing investment decisions

3.15 The Chief Executive will establish arrangements to ensure effective deployment of capital resources, including the preparation of business cases, option appraisal etc designed to ensure project effectiveness and value for money, and to assist Council to determine its Capital Investment Plan, and

assist Cabinet with the allocation of programme area budgets to specific projects.

- 3.16 The Chief Finance Officer will grant approval to each specific project when satisfied that:
- a) The project appears on a schedule of named projects (approved by Council or Cabinet).
 - b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan;
or
Where the total costs of a project exceed the amount approved in the Capital Investment Plan the excess is within agreed tolerance levels and the appropriate additional resources has been approved; (3.9, 3.10),
 - c) Any necessary external approval have been obtained;
 - d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.

3.17 Service Directors have authority to progress projects once the approval at 3.16 has been given. They must ensure compliance also with Contract Procedure Rule.

3.18 ~~Strategic The~~ Directors are responsible for post implementation reviews of capital projects to assess the outcome of investment programmes and projects, and the extent to which these achieved the planned objectives set out in the business case, this assessment to be used in summary to Cabinet as a part of the capital investment planning process.

4. **FINANCIAL SYSTEMS, PROCEDURES AND GRANTS**

4.1 The Chief Finance Officer is responsible for the operation of the Councils accounting systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer.

4.2 Any changes to financial procedures to meet the specific needs of a Service must be agreed between the Service Director and the Chief Finance Officer.

4.3 Service Directors must ensure that officers understand and are competent to undertake their financial responsibilities and receive relevant financial training that has been approved by the Chief Finance Officer.

4.4 Service Directors are responsible for the proper operation of financial processes in their own departments activity and must ensure that all financial, costing, and other statistical information is recorded fully and accurately.

- 4.5 Service Directors must ensure that financial documents are retained in accordance with the Council's approved retention schedule.
- 4.6 As far as practicable, Service Directors must make arrangements for the separation of duties between the carrying out of transactions and the examining and checking of transactions.
- 4.7 Service Directors in consultation with the appropriate Strategic Director and Cabinet Members may apply for grants from any funding body, providing the proposed activity is consistent with the approved service plan and Council policy.
- 4.8 Service Directors must ensure a detailed business case is prepared, in consultation with the Chief Finance Officer, in respect of any grant offer. Any material grant conditions must be agreed with the Service Director Legal Governance & Commissioning
- 4.9 Service Directors are authorised to accept any offer of grant and subsequent grant conditions up to a maximum of £100,000. Strategic Directors are authorised, to accept a grant of ~~or~~ up to 5% of the gross revenue budget (or for capital projects, up to 5% of the activity capital capital plan where the grant funding is for capital purposes) for the activity, whichever is the higher. (this includes grants from government and third parties which do not involve an application process)
- 4.10 The Chief Finance Officer in consultation with the Service -Director Legal Governance & Commissioning and the appropriate Strategic Director is authorised to apply for, and or approve the acceptance of grants in all other circumstances.
- 4.11 Grant claims, financial returns and submissions must be completed by the relevant Service Director and the Chief Finance Officer for submission to the relevant government department, agency or organisation.

5. INTERNAL AUDIT

Responsibility & Authority

- 5.1 The Chief Executive, and Chief Finance Officer must arrange and direct a continuous internal audit, which is an independent review of the accounting, financial and other operations of the Council.
- 5.2 The Head of Audit & Risk will report directly to the Chief Executive, the Chair of the Corporate Governance & Audit Committee or the External Auditor in any circumstance where the functions and responsibilities of the Chief Finance Officer are being reviewed. (other than routine reporting of work carried out)
- 5.3 The Head of Audit & Risk has authority to:-
- (a) Enter at all times any Council premises or land or location from which

Council services are provided;

- (b) Have access to all property, records, documents and correspondence relating to all activities of the Council;
- (c) Require and receive explanations concerning any matter; and
- (d) Require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.

The Chief Finance Officer has the same authority for any accounting or associated purpose.

Planning & Reporting

5.4 The Head of Audit & Risk must plan and report (in accordance with the approved Audit Strategy and Charter, Public Sector Internal Audit Standards and any instruction from the Councils Corporate Governance & Audit Committee) upon:-

- a) The risks inherent in and associated with each system;
- b) The soundness, adequacy and application of the financial and other management controls and systems within each Service;
- c) The extent of compliance with, and the financial effects of, established policies, plans and procedures;
- d) The extent to which the organisation's assets and interests are accounted for and safeguarded from losses of all kinds arising from fraud, other offences, waste, extravagance and inefficient administration, poor value for money and other cause;
- e) The suitability, accuracy and reliability of financial and other management data within the organisation; and
- f) Value for money aspects of service provision.

5.5 In respect of any audit report or communication issued, the Director must reply within 4 weeks indicating the action proposed or taken, by whom and including target dates. Where a draft report is issued for initial comments a reply must be made within 2 weeks of issue.

5.6 The Head of Audit & Risk will provide a written summary of the activities of the Internal Audit function to the Corporate Governance & Audit Committee at least four times per year and an Annual Report produced for consideration by, Cabinet and Corporate Governance & Audit Committee, including an audit opinion on the adequacy and effectiveness of the Council's risk management systems and internal control environment.

The Head of Audit & Risk will review the system of internal audit on an annual

basis (and arrange for an external assessment once every 5 years) and report the outcome to the Corporate Governance & Audit Committee.

Investigations and Suspected Fraud, Corruption or Bribery.

- 5.7 The Chief Executive and Directors must ensure that all Members and employees are:-
- a) Aware of the Council's Anti-Fraud, Anti-Corruption and Anti-Bribery Strategy;
 - b) Aware of the Whistleblowing Strategy; and
 - c) Operating in a way that maximises internal check against inappropriate behaviour.

The Chief Finance Officer, and Service Director Legal, Governance & Commissioning is responsible for the development and maintenance of the Anti-Fraud, Anti-Corruption and Anti Bribery Strategy and Whistleblowing Strategy and for directing the Council's efforts in fraud investigation.

- 5.8 It is the duty of any officer who suspects or becomes aware of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the operations or exercise of the functions of the Council to immediately advise the Director. The Director concerned must immediately notify the Head of Audit & Risk who may take action by way of investigation and report.
- 5.9 Where, following investigation, the Head of Audit & Risk considers that there are reasonable grounds for suspecting that a loss has occurred as a result of misappropriation, irregular expenditure or fraud, consultations will be held with the Director on the relevant courses of action, including the possibility of police involvement and the invoking of any internal disciplinary procedure in accordance with the relevant conditions of service.

(Claimant fraud in respect of Housing Benefit and Council Tax Reduction and Discounts (where the claimant is not an employee or Member of the Council) is currently investigated by the Revenues & Benefits Service).

6. INSURANCE

- 6.1 The Chief Finance Officer, and Service Director Legal, Governance & Commissioning, in consultation with Service Directors is responsible for assessing insurable risks and for arranging all insurance cover, including the management and control of the insurance fund. He/she will control all claims and maintain records of them. He/she has authority to receive or make claims on behalf of the council and negotiate and agree all settlements.
- 6.2 Service Directors must promptly notify the Chief Finance Officer, and Service Director Legal, Governance & Commissioning in writing of all new risks or Assets to be insured and of any alterations affecting existing insurances. All

insurances held must be reviewed on an annual basis.

6.3 In the event of any insurance claim or occurrence Service Directors must:-

a) Not admit liability where this may prejudice the outcome of any settlement;

b) Promptly notify the Director of Resources Insurance Team, in writing, of any loss, liability, damage or any event likely to lead to a claim; and

c) Inform the Police in the case of loss or malicious damage to Council property.

6.4 Service Directors must consult the Chief Finance Officer and the Service Director Legal Governance & Commissioning as to the terms of any indemnity the Council is required to give.

6.5 The Service Director in consultation with the Insurance Team will determine the extent of insurance cover which must be provided for in any external contract for the supply of goods, works or services. The Service Director-, in consultation with the Chief Finance Officer and Service Director Legal Governance & Commissioning, may reduce the cover requirements in respect of specific contracts.

7. **ASSETS**

7.1 Service Directors are responsible for the care and custody of all current and Fixed Assets of the relevant service (including stocks, stores, inventory items and all other items used for the Council's purposes, including property). These items must only be used for the authorised purposes of the Council.

7.2 Service Directors must ensure that contingency plans exist for the security of Assets and the continuity of service in the event of any disaster, significant event, or system failure.

Disposal of Assets

7.3 Surplus or obsolete goods, materials and inventory items are to be disposed of by agreed transfer to another Service, or disposal in accordance with Contract Procedure Rules, except when the Cabinet instructs otherwise.

7.4 Leased items (excluding Land Assets) should only be disposed of in accordance with instructions of the lessor.

Stores

7.5 Service Directors must keep records of all stock held. The Chief Finance Officer will determine which items will be subject to stock accounting, the methods of recording and valuation. An appropriate system of continuous stock taking must be agreed with the Chief Finance Officer.

7.6 [Service](#) Directors must arrange periodical or continuous checks of stock. This should be by persons independent of the management of the stock. These arrangements must ensure that all items of stock are checked at least once per year. The Chief Finance Officer will be notified of any discrepancies revealed by periodic checks, and is authorised to amend records accordingly.

7.7 Stock holdings should be kept at minimum levels consistent with normal working practices

Inventories

7.8 [Service](#) Directors are responsible for ensuring that detailed inventories of all land, buildings, equipment, specialist furniture, specialist fittings, vehicles, plant and machinery are compiled and kept up-to-date. New inventory items must be entered promptly and redundant items (other than Land Assets) deleted and disposed of in accordance with Financial Procedure Rule 7.3. The form of inventory and the type of Assets recorded thereon will be determined by the Chief Finance Officer after consultation with the appropriate [Service](#) Director.

7.9 The inventory should include:-

- a) The nature, type, model, serial number, location, quantity, value, -date of acquisition;
- b) All items valued at, more than £100;
- c) Items of a lesser value which are portable and attractive; and
- d) Evidence to indicate an inspection has been carried out.

7.10 [Service](#) Directors are responsible for ensuring that inventory items owned by another Directorate, but used operationally by their service areas are subject to an appropriate risk based level of control. When Assets are loaned to employees, or other organisations, the [Service](#) Director must record the reason for the loan, date/periods and name of the receiver, and ensure recovery at the end of the period at which the purpose of the loan has expired.

7.11 Inventory items must (where appropriate) be security marked, stamped or engraved with the Council's name.

7.12 Each [Service](#) Director is responsible for ensuring risk based checking of the inventory and must notify the Chief Finance Officer, [and the Head of Internal Audit & Risk](#) of any discrepancies revealed by these checks.

Fixed Assets Register

7.13 The Chief Finance Officer must ensure that a Register of Fixed Assets is maintained.

7.14 Each [Service](#) Director must notify the Chief Finance Officer of the:

- (1) Acquisition of any land, property or vehicle and any other assets having a value of more than £10,000.
- (2) Disposal (or transfer to another Service) of any Asset (or part of any Asset) which is included on the Register of Fixed Assets.

7.16 In respect of any item acquired by lease (other than a Land Asset) the inventory must be marked with the name of the leasing company and the date of expiry of the lease agreement. When requested by the leasing company the item must be suitably marked as the property of that company.

Land Assets

7.17 The Service Director responsible must maintain a detailed record of all Land Assets owned by the Council (except dwellings provided for general letting) and is responsible for the security and custody of all title deeds and must maintain a suitable register of Land Assets.

7.18 The disposal of Land Assets is dealt with in the Contract Procedure Rules.

Information Assets

Service Directors are responsible for ensuring that inventories of all information Assets are compiled and kept up-to-date. New inventory items must be entered promptly and redundant items deleted and disposed of in accordance with the Council's Information Security Policy Records Management Policy and the appropriate Retention and Disposal Schedule. The form of inventory and the type of Assets recorded thereon will be determined by the Chief Finance Officer

8. SECURITY

Security of Assets

8.1 Service Directors are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash and any other assets for which they are responsible. The Chief Finance Officer must be consulted to establish adequate security arrangements except in relation to Land Assets that are the responsibility of the Service Director responsible for them,

8.2 All keys to safes and other places containing money, goods or other valuables are to be the responsibility of specified officers who must retain possession of such keys at all times.

A register of keys and their holders must be maintained by each Service Director. The loss of any key must be reported immediately to the Service Director who must record details of the circumstances of the loss, and take such action as is necessary to protect the property of the Council.

- 8.3 Maximum levels for cash holdings in each separate location are to be established in line with insurance limits.

Security of Information

- 8.4 [Service](#) Directors must maintain proper security, privacy and use of data and information held in any media including, but not inclusively, documents, magnetic, digital,(such as laptop and tablet computers, mobile phones, memory cards)

[Service](#) Directors must ensure that:-

- a) All employees are aware of and comply with the Council's Information Security and Records Management policies;
- b) All sensitive information is protected from unauthorised disclosure;
- c) The accuracy and completeness of information and software is safeguarded;
- d) Software and other intellectual property is used only in accordance with licensing agreements;
- e) Data Protection legislation is complied with;
- f) The Freedom of Information Act is complied with;
- g) Proper controls to system and physical access are in place; and
- h) The Councils intellectual property rights are protected.

Security of Property Relating to Clients and Customers

- 8.5 [Service](#) Directors must provide detailed written instructions on the collection, custody, investment, recording, safekeeping and disposal of customer/clients' property (including instructions on the disposal of property of deceased clients) for all staff whose duty is to administer, in any way, the property of clients. Due care should be exercised in the management of a customer or clients' money in order to maximise the benefits to the customer/client.

- 8.6 The Council is responsible for taking reasonable care of all items of property found by staff or members of the public on Council premises until the items are reclaimed or disposed of. Each [Service](#) Director must nominate officers who are responsible for the custody of lost property and keep a register of such property received, detailing the item, date, time, name and address of finder and how and to whom the property is returned or disposed of.

- 8.7 [Service](#) Directors may seek ~~Cabinet authority~~ [approval from the appropriate Strategic Director and Executive Member](#), -on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months the [Service](#) Director will then determine if the item is of value for use by the

Council, and arrange for its use for this purpose. All other items are to be disposed of in accordance with Contract Procedure Rules and the proceeds allocated to an appropriate council income code.

9. **TREASURY MANAGEMENT**

Policies and Strategies

- 9.1 The Council has adopted the key recommendations of the Code of Practice for Treasury Management in the Public Services, published by the Chartered Institute of Public Finance and Accountancy.
- 9.2 The Council is responsible for adopting a treasury management policy statement, setting out the policies and objectives of its treasury management activities, and treasury management practices, setting out how those policies and objectives will be achieved and how treasury management will be managed and controlled.
- 9.3 The Cabinet is responsible for the implementation and monitoring of the treasury management policies, practices and performance. The Corporate Governance & Audit Committee has responsibility for scrutinizing treasury management policies and practices.
- 9.4 The Chief Finance Officer is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices.
- 9.5 The Chief Finance Officer will report to the Council (via the Corporate Governance & Audit Committee and Cabinet);
- (a) before each financial year recommending a treasury management strategy and plan;
 - (b) at least once in relation to treasury management activity during the year;
 - (c) by way of an annual report after the end of the year.

This will include the planned and actual performance in respect of the prudential indicators and limits

Administration

- 9.6 All money under the management of the Council is to be aggregated for the purposes of treasury management and will be controlled by the Chief Finance Officer
- 9.7 Investments other than bearer securities are to be in the name of the Council or nominee approved by the Cabinet. All borrowings are to be in the name of the Council.
- 9.8 The Chief Finance Officer will select the Council's Registrar of stocks, bonds and mortgages and must maintain records of all borrowings by the Council.

- 9.9 A suitable register must be maintained in respect of all investments, securities, bearer securities and borrowings.
- 9.10 The Chief Finance Officer will arrange all loans and leases including operating leases.

Trust Funds

- 9.11 All trust funds are to be, wherever possible, in the name of the Council, except where charities legislation dictates otherwise. Officers acting as trustees by virtue of their official position must deposit all documents of title relating to the trust with the Service Director, Legal Governance & Commissioning (unless the Trust Deed otherwise directs) who must maintain a register of all such documents deposited.

10. **BANKING ARRANGEMENTS, CHEQUE SIGNING AND IMPREST ACCOUNTS**

Banking Arrangements

- 10.1 All of the Council's banking arrangements are to be approved by the Chief Finance Officer, who is authorised to operate such bank accounts as he or she considers appropriate.
- 10.2 Bank accounts must not be opened without the approval of the Chief Finance Officer. Where a bank account is opened, the account name must describe the purpose of the account. All new accounts should be named in the format 'KC, XYZ Unit Account'.

Cheques and Electronic Payments

- 10.3 Payments to suppliers and employees will be made by electronic means unless there are good reasons to use a different method.
- 10.4 All cheques are to be ordered only in accordance with arrangements approved by the Chief Finance Officer, who is to ensure their safe custody. Cheques drawn on the Council's main bank accounts must either bear the facsimile signature of the Chief Finance Officer or be signed in manuscript by him/her or other authorised officers. All alterations and amendments are to be signed in manuscript by the Chief Finance Officer, or other authorised officers.
- 10.5 Banking arrangements made for authorisation of payments to be made or received under electronic transfer are to be in a form approved by the Chief Finance Officer.
- 10.6 Service Directors must maintain a register of all officers authorised to sign cheques and other bank documents together with specimen signatures

Imprest Accounts

- 10.7 [Service](#) Directors will determine what amount is appropriate for an individual imprest [account](#) and keep a record of every imprest issued, including the name of the imprest holder, amount and location.
- 10.8 Any imprest holder (or sub imprest - see rule 10.10) must at any time account for the total imprest if requested to do so by the Chief Finance Officer and keep adequate records in a form approved by the Chief Finance Officer and supported by valid (VAT) receipts. On ceasing to be responsible for an imprest account the officer must account promptly to the [Service](#) Director for the amount advanced.
- 10.9 Payments from imprest accounts are to be limited to minor items of expenditure and to any other items approved by the Chief Finance Officer
- 10.10 Where deemed appropriate by an imprest account holder a sub-imprest may be provided to another officer for which the main imprest account holder must obtain and retain an acknowledgement. In all cases where this occurs the main imprest holder must notify the [Service](#) Director.

11. **INCOME**

11.1 Fees and charges must be reviewed at least once per annum. [Service](#) Directors have authority to amend fees and charges to achieve budget targets and in line with the annual budget strategy, and are permitted to freeze or raise charges by an amount up to the equivalent to the [index of retail pricesconsumer price index](#) Changes to charges may also reflect reasonable rounding to relevant prices which might in some cases mean that certain prices rise by more than the [index of retail pricesconsumer price index](#) or the budget strategy

[Service](#) Directors may make amendments to existing Fees and Charges during the financial year to account for changes in legislation, market conditions or to support the local communities or local business following the completion of an appropriate business case, in consultation with the [appropriate Strategic Director](#), relevant Portfolio Holder and Chief Finance Officer.

Any proposal to implement new fees or charges must be approved by Cabinet.(unless the making and quantum of the charge is a statutory obligation). See also Contract Procedure Rules.

- 11.2 The methods of collecting, recording and banking of all income due to the Council are to be approved by the Chief Finance Officer.
- 11.3 The Chief Finance Officer must be notified, in accordance with practices agreed with the relevant [Service](#) Director, of all income due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.

- 11.4 [Service](#) Directors must ensure that to the maximum extent possible income is collected by electronic means. This means that positive action should be taken to promote the use of customer payment by direct debit at the point of order for one off items, and continuous debit arrangements for ongoing services provision. [Service](#) Directors must ensure full compliance with all practices necessary to fully protect the banking data of the council's customers.

Collection and Banking of Income

- 11.5 [Service](#) Directors must make appropriate arrangements for the control and issue of all receipt forms, books, tickets, ticket machines or other acknowledgements for money.
- 11.6 All income received by the Council must be acknowledged by the issue of an official receipt or by another approved method indicating payment has been received. In order to ensure compliance with relevant money laundering regulations, the Council must not accept any cash payment in excess of 15,000 euros (£11,700) in respect of one single transaction on one occasion. The exception to this rule is that in the case of a disposal of a Land Asset by way of public auction, or under auction conditions, the Council may accept a cash payment in excess of 15,000 Euros where the Land Asset being disposed of exceeds a sale price of 150,000 Euros. Anti-money laundering compliance is the responsibility of the Service Director of Legal Governance & Commissioning who is entitled to issue instruction relating to this matter.
- 11.7 All money received by an officer on behalf of the Council must either be paid to the Chief Finance Officer or to the Council's bank account as the Chief Finance Officer may determine, at intervals taking account of the security of the premises. No deductions are to be made from such monies unless specifically authorised by the Chief Finance Officer. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system.
- 11.8 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.
- 11.9 Every transfer of official money from one officer to another must be evidenced in the records of the Services concerned by the signature of the receiving officer.

Cash discrepancies

- 11.10 Each Director must maintain a detailed record of all cash surpluses and deficiencies in a manner approved by the Chief Finance Officer.
- 11.11 The [Service](#) Director must investigate any apparent patterns of discrepancies
- 11.12 Where such discrepancies are in excess of £100 individually, or in total within any period of 1 month, the Director concerned must immediately investigate

and notify the Head of Audit & Risk who may undertake such investigations as he/she deems appropriate.

Debtors

11.13 Wherever possible, payment should be obtained in advance, or at the time of provision of a service, goods, letting or works. Where credit is given, Directors must ensure that the credit status of each customer is satisfactory. Directors are responsible for issuing debtor accounts in a form approved by the Chief Finance Officer immediately a debt falls due. Each Director, in conjunction with the Chief Finance Officer must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.

11.14 Service Directors must regularly consider debts due and ensure adequate year end provisions for bad and doubtful debts. Service Directors are authorised to write off all individual bad debts subject to the approval of the Chief Finance Officer. A report on the details of all debts written off under delegated authority must be prepared and formally noted by the Service Director in consultation with the Cabinet Member. The Chief Finance Officer must prepare an annual consolidated report of all debts written off for consideration by the Corporate Governance & Audit Committee. Service Directors must ensure that appropriate accounting entries are made following write off actions.

11.15 The 'writing off' of a debt does not absolve a Service Director of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Service Director.

PAYMENT OF INVOICES

All payments must be made through the councils accounting system (SAP) and should be made by electronic transfer except where there are substantial overriding reasons for alternative means of payment. Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

12.1 Service Directors must ensure that all valid invoices are paid within 30 days of receipt.

12.2 The Chief Finance Officer will determine the method and frequency of payment from one of the Council's main bank accounts, except for:-

- Petty cash and other imprest accounts
- Delegated bank accounts approved by the Chief Finance Officer

Automated Payments

12.3 When an invoice is matched through the automated procurement and payment system, it will be paid automatically in line with the councils determined procedures.

- 12.4 Any invoices rejected by the automated system must be subject to thorough checking by the Director to determine the reason for variance, and the cause recorded.

Certification & Processing (paper records)

- 12.5 Service Directors must approve a schedule of officers authorised to certify invoices, (names and specimen signatures). This must be supplied if requested to the Chief Finance Officer. The schedule must be reviewed at least once per year.
- 12.6 All invoices- that are not the subject of automated processing- must be certified in manuscript, unless an alternative method is expressly authorised by the Chief Finance Officer.

By certifying an account for payment the authorised officer indicates that satisfactory checks have been carried out to ensure that:-

- (a) The work, goods or services to which the account relates have been received or carried out, examined and approved;
- (b) Prices, extensions, calculations, discounts, other allowances and tax are correct;
- (c) There is a proper tax invoice when appropriate;
- (d) The relevant expenditure has been properly incurred, is within budget, and is charged to the appropriate budget;
- (e) Entries have been made in Asset registers, inventories, stores and other records as appropriate; and
- (f) The account has not previously been paid.

- 12.7 Where errors on an invoice are detected manual adjustments which reduce the total payment are permissible, provided that this does not change the total amount of VAT payable. In all cases where the amount due increases, or changes the amount of VAT, a replacement invoice and/or credit note must be obtained before payment is made.

- 12.8 The [Service](#) Director must where possible achieve an adequate level of internal check. At least two officers should be involved. The officer certifying the account for payment should not be the same officer who received or checked the items, goods, works or services.

No officer may certify any invoice involving payment to himself or herself.

- 12.9 All forms of account submitted for payment to a supplier or contractor other than on the original invoice must be accompanied by a special certification

stating that the original invoice has not been paid and will not be paid subsequently. The certificate must be signed by an officer authorised to certify accounts for payment.

- 12.10 The Chief Finance Officer may withhold payment of any invoice where there is evidence to suggest that it is not in order. The Chief Finance Officer must establish rules that control the use of pro-forma invoices, to ensure that these are not used to circumvent council procedures,

Advance Payments

- 12.11 Where a supplier or contractor requires payment prior to the despatch of goods or the provision of services, an official order signed by a duly authorised officer and clearly marked that payment is to be made before receipt of the goods or services must be completed. Whenever possible a supplier's invoice must be obtained, and payment made on this. In exceptional circumstances only, a pro forma invoice or supplier's order form detailing fully the goods/service to be obtained may be used. This must be approved by an officer authorised to certify invoices and retained as a record of the payment made, Where VAT features in the advance payment, the issuing officer must then obtain a VAT invoice or authenticated receipt for the transaction, and arrange for its processing to facilitate the recovery of VAT.

Discounts

- 12.12 All discounts available from a supplier are to be taken as a deduction against the cost of goods purchased and must appear on the invoice. Where a supplier provides any free item, or discount is available in the form of goods these are the property of the Council, as are loyalty or bonus points or other rewards earned.

Payment by Direct Debit/Standing Order

- 12.13 The [Service](#) Director (or Designated Finance Officer) must approve all requests for creation of a Direct Debit mandate, and supply to the Chief Finance Officer such information as is deemed necessary (e.g. codes, [cost profit](#) centre(s) to be charged, a copy of a recent bill, showing signatory certification, for the account in question). If the payment method is Standing Order, the requestor must also specify the frequency of payment and, where appropriate, a termination date.
- 12.14 The [Service](#) Director must inform the Chief Finance Officer when any payment is to be terminated.
- 12.15 Services must retain all statements relating to accounts paid by Direct Debit /Standing Order for current plus three previous financial years in order to substantiate the authority's claim for VAT on these accounts.

13. PURCHASING CARDS

- 13.1 All arrangements regarding purchasing cards must be approved by the Chief Finance Officer.(as set out in the Purchasing Card Procedure Manual)
- 13.2 [Service](#) Directors in conjunction with the Chief Finance Officer will determine the monthly credit limit, any cash limits and permissible purchasing categories for individual payment and procurement cards.
- 13.3 Each cardholder must ensure safe custody of the card at all times.
- 13.4 Cards may be used only in accordance with the approved scheme and for legitimate expenses incurred by the cardholder in the course of official Council business.
- They must not be used:-
- a) To avoid any corporate rules on procurement and purchasing (for example to purchase only from approved suppliers)
 - b) To circumvent the procedures for the ordering of and payment for, goods and services under these regulations; or
 - c) To purchase items for the private or personal use of cardholders.
- 13.5 Each cardholder must ensure that all expenditure incurred using a purchasing card is supported by adequate records and a VAT receipt is obtained to support all expenditure.

14. **SALARIES, WAGES AND PENSIONS**

[Service](#) Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

- 14.1 All payments of salaries, wages, pensions, compensations, gratuities, allowances and other emoluments to current or former employees are to be made by the Chief Finance Officer in accordance with information supplied by the Director. All payroll transactions must be processed through the Council's [SAP](#) payroll system.
- 14.2 [Service](#) Directors must ensure that appointments of all employees are in accordance with the appropriate Conditions of Service of the Council or any approved scheme of delegation, and within the approved budgets, grades and rates of pay. Any variations of terms and conditions must be in accordance with arrangements approved by the Cabinet.

Records

- 14.3 [Service](#) Directors must maintain adequate records to notify the Chief Finance Officer of all appointments, resignations, dismissals, and retirements together with changes in pay rates, bonuses due, overtime worked and other matters affecting remuneration, and provide all information to ensure that the correct adjustments are made in respect of absences, pensions, income tax, national insurance, sickness and maternity pay and any other additions to or deductions from pay. [Service](#) Directors must also advise the Chief Finance Officer of any employee benefit in kind to enable reporting for taxation

purposes.

- 14.4 All officers must complete a time record of actual times of attendance at work, except where a time clock is used. Paper records should be signed by the officer as a correct statement. It is the responsibility of each manager to check time records of officers for which that manager has responsibility.
- 14.5 Time records and other pay documents must be maintained in a manner approved by the Chief Finance Officer and be certified by the [Service](#) Director or other authorised officers. The [Service](#) Director must maintain a list of officers who are permitted to certify payroll documentation –either electronically or by manuscript (and their specimen signatures) and these authorisations must be reviewed at least annually by the [Service](#) Director. Details of officers authorised must be supplied to the Chief Finance Officer

Overpayments

- 14.6 The [Service](#) Director ~~is authorised to write off any net overpayment of salary/wage/pension/gratuity where death-in-service of an employee occurs, except where the Council holds a statutory obligation to recover such overpayments, in consultation with the Head of HR , is entitled to write off any employee debt on compassionate grounds.-~~ All other overpayments of pay must be treated for the purposes of recovery and write off in accordance with Financial Procedure Rule 11.

15. TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES

- ~~[Service](#) Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.~~
- 15.1 Payment of all claims must be in accordance with Schemes of Conditions of Service adopted in respect of the employee to which the payment relates, and will be paid through the councils [SAP](#) payroll system unless otherwise agreed by the Chief Finance Officer
- 15.2 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be made electronically, or where authorised, on a paper form approved by Chief Finance Officer. The form must provide for certification in manuscript by the [Service](#) Director or authorised officer.
- 15.3 The [Service](#) Director must maintain a list of officers who are permitted to authorise expenses claims electronically and by paper (and their specimen signatures) and these authorisations must be reviewed at least annually by the [Service](#) Director. Details of officers authorised to sign such expense claims must be supplied to the Chief Finance Officer on request.
- 15.4 The certification (or electronic approval) of a claim by or on behalf of a [Service](#) Director is taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

16 **TAXATION**

- 16.1 The Chief Finance Officer is responsible for advising the Council on all taxation issues that affect the Council.
- 16.2 Each Director must ensure taxation is treated correctly and consult with the Chief Finance Officer in the event of any uncertainty as to any taxation treatment.
- 16.3 The Chief Finance Officer will lead and co-ordinate discussion or negotiations with HM Revenue and Customs about any taxation matter.
- 16.4 The Chief Finance Officer will complete all of the Council's tax returns.

17. **GIFTS AND HOSPITALITY**

- 17.1 Officers must ensure that it is apparent that no cause could reasonably arise for adverse criticism or suggestion of improper influence about the acceptance of any gift or hospitality. They must ensure that in accepting any offer of gifts and or hospitality to do so would not infringe the requirements of the Bribery Act 2010.
- 17.2 [Service](#) Directors must maintain a central record of all gifts, invitations and hospitality offered and or received, including items of token value.
- 17.3 The receipt of personal gifts should be discouraged, but if an officer, during the course of, or as a result of, official duties, receives any personal gift, other than one of only token value (less than £25), the matter must be reported to the [Service](#) Director who will decide if the item is to be returned or forwarded to some charitable cause, and the Director must inform the donor what has happened to the gift and explain the reason why gifts should not be sent in the future.
- 17.4 [Service](#) Directors and other officers with the permission of the [Service](#) Director may accept invitations to events and associated hospitality of any value where this relates to a function promoted by an organisation with which the Council has formal links and attendance constitutes a demonstration of faith in that organisation. It will not normally be appropriate for attendance by a companion. A [Service](#) Director must agree that they are satisfied that attendance by the companion is appropriate.
- 17.5 Hospitality must only be given or accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion, not extravagant and justifiable as in the public interest. Particular care must be taken when this involves potential customers or suppliers. The circumstances and the type of hospitality are to be recorded in the central record maintained by the [Service](#) Director concerned.

18. **WORKING WITH CLIENTS AND CONTRACTORS**

- 18.1 Officers who, in accordance with their conditions of service, are permitted to carry out private or other paid work must not do so during Council time, and must not use any Council premises, resources or facilities for the execution of such work. No stationery or publicity material is to indicate that the person is a Council employee nor should the address or any telephone number of the Council be stated. Officers must declare to their [Service](#) Director in writing the nature and duration of such private work.
- 18.2 Officers must declare to their [Service](#) Director any circumstance where they believe that they may have a pecuniary or non-pecuniary interest in any proposed supply contract, grant award or other transaction for which they have involvement or responsibility.
- 18.3 Officers must not work for any current or prospective supplier or contractor to the Council.
- 18.4 All intellectual property created by employees in the course of their duties is, and remains, the property of the Council. The copyright or equivalent of any material cannot be sold without the permission of Cabinet. Any article, book or similar material for publication that is prepared in the Council's time is the property of the Council. Any disposal of intellectual property must be made in accordance with contract procedure rules. Any article, book or similar material for publication prepared by an employee (relating to their official duties) requires the written approval of the [Service](#) Director prior to publication.

19. **UNOFFICIAL AND VOLUNTARY FUNDS**

These regulations relate to funds administered by officers of the Council, the accounts of which are not included in the Authority's accounts.

- 19.1 Any proposed unofficial funds require the prior approval of the Director concerned who must maintain a record of all such funds and ensure that officers are appointed to administer each fund.
- 19.2 A separate bank account must be maintained for each fund (in the name of the fund) and fund monies must be kept separate from Council monies. Alternatively, the fund may be administered through the Council's bank account and general ledger but should be separately identifiable.
- 19.3 Where a separate bank account is maintained, directors must ensure that they receive a copy of the accounts of each fund and a certificate in the prescribed form from the auditors or independent examiners of each fund that has to be audited or independently examined. Such accounts are to be prepared annually, and at the completion of the purpose for which the fund was set up.
- 19.4 The Chief Finance Officer is to have access to any records relating to such funds, and be immediately informed of any irregularities which arise in connection with them.

20. **FINANCIAL CONTROL OF PARTNERSHIPS, JOINT VENTURES**

ASSOCIATED ORGANISATIONS AND SIMILAR ARRANGEMENTS

Working in Partnership with Associated Organisations

- 20.1 The Chief Finance Officer is responsible for promoting and maintaining the same high standards of financial administration in partnerships that apply throughout the Council, or advising the Cabinet where he/she is aware that arrangements within a partnership are in conflict or are uncertain compared with the practices adopted by the Council.
- 20.2 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, and must:-
- a) Consider the overall corporate governance arrangements and legal issues when arranging contracts with the partner/joint venture or associated organisation.
 - b) Ensure that the risks have been fully appraised before agreements are entered into with the partner/joint venture or associated organisation.
- 20.3 **Service** Directors must ensure that in all grant agreements, contribution to partnerships and where appropriate in agreed contracts for the supply of works, goods and services the Chief Finance Officer has access to the accounts, records and all other documentation, and is entitled to seek explanations from Officers of the funded organisation regarding the deployment of the Council's funding payment.

Working for Other Organisations

- 20.4 **Service** Directors are responsible for ensuring that approval is obtained from the Chief Finance Officer and the Service Director Legal Governance & Commissioning before any negotiations commence in relation to the provision of new or additional works or services to other organisations expected to exceed £20,000.
- 20.5 The Cabinet is responsible for approving any new contractual arrangements for any work for other organisations expected to exceed £100,000 per annum. The Chief Finance Officer may agree contractual arrangements below this level.
- 20.6 **Service** Directors must ensure that any proposed arrangement to work for other organisations does not impact adversely upon the Services provided to or by the Council. All agreements, contracts or arrangements must be properly documented and appropriate information must be provided to the Chief Finance Officer to enable a note to be entered into the Council Statement of Accounts concerning material items.

Grants and Loans to Other Organisations

- 20.7 **Except where the Chief Finance Officer agrees otherwise competitive**

procurement aligning with the councils contract procedure rules must be used respect of any goods, works or services obtained by another organisation, where the Council is providing a loan or making a grant contribution of £100,000 or more.

20.8 A Service Director may issue a ~~grant or loan of any value~~;

a) Grant or loan of any value provided that it is offered fully in accordance with a scheme of grants or loans that has been approved by the Cabinet.

Or

b) A grant or grants of up to £10,000 cumulative in any one year for any single purpose

~~and~~ Subject to:

c) There is sufficient budget provision.

d) Grants awarded under clause (b) above in aggregate may not exceed £10,000 in any one financial year for the same beneficiary (either jointly or individually)

20.9 Where a Service Director proposes to offer a grant, or loan to any organisation which is not covered by ~~an existing approved scheme~~ (20.8 above) he/she may do so only following:

a) A full financial appraisal of the project to which the grant or loan relates, by the Chief Finance Officer;

b) A full financial appraisal of the organisation to which the grant or loan is to be granted, by the Chief Finance Officer;

c) The preparation of a written report that establishes the justification for the financial assistance.

d) Consultation with the Executive Member responsible for the budget area which is to offer the grant or loan.

Aand

e) Establishing that there is sufficient budget provision.

In carrying out the evaluation at (a) and (b) above the Chief Finance Officer will consider if any surety (legal charges on assets, bonds and or guarantees) is required of the applicant (see 20.10)

20.10 A District Committee- or other member lead forum- may issue a grant of any value provided that;

a) It accords with, or is not in contravention of, any general scheme rules which are established by the Cabinet;

Aand

b) There is sufficient budget provision.

20.11 The Service Director Legal Governance & Commissioning will execute any legal agreement in respect of any grant or loan exceeding £1~~69~~0,000.

The Service Director who is offering the grant or loan may issue any grant or loan agreement below this value (using standard documents where required by the Service Director Legal Governance & Commissioning), except where the Chief Finance Officer considers that a loan or grant should be subject to a surety from the applicant. In such cases grants or loans must then be executed by the Service Director Legal Governance & Commissioning

The Service Director Legal Governance & Commissioning has discretion to delegate the right to enter into such agreements as they think appropriate.

20.12 When offering grants or other forms of assistance to entities that operate on a commercial basis Service Directors must ensure that no assistance will infringe EU Procurement or State Aid requirements. In the event of any doubt about the matter advice must be sought from the Service Director Legal Governance & Commissioning.

20.13 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code.

20.14 In some cases, an agreed asset transfer, or the transfer of a right to a third party may constitute a form of grant, and these types of transactions must accord both with these FPRs and CPR 10.

21. **PURCHASING OF WORKS, GOODS AND SERVICES**

Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

These procedure rules must be read alongside the Contract Procedure Rules which establish the framework that controls the Council's arrangements for procurement

Orders

21.1 Before any official order is issued for works, goods or services, the Service Director or other authorised officer must ensure that:-

- (a) The works, goods or services, are necessary for the discharge of the responsibilities of the Council;
- (b) Sufficient budget is available to fund the expenditure; and

(c) The Contract Procedure Rules (which apply to all purchasing decisions irrespective of value) have been complied with.

21.2 [Service](#) Directors are responsible for all orders issued. Order will be issued electronically using the SAP system. Paper orders must only be used when authorised by the Chief Finance Officer. Paper orders may only be issued and signed in manuscript by officers authorised by the [Service](#) Director. The items, quantities and prices must be accurately recorded.

21.3 [Service](#) Directors must keep a record of who is authorised to sign order documentation or issue orders electronically and the extent of this authority. This list must be reviewed at least once per year.

21.4 Except where there is a formal contract, in which case work instructions and orders must conform with the provisions of the contract, official orders will be issued for all works, goods or services to be supplied to the Council, except for supplies of continuous services (such as gas), and statutory taxes, for petty cash purchases and other exceptions as the Chief Finance Officer may approve. Orders must clearly indicate the nature and quantity of the work/services/items/supplies required, any related contract or agreed prices, discounts receivable and dates or periods of delivery, and where applicable make specific requirements to obligations placed on the contractor, such as those relating to Data Protection

21.5 Verbal orders must be kept to a minimum and be confirmed either the same or next working day by written orders which must be marked as a confirmatory order.

21.6 Records of all non-computerised order books must be kept by the Director. Copies of orders must be retained. All copies of spoilt, incorrect or un-issued orders must be appropriately marked and retained in any order book.

21.7 The [Service](#) Director must record the receipt of the goods, works or services electronically (or where applicable on paper) and (where applicable) all payments made in respect of an order. All Goods Received Notes must be retained.

Management of Suppliers

21.8 In respect of each order or contract for construction work, and any order or contract for services exceeding £20,000 the [Service](#) Director responsible must appoint an authorised officer, directly employed or otherwise to carry out supervision of the contract. All orders must provide for the reasonable inspection of progression of activity at any stage that the council (acting reasonably) chooses.

Specification

21.9 In respect of each order or contract exceeding £20,000 the [Service](#) Director must prepare or agree a written brief stating the objective of the order or contract and the sources of funding to meet the estimated cost of the project

and appoint an authorised officer.

- 21.10 Unless otherwise agreed with the Chief Finance Officer, the authorised officer must prepare a specification which will indicate relevant issues for the supply, (for example type, quantity, quality, time, location, occasions), and the risks and obligations placed on the supplier including data protection and management where applicable.. Specifications should set outcomes or outputs, and be prepared on a generic basis and not include named products except where this can be justified on technical grounds. They should be prepared in a way which is likely to bring about the most economically advantageous solution whilst ensuring compliance with minimum statutory requirements and Council policy. The specification may only be altered on the basis of written instructions from the [Service](#) Director, who must justify the reason for change and sources of funding.

Variations

- 21.11 The authorised officer may, subject to the provisions of the contract, make any variations essential to the achievement of the objectives of the contract but must have regard to the budget provision. The authorised officer must not issue any variation likely to increase the approved cost of the project without the written agreement of the [Service](#) Director responsible, who must state the authority and source of financial provision for the additional expenditure.
- 21.12 Every variation must be immediately recorded in writing by the authorised officer.

Overspending

- 21.13 Any variation to a contract which results or will result in additional costs being incurred on a contract of more than 5% of the contract sum will be reported to the budget holding [Service](#) Director and Chief Finance Officer as soon as practicable.

Recording of Contractual Payments

- 21.14 [Service](#) Directors must ensure that a Contract Register is kept which shows details of all payments made against any contract. Any payments on account to contractors against a formal contract are to be made only on an approved certificate issued and checked by the authorised officer which must be passed to the Chief Finance Officer.
- 21.15 The certificate authorising final financial settlement of any contract will not be issued until the appropriate officer has produced a detailed statement of account and all necessary supporting documents, and these have been checked in accordance with arrangements approved by the Chief Finance Officer and the final payment agreed by the budget holding Director.

Claims

21.16 All claims (or prospective claims) from contractors for loss and expense will be considered by the authorised officer who will immediately advise the client Director and they will jointly consider methods for cost reduction to achieve the budgetary provision.

21.17 The budget holding Director and the Chief Finance Officer must be consulted in respect of any claim (or prospective claim) from a contractor for loss and expense in excess of £10,000.

| 21.18 The [Service](#) Director will report in detail to the Cabinet if the financial consequences of the claim cannot be accommodated within the approved project budget.

| 21.19 Any claim from a contractor outside the terms of the contract, or under any statutory instrument or any claim for an ex-gratia payment will be jointly considered by the Service Director Legal Governance & Commissioning, Chief Finance Officer and [Service](#) Director(s) of the appropriate Service(s) before any recommendation is made to the Cabinet.

Codes of Practice

21.20 All procurement must accord with the Contract Procedure Rules, Procurement Policy and all relevant Procedure Guidelines.

| Approved by Council ~~XX25~~ May 2017~~16~~
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Name of meeting: Corporate Governance & Audit Committee

Date: 12th May 2017

Title of report: Changes to Contract Procedure Rules June 2017

Purpose of report: To recommend changes to Council to update Contract Procedure Rules

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	No
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name	Julie Muscroft, Service Director – Legal, Governance and Commissioning
Is it also signed off by the Service Director for Finance, IT & Transactional Services	N/A
Is it also signed off by the Service Director - Legal Governance and Commissioning?	04 May 2017
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public

1. Summary

- 1.1. Each year this Committee is asked to consider and recommend to Council changes to the Contract Procedure Rules (CPRs) and Financial Procedure Rules (FPRs), to reflect changed operating arrangements, requirements and needs.
- 1.2. This report sets out proposed changes to the CPRs for this Committee to consider and if agreed to recommend to Council for approval with effect from 1st June 2017 and/or with any other recommendations or necessary changes (as applicable).
- 1.3. This report uses the title definitions which are set out within the definitions section of the attached draft CPRs. The CPRs use definitions so as to distinguish between roles where more than one Service Director has responsibility.

2. Information required to take a decision

- 2.1 The author of this report keeps a rolling list of issues that arise during the year and this has informed most of the changes for this year. A number of changes are concerned with clarifications and it is not proposed to draw special attention to clarifying amendments. They can be seen by way of tracked changes within the attached copy of the proposed CPRs.
- 2.2 However, narrative may be beneficial in the context of the following (the related changes to the text of the CPRs are also tracked in the accompanying draft CPRs):
 - The Council's structure has changed and so the references to Directors, Assistant Directors, and other Officers have been changed accordingly. To facilitate understanding, a diagram of the organisational structure has been included in Appendix 5.
 - Wording has been added to CPR 3.1 for contracts between £200 and £20,000 to promote the use of local suppliers, but in such a way as not to offend the EU freedoms.
 - CPR 6.5 was altered as the involvement of officers from Corporate Procurement is no longer necessary between £20,000 and £99,999 for the purposes of manifesting probity as the vast majority, if not all, tenders are now electronic and cannot be tampered with. However, the draft CPR

requires the two service based officers who open the tenders to be independent of the procurement as a safeguard.

- The reference to Quick Quote in CPR 7.1 and elsewhere have been removed as that system is no longer used.
- Following a request by the West Yorkshire Trading Standards regarding the potential for including external bodies as equivalent to internal departments which must be used compulsorily in CPR 8.12, the consultees of this report considered CPRs 8.3.4, 8.10 and 8.12. CPR 8.3.4 seems to enable what Trading Standards was asking for on a case by case basis providing that it remains a local authority (Trading Standards is part of Wakefield Council). However, ongoing mandated use of an external supplier for particular supplies would normally be done through 8.10 and it would seem better to use that rule than CPR 8.12, which is inward facing. However, in order to provide flexibility to mandate use of a supplier without a competitive process, CPR 8.10 needed amendment (to remove the requirement for a competitive process). In order to ensure that risks are properly taken into account where there is no competition an appropriately detailed written risk assessment should be undertaken. The Head of Procurement would keep a central list of the Supplies which are mandated with copies of the risks assessments and the reasoning for the mandating as part of its departmental administration. It is not proposed to amend CPR 8.12.
- It was felt that there is potential for overlap between CPR 10 and FPR 20, as, for example, a disposal by gift resembles a grant. CPR 10.2 has been introduced to allow the Head of Internal Audit to determine which rule applies. CPRs 10.8-10.10 have expanded on valuation as experience this year has shown that officers were confused about how to value concessions. Also the requirements regarding execution of Income Contracts and Concessions have been consolidated into CPR 12.
- It was decided that some flexibility over the requirement to hold a competition each time a contract to let a business opportunity (such as letting the right to place an advertising billboard on a roundabout) is procured should be introduced. Wording has been introduced to CPR 10.4 to allow the Head of Procurement to approve deviation from the competitive requirements based on a detailed business case.
- The Head of Procurement requested that we look at raising the threshold which determines when Legal Services would be involved in contract award procedures. We are currently at the higher end of the range of most other local authorities, which in Lancashire, Greater Manchester and

the Yorkshire counties are almost all in the range of £0-£100k. However, the Commercial team in legal services considered that the vast majority of contracts they deal with are over £160k anyway. Raising the level to match the EU threshold for goods and services would seem to make the CPR more intuitive. Also raising the level to £160k would allow for some additional pace for those contracts between £100k and £160 as there would be less consultation required. In terms of putting contracts together properly, the possibility of construction contracts being higher risk was considered. The higher risk construction contracts (e.g. with the possibility of latent defects) would usually be executed by deed and Legal Services will continue to execute Deeds whatever the value as they have the seal. Consequently it is proposed to raise the threshold to £160k. It wouldn't prevent officers entering into contracts below that value taking the view that additional support / advice was required because of the risks involved in a particular matter.

- During the year it was queried whether Kirklees Neighbourhood Housing Limited (KNH), as an external commercial company, could be allowed to sign some Council call-off contracts from frameworks. It was concluded that the right approach would be to give the Head of Legal Services the authority to give a power of attorney to third parties for this purpose when the Head of Legal Services believes it is appropriate in respect of contracts below £160k. That figure is recommended because it is the figure which the Council uses to comply with Article 8(4) of the Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001, which requires a contract to be "*signed by at least two officers of the authority*" and KNH officers are not officers of the authority. The benefit, where appropriate, is that pace can be increased.
- It should be noted that there are a number of senior posts whose post titles have changed or are likely to change during the coming months. Where there are specific responsibilities given to posts whose title changes they will continue and the CPRS will be updated at the appropriate time to reflect this. The previously titled Assistant Director – legal, Governance and Monitoring (now the Service Director Legal Governance and Commissioning) already has a general authorisation to make such changes to the constitution but they are repeated below for completeness in relation to these Contract Procedure Rules

3. Implications for the Council

- 3.1 Early Intervention and Prevention (EIP) -None directly
- 3.2 Economic Resilience (ER) -None directly
- 3.3 Improving Outcomes for Children -None directly

- 3.4 Reducing demand of services -None directly
- 3.5 Other Implications – Legal, financial or otherwise.

Given the nature of the report Legal and financial issues are considered in the main body of the report. Although each of the sub categorisations above suggest no direct implications, the procedure rules and compliance with them are a key part to ensuring sound governance in all of the Council's operations and to ensure that all expenditure is targeted appropriately, to bring effectiveness, efficiency and value for money.

4. Consultees and their opinions

- 4.1 The Head of Internal Audit, the Head of Procurement and the Head of Legal Services have been involved. The consultees' views were taken into account and the consultees are content with the draft text which accompanies this report.

5. Next steps

- 5.1 Annual Council considers these proposals and any recommendations by this Committee; if approved, the new rules take effect from 1st June 2017.

6. Officer recommendations and reasons

- 6.1 That the recommended changes to the Contract Procedure Rules as outlined in this report be approved for recommendation to Council with effect from 1st June 2017.
- 6.2 It be noted that the Head of Legal Services may prepare additional guidance as appropriate to supplement these Contract Procedure Rules and aid compliance with appropriate European and national legislation.
- 6.3 That the Head of Legal Services be authorised to make any recommended changes or drafting changes she feels are necessary to the CPR before presenting them to Council for approval.
- 6.4 That the Head of Legal Services be authorised to amend post titles to reflect those used in practice by officers fulfilling the stated functions.

7. Cabinet portfolio holder recommendation

- 7.1 Not applicable.

8. Contact officer

Mark Barnes, Senior Legal Officer

9. Background Papers and History of Decisions

The Contract Procedure Rules are attached with the amendments proposed shown by track changes.

10. Directors responsible

Service Director – Legal, Governance & Commissioning

KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES

JUNE 2017

CONTRACT PROCEDURE RULES

Definitions

Introduction

1. **CONDUCT AND COMPLIANCE AND WAIVER**
2. **PREPARATION AND PROCESS**
3. **CHOICE OF PROCUREMENT PROCESS**
4. **ADVERTISING**
5. **COMPETITION AND SUPPLIER SELECTION**
6. **QUOTATION RECEIPT & EVALUATION**
7. **~~QUICK QUOTE~~, STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE**
8. **EXCEPTIONS FROM COMPETITION**
9. **RECORD KEEPING AND REPORTING**
10. **INCOME CONTRACTS (INCLUDING NIL VALUE AND DISPOSAL CONTRACTS)**
11. **LAND**
12. **EXECUTING CONTRACTS**
13. **VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS**
14. **MISCELLANEOUS**

DEFINITIONS

Award Criteria	relate directly to the goods, services or works to be provided. Award criteria evaluate supplier's offers made in relation to fulfilling the Council's requirements for the Supply, in particular the Specification.
Chief Executive	The Chief Executive is the head of the Council's paid staff and its principal adviser on policy matters and leads the discharge of Council strategy and responsibilities.
<u>Chief Finance Officer</u>	<u>Means the Service Director – Finance, Professional & Transactional Services</u>
Commissioning	The relationship between commissioning and procurement is described in the diagram in Appendix 4.
Conflict of Interest	Means any interest outside of the Council which may appear to an objective bystander to affect the fair judgment of an Officer or Member or any other person acting on the Council's behalf in the Procurement of a Supply or the disposal of property (including Land). The concept of conflict of interest shall at least cover any situation where relevant person has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise his or her impartiality and independence in the context of a Procurement or sale procedure.
<u>Concession</u>	<u>Is where a Supplier is remunerated mostly through being permitted to run and exploit the work or service and is exposed to a potential loss on its investment.</u>
CPR	Means these Contract Procedure Rules.
Director	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive.
Data Protection Legislation	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, and all other laws and regulations relating to the processing of personal data and privacy, and also where applicable the guidance and codes of practice issued by the Information Commissioner.
Dynamic Purchasing System	is a procurement tool available for contracts for works, services and goods commonly available on the market. It has its own specific set of requirements (as set out in Regulation 34 of the Public Contracts Regulations 2015); for example, it must be run as a completely electronic process, must remain open to new entrants, all suppliers on the relevant category in the Dynamic Purchasing System must be invited to quote for contracts, and it should be set up using the restricted procedure.
European Single Procurement Document	is a standard electronic document that a tenderer for a contract to which the EU Procurement Rules apply may use to declare that none of the exclusion grounds apply to it and that it meets the necessary regulatory criteria or relevant commercial capability requirements. Only the preferred bidder will

be required to submit all documentation to evidence the content of the form.

EU Procurement Rules	The rules on procurement for Supplies above the EU Threshold prescribed by the EU in Directives relating to public contracts - as amended and supplemented by the European Court of Justice. These rules also normally extend to the WTO Government Procurement Agreement signatories, which (in 2016) are Armenia, Aruba, Canada, the EU, Iceland, Israel, Japan, Hong Kong China, Liechtenstein, Montenegro, New Zealand, Norway, Singapore, South Korea, Switzerland, Chinese Taipei, and the US.
EU Threshold (or *)	The financial threshold from time to time at which the EU Procurement Rules are applicable to a Supply. Recent and current EU Thresholds are set out in Appendix 2.
Financial Ratio	Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.
FPR	The Financial Procedure Rules.
Framework Agreement	Means an agreement between the Council and one or more Suppliers which operates as a Procurement tool through which contracts for Supplies can be sourced. Framework Agreements which deal with Supplies that are above, or aggregate above, the EU Threshold are subject to the EU Procurement Rules. They set out the terms for the Supply (often including the price) and the method for calling off orders. 'Framework' and 'Framework Suppliers' shall be construed accordingly.
Grant	<p>A grant payment is a gift which may be linked to outputs and outcomes, but is not a contract for works, goods or services. <u>A contract for Supplies involves the exchange of works, goods or services for money (or money's worth) or a Concession.</u> The at distinction is crucial:</p> <ul style="list-style-type: none">• <u>for contracts these CPR apply; for grants see FPR 4 for rules about accepting grants and FPR 20 about giving grants;</u>• <u>The remedies in respect of failure are very different;</u>• <u>The EU Procurement Rules do not apply to Grants;</u>• <u>State aid rules may apply to gratuitous benefit but not to purchases at market rate.</u>
	<p>The Assistant Director who is responsible for Procurement (this is currently an Assistant Director for Place).</p>
<u>Head of Corporate Property Management</u>	<p>The <u>Means the officer appointed by the Service Assistant Director – Economy, Regeneration & Culture who is responsible for corporate property management functions (this is currently an Assistant Director for Place).</u></p>
<u>Head of Internal Audit</u>	<p><u>Means the officer appointed by the Chief Executive who is responsible for internal audit.</u></p>
<u>Head of Legal Services</u>	<p><u>Means the Service Director – Legal, Governance & Commissioning in her role as legal advisor to the Council.</u></p>

<u>Head of Procurement</u>	<u>Means the officer appointed by the Service Director – Legal, Governance & Commissioning who is responsible for Corporate Procurement.</u>
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as [†] the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.
<u>Income Contract</u>	<u>An Income Contract is one where the main object of the contract is that the Council does something listed in CPR 10.1.1 – 10.1.3 and includes situations where the Council does so at nil value (subject to this not being a Grant – see CPR 10.2).</u>
Official Council Order	A standard form of contract for a Supply for a value of less than £100,000 £160,000 currently approved by the Head of Legal Services whether attached electronically or by paper to an order for Supplies.
Personal Data	means data which relate to a living individual who can be identified— (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual (e.g. references) and any indication of the intentions of the data controller or any other person in respect of the individual
Procurement	The purchase, contract hire, lease, rental ¹ or any other form of acquisition which results in a contract for Supplies where the Council is the buyer (therefore, in the context of the CPR, this does not include the Council providing the Supply to itself or gifts). Procurement also includes the establishment of Standing Lists, Framework Agreements and Dynamic Purchasing Systems. ‘Procurement’ and ‘Procured’ shall be construed accordingly.
Procurement Strategy	The Council’s Corporate Procurement Strategy 2013-2017, which can be found here: http://www.kirklees.gov.uk/business/businessWithCouncil/pdf/procurementStrategy.pdf
Public Concession Contract	Means a contract in writing for a financial interest under which the Council entrusts works / services (as appropriate) and transfers associated risks to one or more suppliers; and the supplier in exchange receives the right to exploit those works / services as payment.
QuickQuote	A facility to obtain low value quotes from a list of suppliers provided through the YORTender system.
Quotation:	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.

¹ Note: Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources or his delegate [See the FPR].

Service	<u>A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director (see Appendix 5). Any department, directorate or section responsible for delivering part of the Council's functions. It includes any subsidiary or otherwise closely related organisation to the extent that Council functions are delegated to the organisation.</u>
<u>Senior Manager</u>	<u>Means an officer who reports directly to a Head of Service.</u>
<u>Service Director</u>	<u>Means the most senior officer responsible for the day to day functions of each Service. The Service Directorates as at 1 April 2017 are shown in the Council Structure diagram in Appendix 5.</u>
Specification	A written document detailing the Council's requirements. This can include things such as definitions, acceptance test methods, material requirements or characteristics, drawings, plans, certifications of compliance with standards, workmanship, data security measures, quality control including performance testing and KPIs, completion, delivery, safety, timing, key personnel qualities, communication requirements, returns policies and tolerances.
Special Purpose Vehicle	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with others to provide specific Supplies to the Council.
Standing List	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 7.
Suitability Criteria	Relate to the assessment or vetting of suppliers' general capability, fidelity, skill, competence, etc. to carry out the contract. 'Suitability' shall be interpreted accordingly.
Supply	means the supply of any works, goods, or services; being provided, or to be provided, to or on behalf of the Council (whether by purchase, lease, hire or any other arrangement).
Supplier	Any person, partnership, company, or other organisation, which provides or contractually offers to provide any Supply to the Council or on behalf of the Council.
Value for Money	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.
<u>Whole Life Costing Approach</u>	<u>is an approach which addresses all the elements of a Supply over its life cycle such as:—</u> <ul style="list-style-type: none"> <u>• costs relating to acquisition,</u> <u>• costs of use, such as consumption of energy and other resources,</u> <u>• maintenance costs,</u> <u>• end of life costs, such as collection and recycling costs</u> <u>which can be used to produce a spend profile of the Supply over its</u>

anticipated lifespan.

YORTender

The on-line Supplier and Contract Management System used by the Council to operate e-tenders and for the online management of suppliers and contracts and to advertise contracts.

* In the text a * means the value will track the EU threshold rounded down to the nearest £10,000. Also, see “EU threshold”

† The words “including”, “include”, “for example”, “e.g.”, and “such as” in these CPRs indicate examples and are not intended to be limiting

INTRODUCTION

These Contract Procedure Rules aim to promote the highest standard of probity, integrity, and impartiality in making a clear, understandable and fair selection of Suppliers and Supplies to the Council. Equally important are the delivery of best value through competitive procedures and the avoidance of practices which may restrict, prevent or distort competition.

These Contract Procedure Rules cover the Procurement of all Supplies (goods, works and services) and Income Contracts. Service Directors should recognise the Council's view of the difference between Commissioning and Procurement (see Appendix 4).

These Contract Procedure Rules must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for particular Supplies. However, when designing the Procurement within the parameters of these CPRs, the process and the Specification should be clearly related to and proportional to the need which the Supply fulfils and should appropriately balance the value of and risks associated with any proposed action.

EU Procurement Rules, which are often more onerous, also apply to the procurement of all works, goods and services exceeding the EU Threshold, and where there is a conflict between these Contract Procedure Rules and the EU Procurement Rules, the EU Procurement Rules prevail.

The Council's Financial Procedure Rules must also be complied with. In particular if you are giving a Grant then FPR 20 will apply.

RULE 1 – CONDUCT AND COMPLIANCE

- 1.1. All Council employees, and any person or organisation working on behalf of the Council in Procuring or managing a Supply, must comply with these CPRs.
- 1.2. Cabinet may waive any parts of these CPRs on a case by case basis following consideration of a detailed report setting out in particular:
 - 1.2.1. the legality of the proposed non-compliant process or action; and
 - 1.2.2. the reputational and financial risks associated with the proposed non-compliant process or action.
- 1.3. Failure to comply with these CPRs without a valid waiver may result in disciplinary action against the officers concerned and may in some cases constitute a criminal offence.
- 1.4. Each Service Director must ensure: -
 - 1.4.1. Compliance with these CPRs and the FPRs, using training, instruction and internal control processes
 - 1.4.2. Appropriate supervision and performance management to ensure that decisions taken are subject to authorisation and quality control procedures
- 1.5. When authorizing staff to procure Supplies on his or her behalf, each Service Director ~~(or Assistant Director, as appropriate)~~ must set a financial (or other) limit on the authority vested in individual officers to procure Supplies. Such limits must be recorded in the relevant Scheme of Officer delegations.
- 1.6. The Head of Procurement may
 - 1.6.1. authorise officers ~~outside of his or her who are not procurement officers under his or her managerial responsibility directorate~~ to act on his or her behalf in respect of any role assigned to the Head of Procurement in these CPRs;
 - 1.6.2. issue waivers in relation to the need to consult him or her under CPR 2.3.

The Head of Procurement must record the precise extent of such authorizations and the officer to which roles have been delegated and share these authorizations with the Head of Legal Services and the Head of Internal Audit.

- 1.7. A Service Director has authority to commence any Procurement subject to:
 - compliance with these CPRs and FPRs, and
 - having appropriate delegated authority, and
 - compliance with management processes designed to ensure that proposed projects meet the Council's business needs, and
 - seeking Value for Money
- 1.8. These CPRs are a minimum standard and a more prescriptive procurement regime must be followed where this is required by European and UK law and agreements with Grant funding organisations.
- 1.9. The Head of Procurement, the Head of Legal Services and the Head of Internal Audit may each issue Guidance Notes to aid the interpretation of these CPRs, with the following leading responsibilities:

1.9.1. The Head of Procurement – Good Procurement Practice;

1.9.2. Head of Legal Services – The EU Procurement Rules and other laws and Corporate Governance;

1.9.3. Head of Internal Audit – ~~Procurement project related financial management~~~~Financial Management~~, Best Value and Risk.

1.10. Any dispute concerning interpretation of these CPRs must be referred to the Head of Internal Audit who, in consultation with the Head of Legal Services, may provide clarification and determination.

1.11. Subject to Part 3 of the Council’s constitution and without prejudice to the role of the Monitoring Officer or the ~~Chief Finance Officer~~~~Chief Finance Officer~~, the Chief Executive may reassign specific duties delegated in these CPRs to the Head of Procurement, the Head of Internal Audit, the Head of Legal Services, and the Head of Legal Services provided that:

1.11.1. the post holders to whom these duties are assigned must hold general competencies in respect of:

- Public sector procurement in respect of duties reassigned from the Head of Procurement;
- Finance in respect of duties reassigned from the Head of Internal Audit;
- Law and Court procedure in respect of duties reassigned from Head of Legal Services.

1.11.2. the same degree of separation of officer responsibility for the duties is maintained.

1.12. **Conflicts of Interest and Integrity²:**

1.12.1. Service Directors shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.

1.12.2. Any Officer, Member or other person acting on the Council’s behalf in Procuring a Supply must declare any potential Conflict of Interest as soon as he or she becomes aware of a potential Conflict of Interest and update the declaration in the event of any changes.

1.12.3. Service Directors must record such declarations and in each case decide whether safeguards need to be put in place or the Officer or Member concerned should be removed from the Procurement or Disposal process.

~~1.13. Except where the Head of Internal Audit agrees otherwise, these CPRs apply in respect of any goods, works or services obtained by another organisation, where the Council is providing a loan or making a grant contribution of £100,000 or more.~~

RULE 2 – PREPARATION AND PROCESS

2.1 Each Service Director must ensure:-

² Officers should also familiarise themselves with the FPRs 17 and 18, Chapter 7 of the Employee Handbook and Part 5.7 of the Council’s Constitution and Members should also refer to Part 5.1 of the Constitution.

- (1) That Supplies of a similar type are procured together where it is sensible to do so. A Procurement must not be subdivided with the effect of preventing it from falling within the scope of these CPR or the EU Procurement Rules, unless justified by objective reasons.
- (2) Each Procurement complies with the following:
 - a. It is justified by a business case (that includes a risk assessment) approved personally by a Senior Manager with relevant authority to purchase, and
 - b. A ~~Whole Life Costing~~ Approach underpins the specification of the Supply to management and operation, and sustainability issues, as a part of design, specification and assessment has been considered, and
 - c. It aligns with the Procurement Strategy, and
 - d. It complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 8.12), consortia and other suppliers (Service Directors should, for example, consult the Head of Procurement about decisions that have been made under CPRs 8.10 & 8.11 and contracted suppliers).
- (3) The Supply is likely to be within budgetary provision (see CPR 12.1).
- (4) An estimate of the full cost of the Supply contract or Framework Agreement which is as accurate as possible is made. Valuations must:
 - a. be estimated by reference to the gross value of the Supply contract (including installation, supplier maintenance, options, and any income gained by all Suppliers involved in the agreement);
 - b. assess the gross value of a Framework Agreement to be the reasonably estimated value of all Supply contracts which might be made through it;
 - c. where the Supply contract includes a fixed duration, cover the entire possible duration of the contract (i.e. including any options, such as for extension or renewal);
 - d. where a maximum contract duration is not certain, treat the contract as if it lasts for 4 years;
 - e. include any Grant funding;
 - f. exclude VAT.
- (5) Where the cost of the Supply is less than the EU Threshold and an approved Framework Agreement or Dynamic Purchasing System is not being used, there must be consultation with the Head of Procurement to see whether the value of the Supply needs to be aggregated with any other similar Supplies for the purposes of the EU Procurement Rules.
- (6) Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.
- (7) The process can be adequately resourced.
- (8) The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.1(10) below) and other procurement documentation. The documents must be likely to be understandable by all reasonably well informed people in the relevant industry in the same way.
- (9) For contracts up to ~~£100,000~~ £160,000, other than Land Contracts (as to which see CPR 11); where an appropriate Official Council Order exists, the Service Director shall wherever possible use such contract terms. Otherwise every contract for Supplies or Income Contract must set out:

- a. Details of the Supply to be made or to be disposed of;
 - b. The price or prices to be paid or received and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deductions;
 - c. The time(s) within which the contract is to be performed;
 - d. Termination provisions and break clauses, if appropriate;
 - e. Appropriate data protection clauses where personal data is involved; and
 - f. Such other matters as the Head of Legal Services considers to be necessary (the Head of Legal Services need not be consulted, but guidance must be followed).
- (10) For contracts above ~~£100,000~~ £160,000, other than Land Contracts (as to which see CPR 11); the Service Director must consult with the Head of Legal Services who will prepare contract documentation appropriate for the contract.
- (11) Where a competitive process is being carried out: a transparent, unambiguous and clearly set out schedule of Award Criteria, which are objectively verifiable and non-discriminatory and are appropriately prioritised, must be prepared and advertised. These criteria must be linked to the subject matter of the contract, must not include unlawful non-commercial considerations or Suitability Criteria (which should be identified separately and must follow CPR 5.2 – 5.7) and must be proportional to the contract's main objectives.
- (12) Consideration of whether it would be appropriate to divide large procurements into contract Lots³ and must record the decision and reasoning.
- (13) The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding £160,000*.
- (14) The appointment of an officer to carry out supervision of the result~~ingant~~ contract(s) in accordance with Financial Procedure Rule 21.8.
- (15) That (unless Cabinet authorises otherwise) the formal Council policies and/or guides referred to in Appendix 1 are followed.
- (16) All supply contracts in excess of £300,000 will be bonded in the sum of 10% of the Quotation value, except where the Head of Legal Services and Head of Internal Audit agree either:
- a. No bond is necessary; or
 - b. A different value (or percentage) is appropriate; and or
 - c. A parent company guarantee or other form of surety can be accepted instead.
- (17) A risk log is maintained during the Procurement process.

2.2 If you are considering conducting Interviews or receiving presentations you should discuss this with the Head of Procurement at the preparatory stage (also see CPRs 6.16-6.18). ~~may be held as part of score modification, but the interview itself must not be scored and, unless the Head of Procurement agrees otherwise, all bidders must be invited to interview.~~

2.3 Before commencing any process to obtain any Supply having an estimated cost exceeding £20,000, the Service Director must consult with the Head of Procurement. The Head of Procurement must consider if any issues relating to the procurement may create risks that require

³ This is not the same thing as disaggregation. Please contact Corporate Procurement if there is any doubt about what this means.

consultation with the Head of Legal Services and / or the Head of Internal Audit, and undertake these consultations as necessary.

- 2.4 The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with EU Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the Official Journal of the European Union (OJEU) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.
- 2.5 Consultation with suppliers in the relevant market is permitted but it must not prejudice any potential Supplier, and no technical advice may be sought or accepted from any supplier in relation to the preparation of any specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers.
- 2.6 In preparing a Specification, the Service Director should consider how the procurement activity might meet the Council's wider policy and strategy but subject always to ensuring full compliance with EU and UK procurement legislation. In respect of contracts for services, Service Directors must also consider (a) how what is proposed to be procured might improve the economic, social and environmental well-being of Kirklees, (b) which proportionate actions (which must comply with the EU Procurement Rules) might be taken in the Procurement with a view to securing that improvement, and (c) whether any consultation might be needed to inform them in relation to 2.6(b).
- 2.7 Where any Supplier is given possession of or access to any personal data, the Service Director must have regard to the Council's obligations as regards the Data Protection Legislation, any [Information Commissioner's Office](#) directions to the Council and the undertaking which the Chief Executive gave to the Information Commissioner in July 2011. The Service Director must follow the Council's Information Security Policy, in particular regarding contracting with data processors and sharing data, and consult with the Information Governance Team. The Service Director must ensure that:
- A. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
 - B. appropriate guarantees of the security of the personal data are included within a written contract;
 - C. the performance of the contract is appropriately monitored;
 - D. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
 - E. appropriate steps are taken to minimise as far as possible the impact of a breach of data security.
 - F. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.
- All contracts that involve the processing or sharing of personal data must be reported to the Information Governance Team, who will keep a log of these contracts. The log will be reviewed by the Information Governance Board on a six-monthly basis.

Collaboration

- 2.8 The potential for genuine collaboration with other public bodies must be considered when planning a procurement exercise.

2.9 However, the EU Procurement Rules provide for joint liability where one authority procures on behalf another (other than as a central purchasing organisation, e.g. YPO). This increases the risks for the passive partner(s). So when taking any benefit from a procurement in which a third party takes any degree of control, Service Directors must ensure that appropriate due diligence steps are taken to be sure that all arrangements are appropriate and compliant. A part from in the case of Central Purchasing Organisations (like the Yorkshire Purchasing Organization and the Crown Commercial Service); addition to procurements on a ~~‘just in case’ or~~ speculative basis (for example, where the Council is added as a user to a third party framework without a likelihood the Council will use it) must be approved by the Head of Procurement.

RULE 3 - CHOICE OF PROCUREMENT PROCESS

3.1 Subject to complying with the law, the process for procurement must comply with the following:

Value of Supplies	Requirement
Up to £200	Any Procurement means is permitted
between £200 and £20,000	<p>Any reasonable means to select the Supply is permitted. Reasons to justify the decision taken must be recorded. <u>Where practicable Supplies from a Supplier within the Council’s area must be considered in addition to Supplies from Suppliers outside the area (although the best value Supply must always be chosen).</u></p> <p>Reasonable Means to Select; this requires methods of selection which reflect reasonable trade practice. For supplies <u>Supplies</u> below £20,000, it might include informal briefs, supplier written quotations or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet. For Supplies valued at £20,000 or below which can be procured on a ‘price only’ basis, where the YORtender system includes a relevant list of suppliers who can submit a “QuickQuote” through this system, this approach should be considered. The Service Director remains responsible for ensuring that the supplier selected is appropriate in terms of Suitability.</p>
above £20,000	<p>One of the following:</p> <ul style="list-style-type: none"> ◆ Quotations (CPRs 4 - 6) ◆ Framework Suppliers, Standing Lists, Etc. (CPR 7) ◆ Exemptions (CPR 8) ◆ Internal, Consortia & Compulsory (CPR 8)

3.2 These CPRs also apply to the selection of any nominated or named sub-contractor, product or manufacturer whose use by a supplier is a requirement of a contract specification.

RULE 4 - ADVERTISING

4.1 The Service Director must advertise for Suppliers and/or quotations as follows.

Estimated Value of Contract ⁴		Advertising Requirement
Works; above £4,100,000* Goods; above £160,000* Services other than 'Light Touch Regime' services; above £160,000* 'Light Touch Regime' services; above £580,000*		Advertise on YORTender, Contracts Finder and OJEU- and in other media if appropriate (OJEU first); or Use approved Framework Agreement; or Use approved Dynamic Purchasing System
<u>From</u>	<u>Up to</u>	If Standing List Exists From standing list; or Use approved Framework Agreement; or Use approved Dynamic Purchasing System
Works £100,001	Works; £4,100,000* Goods; £160,000*	If Standing List Does Not Exist Advertise on YORTender, Contracts Finder PLUS other reasonable advertising means; or Use approved Framework Agreement; or Use approved Dynamic Purchasing System
Goods £20,001 Services £20,001	Services other than 'Light Touch Regime' services; £160,000* 'Light Touch Regime' services; £580,000*	
<u>Goods or services from £200 up to £20,000</u> <u>Works from £200 to £100,000</u>		Any reasonable means. “QuickQuote” must be considered where the YORTender system holds a relevant list of suppliers.
<u>Below £200</u>		Any means (advertising is not necessary)

RULE 5 – COMPETITION AND SUPPLIER SELECTION

Number of Quotations

5.1 A Service Director must invite at least the following number of suppliers to submit a written Quotation:

⁴ Please refer to CPRs 2.1(1) and 2.1(4)

Estimated Value of Contract	Minimum Number
£20,000 to £99,999	3
£100,000 up to EU Threshold or £160,000* (whichever is lower)	4
Above EU Threshold or £160,000* (whichever is lower)	5

Unless

- 5.1.1 an **approved**⁵ Framework Agreement or Dynamic Purchasing System is being used (and in which case the rules of the Framework Agreement or the Dynamic Purchasing System must be followed); or
- 5.1.2 it is otherwise agreed with the Head of Internal Audit in consultation with the Head of Legal Services,

The Suppliers must have indicated that they are willing to submit a Quotation. If it is not possible to identify the number of willing prospective suppliers indicated above, the Service Director must retain a record of the efforts made and reasons why an appropriate number of suppliers could not be identified.

Supplier Selection

- 5.2 Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of Suitability.
- 5.3 Where the procurement process has an overall value of less than £164,176, a qualification stage must not be used, although key, proportional, Suitability questions linked to the subject matter of the contract should, as appropriate, be used to establish the Suitability of the supplier. The questions (or absence of any) must be approved by the Head of Procurement.
- 5.4 When operating a procurement process with a value of £164,176 or above, and subject to CPR 5.5, the Service Director must use the Council's standard form of Suitability questionnaire ([which is based on the 'selection questionnaire' requirements of procurement policy note 8/16](#)) to establish Suitability and/or to establish a shortlist. Any variations to this must be agreed with the Head of Procurement who will notify relevant authorities as necessary (e.g. through mysteryshopper@crowcommercial.gov.uk).
- 5.5 The European Single Procurement Document must be accepted where applicable.
- 5.6 The selection of any potential Supplier to submit a Quotation must be on the basis of a consistent, fair, justifiable and rational method, approved by the Head of Procurement. Selection Criteria must be transparent and financial ratios to be used as part of the evaluation must be disclosed. When conducting a procurement process which is subject to the EU Procurement Rules, minimum

⁵ See CPR 7.18

standard and/or pass marks must be published in the relevant OJEU contract notice or invitation to confirm interest.

- 5.7 Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the HMRC Employment Status Indicator (ESI) Tool. The results of this should be reported to ~~Corporate~~ the Head of Procurement. The Service Director and the Head of ~~Corporate~~ Procurement must agree on the approach to procurement if the assessment suggests that the Council faces any risk. Any proposal to engage a self-employed person must be agreed with the Head of Procurement.

RULE 6 – QUOTATION RECEIPT & EVALUATION

- 6.1. For Procurements which are valued above £160,000, suppliers must be required to submit Quotations by electronic means of communication unless the Head of Procurement agrees otherwise. This must be through the YORTender system unless the Head of Procurement agrees otherwise.
- 6.2. All invitations must state clearly the date and time of return. Electronic quotations must be returned in accordance with the approved tendering system requirements. Paper quotations must be returned to:-

Estimated Value	Returned to
£20,000 to £99,999	Service
£100,000 and above	Head of Procurement

- 6.3. Paper quotations must be returned in a sealed envelope inscribed with the words: "Quotation for" and contain no other wording or marking to identify the sender.
- 6.4. All of the paper quotations must be kept securely and unopened. If any quotation bears any name or identifying mark of the bidder, this should be removed or obliterated.
- 6.5. All paper and electronic quotations received by the appointed time will be opened at the same time by:

	Estimated Value	Representatives (at least)
A	£20,000 to £99,999	<u>Two Service based officers who are independent of the procurement</u>
B	£100,000 and above	One Internal Audit representative & One Corporate Procurement officer

A Legal Services Officer can act as substitute for one of the officers in C above.

- 6.6. At the quotation opening the Service Director (quotations estimated under £100,000) or Head of Procurement (quotations estimated at £100,000 or over) will maintain a written record of the:-
- 6.6.1. Nature of the Supply
 - 6.6.2. Name of each supplier submitting a Quotation and the date/time of receipt
 - 6.6.3. Name of suppliers failing to submit prices/proposal
 - 6.6.4. Prices from each supplier
 - 6.6.5. Names of the persons present at the opening
 - 6.6.6. Date and time of opening of Quotations
 - 6.6.7. Any reason for rejecting any Quotation

Each person present at the opening will initial each paper Quotation document, alongside the submitted price.

6.7. Late Quotations must not be accepted unless the lateness is caused by the Council or other matters reasonably outside of the control of the tenderer AND no unfair advantage is given to the bidder which submits the late Quotation. Any decision to accept a late quotation will be made by the Head of Procurement following both (a) such verification as he or she feels appropriate and (b) approval by the Head of Internal Audit. However, deadlines may be extended at any time prior to their arrival so long as this complies with the principle of equal treatment and non-discrimination between tenderers.

6.8. Suppliers must always be required to submit bids which comply with the tender documents. Variant bids may be permitted providing that the tender documents:

- Say whether a standard or reference bid is also required;
- Include the minimum requirements to be met by the variants;
- set award criteria which can be applied to the variants;

and the variants which are submitted must conform to the requirements of the tender documents.

Quotations which do not comply with the above in this CPR 6.8 may be accepted by the Service Director, only after approval by the Head of Internal Audit.

6.9. The Service Director will carry out an evaluation of the Quotations received against the pre-set Award Criteria (CPR 2.1(11)) and keep a written record of the analysis and outcome.

6.10. The use of or participation in e-auctions to set prices is permitted where:

- I. bids can be ranked automatically and
- II. the mathematical formula to determine the rankings of the bids (or each variant where variants are permitted) is disclosed, and
- III. the written agreement of the Head of Internal Audit has been given, and
- IV. the process is subject to supervision by the Head of Procurement.

6.11. The Service Director will require tenderers to explain the price or costs proposed in their tender where tenders appear to be abnormally low.

6.12. The Service Director must ensure that, where required by EU procurement rules, appropriate notices of intention to award a contract to a particular supplier, or group of suppliers, are issued, and the necessary standstill period observed, prior to formal acceptance of the tender. The Head of Procurement will supervise the production and issuance of the mandatory debrief letters and inform the Head of Legal Services that the debrief process has completed satisfactorily prior to formal acceptance of any quotation.

6.13. Any complaint or challenge to the procurement process at any stage must immediately be referred to the Head of Procurement, who must take steps to investigate and (subject to CPR 6.15) take action as necessary, taking guidance from the Head of Legal Services and the Head of Internal Audit.

6.14. If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the Head of Legal Services must be informed immediately with full objective disclosure of the facts relating to the issue(s), who will manage the claim. At this stage information exchange should be restricted and Service Directors must not copy dispute related information to anybody who has not seen it before until the Head of Legal Services advises about confidentiality and Legal Privilege.

Clarifications, Presentations and Interviews

~~6.14.6.15.~~ Where information or documentation submitted by a bidder ~~as part of its quotation~~ is or appears to be incomplete (including where specific documents are missing) or erroneous or unclear, ~~or where specific documents are missing~~, Service Directors may request the bidder concerned to submit, supplement, clarify or complete the relevant information or documentation, provided that requests for clarification:

~~6.14.1.6.15.1.~~ Set an appropriate time limit for a reply; and

~~6.14.2.6.15.2.~~ Do not request changes or otherwise seek to influence the bidder; and

~~6.14.3.6.15.3.~~ Deal with all of the matters in the Quotation which are incomplete or erroneous or unclear; and

~~6.14.4.6.15.4.~~ Treat all tenderers equally and fairly and so, for example, the request:

~~6.14.4.1.6.15.4.1.~~ Must not occur before all of the bids have been subject to an initial evaluation

~~6.14.4.2.6.15.4.2.~~ must not unduly favour or disadvantage the bidder to whom the request is addressed, and

~~6.14.4.3.6.15.4.3.~~ must be sent in the same way to all bidders unless there is an objectively verifiable ground justifying different treatment.

6.16. Clarity may also be facilitated through planned presentations designed to assist in understanding or verifying submitted bids. Clarification questions may be asked during such presentations and prior scoring may be appropriately moderated (but the presentation itself must not be scored). All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.

~~6.15.6.17.~~ Interviews and / or presentations which form part of the bid (rather than clarification of a submission) are discouraged and must be authorized by the Head of Procurement in writing. They must also be:

~~6.15.1.6.17.1.~~ comprehensively recorded; and

~~6.15.2.6.17.2.~~ assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and

~~6.17.3.~~ supervised by the Head of Procurement.

6.18. Where interviews and / or presentations are to be used, unless the Head of Procurement agrees otherwise, all bidders must be invited to participate.

RULE 7 –~~QUICK QUOTE~~, STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE

7.1. The Head of Procurement will maintain a list of approved central purchasing organisations, purchasing consortia and Council "trading services".

Quick Quote

~~Where the YORTender system includes a relevant list of suppliers who can submit a "QuickQuote" through this system, this approach must be used to source contracts for Supplies with a value below £20,000 and which, taken together and with supplies of a similar type, do not aggregate above this figure. The Service Director remains responsible for ensuring that the supplier selected is appropriate in terms of Suitability.~~

Standing Lists

- 7.2. The Head of Procurement will determine for which types of Supply Council-wide Standing Lists ~~will~~ must be kept (see CPR 8.10). The Head of Procurement will notify the relevant Service Director of such decisions where the Standing List is Service specific and be responsible for creation and maintenance of Standing Lists which will be used Council-wide by any Service Director requiring Supplies of that type.
- 7.3. Standing Lists may be used for Supplies where the aggregated value (in compliance with the EU Procurement Rules) of the Supply in question does not exceed the relevant EU Threshold. Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant EU Threshold.
- 7.4. Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the YORTender web site, Contracts Finder and one appropriate printed newspaper or journal. Standing Lists will remain valid for five years from creation. During that period the Standing List will remain open to the addition of further suppliers meeting the appropriate admission requirements and will remain advertised on the Council's web site for that time. Standing Lists must be renewed every 5 years.
- 7.5. Admission to a Standing List should be on the basis of a transparent, rational, justifiable evaluation, of information submitted by prospective Suppliers relating to technical, financial and any other relevant matters determined by the Head of Procurement.
- 7.6. The Head of Procurement (in consultation with the Head of Legal Services) may delete a supplier from a Standing List only where there is appropriate evidence and a written report justifying the action.
- 7.7. If there are insufficient suppliers on a Standing List, or too few are willing to submit Quotations, to meet the CPR's quotation requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 7.8. Each Service Director must establish and advertise a set of fair, proportionate and transparent rules that reflect these CPRs which set out how Supplies will be procured through each Standing List which they are responsible for.

Council Framework Agreements and Dynamic Purchasing Systems

- 7.9. Framework Agreements and Dynamic Purchasing Systems ~~which are compliant with the EU Procurement Rules~~ may be used to source contracts for appropriate types of Supplies (subject to compliance with the EU Procurement Rules, as applicable). However they must not be used to attempt to create further Framework Agreements or Dynamic Purchasing Systems.
- 7.10. Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a Supply contract (but must not be procured through a standing list, another framework agreement or a Dynamic purchasing system) and in accordance with the EU Procurement Rules.
- 7.11. All Framework Agreements will be in the form of a written contract detailing the method by which the Council will call off Supplies during the duration of the Framework Agreement and stating that there will be no obligation to order any Supplies of any type from a Framework Supplier.

- 7.12. Framework Agreements above the EU Threshold must be closed to new entrants and must not last longer than 4 years without this being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 7.13. Contracts created through Framework Agreements must not be greater than 4 years in duration without being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 7.14. Dynamic Purchasing Systems must:
 - 7.14.1. be set up by an advertised competitive process which is approved by the Head of Procurement; and
 - 7.14.2. remain advertised; and
 - 7.14.3. not limit the number of suppliers admitted to the system (but the system may be split into categories); and
 - 7.14.4. be set up with clear operative rules which involve obtaining quotations from all suppliers on the system, or on the relevant category on the system, as appropriate; and
 - 7.14.5. be operated wholly electronically; and
 - 7.14.6. be open to new entrants; and
 - 7.14.7. not last longer than 5 years.
- 7.15. When using Framework Agreements or Dynamic Purchasing Systems, the Council must follow the procurement rules set out in the Framework Agreement or the Dynamic Purchasing System.
- 7.16. The Head of Procurement will ensure that the use of Framework Suppliers and Dynamic Purchasing Systems provide value for money, considering all procurement costs and alternative approaches.
- 7.17. The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems (noting which of these comply with the EU Procurement Rules) which Service Directors are permitted to use.

Use of Third Party Procurement Facilities

- 7.18. Supplies may be obtained through third party Frameworks Agreements that:
 - 7.18.1. Are created by a public body or a private sector party as agent of a public sector body which is approved by the Head of Procurement (see also CPR 7.1);
 - 7.18.2. Have valid mechanisms that exist to enable the Council to use the Framework Agreement (including appropriate transparent referencing in the procurement documents and inclusion in the framework call of conditions);
 - 7.18.3. Comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;
 - 7.18.4. Are included in the CPR 7.18 approved list (and, if the Supply which is to be procured is above the EU Threshold, is noted in the list as being compliant with the EU Procurement Rules);
 - 7.18.5. Where the EU procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 8 – EXCEPTIONS FROM COMPETITION

8.1 Subject to compliance with the EU Procurement Rules the following are exempted from the competitive requirements of these CPR ⁶:

~~8.1.1 Education or social care to meet an individual client need, requiring specialist provision, or necessary to accord with the Council's statutory obligations.~~

~~8.1.2~~ 8.1.1 Where there is genuinely only one potential Supplier, such as for works of art and copyrighted material or unique technology, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

~~8.1.3~~ 8.1.2 Items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit).

~~8.1.4~~ 8.1.3 The selection of a supplier whose usage is a condition of a Grant funding approval.

~~8.1.5~~ 8.1.4 The selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party.

~~8.1.6~~ 8.1.5 Where CPR 8.10 applies.

~~8.1.7~~ 8.1.6 Counsel or other external legal advice, provided that the Head of Legal Services takes steps to ensure that value for money is being obtained.

~~8.1.8~~ 8.1.7 A necessary Supply required extremely urgently, not due to any action or inaction of the Council, with the prior agreement of the Head of Internal Audit.

~~8.1.9~~ 8.1.8 Direct award from an approved Framework Agreement (see CPR 7.18) which has validly been set up to be called off on a non-competitive basis and which was set up in accordance with the requirements of these CPR and the EU Procurement Rules.

The Service Director must make a written record of the justification for the selection of the Supplier. The Service Director must obtain the approval of the Head of Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £100,000.

8.2 **Trial Purchases:** Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000, to ascertain if the Supply is of interest to the Council, without competition. Where an exception to competition in CPR 8.1 does not apply, a full competition compliant with the CPR must be held following the trial if the Service Director wishes to continue with the type of Supply. Arrangements must be made to ensure that the Supplier involved in the trial has not acquired any advantage through that involvement when compared to any alternative suppliers of a similar product. The Head of Procurement must approve any proposed trial arrangement exceeding £20,000.

< **There are substantial restrictions on the use of negotiated contracts where EU Procurement Rules apply** >

NEGOTIATED CONTRACTS

8.3 The procuring Service Director and the Head of Procurement may decide that;

8.3.1 an alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation

⁶ When the EU Procurement Rules apply, these exemptions may not be permitted (Directors must check this)

with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Internal Audit.
~~the usual arrangements for Supply are inappropriate and a Supply may be negotiated with a particular supplier.~~

~~8.3.18.3.2~~ 8.3.28.3.2 Following receipt of Quotations for the Supply, it is appropriate to seek to reduce the overall cost, or change other terms of the Supply by negotiation with one or more suppliers which have submitted Quotations.

~~8.3.28.3.3~~ 8.3.28.3.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Quotation for the Supply.

~~8.3.38.3.4~~ 8.3.38.3.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the council without competition is appropriate (although subject to EU Procurement Rules ~~and compliance with these CPRs~~).

Note in the above, in order to achieve internal check, the Head of Procurement alone cannot reach such decisions. Where the Head of Procurement is making a decision in relation to a Procurement exercise by his or her own Service Director, there must be consultation with the Head of Internal Audit.

Negotiated Contracts

- 8.4 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by (or included on a list of negotiators kept by) the Head of Procurement.
- 8.5 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 8.6 For any contract valued at above £100,000 the Service Director must obtain the approval of the Head of Internal Audit of the proposed terms of the negotiated Supply including its cost and the reason for choice before the contract is entered into.

Legal Issues

- 8.7 The Head of Legal Services must be consulted in advance of any negotiation in respect of any contract estimated to exceed ~~£100,000~~ £160,000 (except those in relation to Land where the Head for Corporate Property Management should be consulted irrespective of value).
- 8.8 Before a decision pursuant to CPRs 8.1 to 8.3 is made, the Head of Procurement will determine whether the likely level of interest from suppliers based in other EU Member States is sufficiently low so that the EU Procurement Rules do not require the Procurement to be advertised.
- 8.9 Before a decision pursuant to CPRs 8.1 to 8.3 is made, the Head of Procurement will decide whether the purchase is likely to be on terms which would be acceptable to a private buyer operating under normal market economy conditions. If the Head of Procurement does not think that this is likely to be achieved, he/she must consult with the Head of Legal Services about the possibility of state aid before approving the exemption from competition.

MANDATORY SUPPLIERS, FRAMEWORKS AGREEMENTS OR DYNAMIC PURCHASING SYSTEMS

- 8.10 In respect of defined categories of goods, works and services the Head of Procurement may determine (following a ~~fair competitive process~~ written risk assessment which, as

~~necessary appropriate, complies deals~~ with the EU Procurement Rules and ~~which eliminates~~ the possibility of state aid) that the use of one (or more) Suppliers is compulsory.

8.11 The Head of Procurement may also determine that Supplies of a particular type are to be obtained from Suppliers via a Framework Agreement or a Dynamic Purchasing System or Standing Lists, and ~~the set~~ standards to be established in ~~those Framework Agreement contracts arrangements~~.

8.12 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:

8.12.1 Where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;

8.12.2 In respect of the outsourcing of an activity having a value below £100,000;

8.12.3 In respect of services provided within schools;

8.12.4 In respect of ad hoc services for the design and construction of buildings or parts of buildings.

RULE 9 - RECORD KEEPING AND REPORTING.

9.1 Service Directors must keep detailed written records of the progress of all procurement or disposal procedures (including negotiation).

To that end, Service Directors must ensure that they keep sufficient documentation to justify decisions taken in all stages of the procedure, such as documentation on —

9.1.1 communications with economic operators and internal deliberations,

9.1.2 preparation of the procurement or sale documents,

9.1.3 any interviews, other dialogue or negotiation,

9.1.4 supplier vetting, and

9.1.5 reasons for award of the contract.

The documentation must be kept for a period of at least 3 years from the date of award of the contract.

9.2 A full trail of electronic quotations received must be recorded in YORTender or retained in a database approved by the Head of Internal Audit.

9.3 All contracts over £5,000 must be reported to the Head of Procurement who will arrange to publish these transactions on the statutory contracts register (also see Appendix 3).

9.4 ~~A report must be made~~The relevant Service Director must complete the Council's standard 'Regulation 84 Report' template by at the end of each procurement process which is subject the EU Procurement Rules ~~on the Council's standard 'Regulation 84 Report' template.~~

9.5 Each Service Director must promptly provide to the Head of Procurement the information specified in Appendix 3.

9.6 The Head of Procurement must ensure that the appropriate publications are made to comply with the Local Government Transparency Requirements (and each Service Director will notify the Head of Procurement of ~~all grants and~~ any expenditure above £500; also see CPR 9.3 above).

9.7 The Service Director must keep a written record of the reasons for using a negotiated procedure

RULE 10 - INCOME CONTRACTS ~~(INCLUDING NIL VALUE AND DISPOSAL CONTRACTS)~~ & CONCESSIONS

- 10.1. CPRs 10.2 to 10.6 apply when the Council intends to derive income from:
- 10.1.1. The disposal of property (other than Land);
 - 10.1.2. The sale of a right to exploit a business opportunity;
 - 10.1.3. The operation of business activity ~~(including concessions)~~.

CPR 10 does not apply to Land (See CPR 11).

- 10.2. Where the Council is proposing to enter into an Income Contract at manifestly less than market value where the market value is estimated at £1,000 or more, the Head of Internal Audit must be consulted and he will decide whether this amounts to a Grant (and so FPR 20 applies instead of CPR 10).

The disposal of an asset

- 10.3. The procedure for the Disposal of assets is;
- 10.3.1. Assets valued at below £200 may be disposed of by any means.
 - 10.3.2. Assets valued at between £200 and up to £20,000 must be disposed of by a method chosen by the Service Director and a written justification of the choice retained.
 - 10.3.3. Assets valued above £20,000 must be disposed of following public notice either by open quotation process, closed quotation process involving at least 3 prospective purchasers or public auction. The use of the Council web site is permissible for this purpose.

Leased assets must be disposed of only in accordance with the instruction of the lessor.

The sale of a right to exploit a business opportunity

- 10.4. The letting of ~~a contract for~~ rights to exploit a business opportunity for the contractor's own benefit (for example, advertisement space on Council Land) (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process as set out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as state aid. (For these purposes the value shown is the gross income generated by the Council or by the concessionaire as a result of the rights or franchise granted by the council).

- 10.4.1. ~~An arrangement~~A business opportunity contract that will not generate income in excess of £20,000 over the duration of the contract ~~will be subject to a process~~may be sourced by any reasonable means to select (see an explanation of this phrase in respect of Supplies in CPR 3.1) arranged and undertaken by the Service Director responsible for the activity.

- 10.4.2. The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £20,000.

~~10.5. Where an Income Contract is below £100,000 the Service Director or Head of Procurement (as appropriate) must set up the appropriate contractual arrangement.~~

~~10.6. The Head of Legal Services must issue any income contract valued at £100,000 or more.~~

The operation of business activity, beyond that normally undertaken by a local authority **Page 203**

~~10.7.10.5.~~ If the income from an Income Contract (e.g. a traded service) is intended to be or become profitable or be commercial in nature, advice must be obtained from the Head of Legal Services.

~~10.8.10.6.~~ If an Income Contract has any potential to distort the relevant market (e.g. service provision at below market rate costs) advice must be obtained from the Head of Legal Services.

Concession Contracts

10.7. Concession contracts for works or services are a type of Supply contract and the procurement of all Concessions shall follow the competitive and contracting requirements in these CPRs for Supplies.

~~Public~~ Concession contracts for works or services with a value of Contracts above £4,104,000 or more are subject to the Public Concessions Regulations 2016 and will be subject to ~~a~~ such additional procurement process requirement(s) to be determined by the Head of Procurement ~~which feels are necessary to~~ comply with these Regulations.

Valuation

10.8. The value of a Concession contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the Supplies which are the object of the Concession contract and for any ancillary Supplies.

10.9. The value of an Income Contracts is the gross income generated by the Council as a result of the rights granted, or goods, works or services supplied by the Council.

10.10. When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account: -

10.10.1. the value of any form of option and any extension of the duration of the contract;

10.10.2. revenue from the payment of fees and fines by the users of the works or services or public other than those collected on behalf of the Council;

10.10.3. payments or any other financial advantages, in any form, from the Council- or any other public authority to the contractor;

10.10.4. the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;

10.10.5. revenue from sales of any assets which are part of the contract;

10.10.6. the value of all the supplies and services that are made available to the contractor by the Council, provided that they are necessary for executing the works or providing the services;

~~10.8.1.10.10.7.~~ any prizes or payments to candidates or tenderers.

RULE 11 - LAND

11.1 Procurement of Land will generally be by the means described in this CPR 11. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the Head of Legal Services authorises other nominated officers to deal with tenancies or licences for specific purposes.

11.2 The Head of Corporate Property Management (and any other Director authorised so to do) will arrange the acquisition or disposal of estates or interests in land (including any buildings erected on it) either pursuant to the authority delegated to him by a Service Director in accordance with Part 3

(Section F) of the Constitution or, in the case of a decision made by Cabinet then in accordance with the authority delegated to him from the Cabinet.

- 11.3 Where any proposed land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between the Head of Corporate Property Management and the Head of Legal Services, and details of the process leading to the transaction must be recorded, and the circumstances reported to Cabinet either for information, if falling within the delegated authority of officers, or in order to secure the relevant authority to give effect to the transaction.
- 11.4 Where Land ~~Assets are~~ is sold at a public auction, the Head of Corporate Property Management must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) for consideration alongside the bids submitted or made. If a successful bid is less than the reserve price then the Head of Corporate Property Management may accept a lower bid provided that such lower bid is not less than 10% below the professional valuation of the reserve price.

RULE 12 – EXECUTING CONTRACTS

SUPPLIES

- 12.1. A contract may only be awarded where the Service Director has sufficient approved budget to meet the first year costs and is satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost through the anticipated life of the contract.
- 12.2. Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and Framework Agreements up to and including ~~£100,000~~ £160,000 must be in writing and can be made by the Service Director either:-
- 12.2.1. ~~By~~ where appropriate, by issuing the order through the Council's electronic purchasing system (currently SAP) and incorporating the correct standard terms; or
 - 12.2.2. By issuing (electronically or on paper) contract terms which the Service Director has assessed as being appropriate both in terms of suitability and risk.

If the Service Director and Head of Legal Services decides that it is appropriate for the contract to be sealed (or if it is required by law), the contract will be executed by the Head of Legal Services.

The Head of Procurement must ensure that the Councils electronic procurement systems are set up so that the most appropriate Official Council Order are available to be attached to the supply being purchased.

- 12.3. ~~Contracts for all Supplies above £100,000 must be in writing, issued by the Head of Legal Services.~~
- ~~Every contract for~~ Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and every Framework Agreement with an estimated value of more than ~~£100,000~~ £160,000 must be in writing and must (subject to CPR 12.4) be either:-
- (a) Made under the corporate common seal of the Council, attested by one legal officer, or
 - (b) Signed by two legal officers

who have been nominated as contract signatories by the Head of Legal Services under her Scheme of Officer Delegations.

12.4. Notwithstanding CPR 12.3, the Head of Legal Services may authorise officers who are not Legal Officers to sign specific or specialist contracts for Supplies of above ~~£100,000~~£160,000. Two authorised officers must sign each such contract.

~~12.4.~~12.5. The Head of Legal Services may, subject to including appropriate restrictions and/or instructions designed to achieve valid execution of the relevant contracts and suitable record keeping, provide third parties with a power of attorney to sign Council contracts of £160,000 or below.

LAND

~~12.5.~~12.6. The Head of Legal Services will complete all land transactions, including acquisition or disposal by way of freehold or leasehold purchase or sale or the taking or granting of all short or long term leases or tenancies (with the exception of the granting of tenancies for housing and associated properties for rent which is delegated to Kirklees Neighbourhood Housing Ltd) and other deeds and documents associated with Land. The Head of Legal Services may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Head of Legal Services.

~~12.6.~~12.7. Any contract for the sale or acquisition of, or any other deed or document relating to, Land must either be signed by, or have the corporate common seal affixed in the presence of, the Head of Legal Services (or by a legal officer nominated by him or her).

Additionally, the Head of Legal Services may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR11.1.

GENERAL

~~12.7.~~12.8. The Head of Legal Services is entitled to sign any agreement in any way related to Procurement, Supplies, Concessions or Income Contracts or ~~the sale of any item, services or works~~ or any security instrument (regardless of whether another officer including the Chief Executive may sign such things), subject to CPR 12.3 and provided that this is not subject to any contrary direction from the Council or Cabinet.

RULE 13 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS

- 13.1. A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, but with prior consultation with the Head of Procurement if alternative Supplies would be required.
- 13.2. A Service Director, in consultation with the Head of Legal Services, has the power to terminate any contract in the event of any breach of contract justifying termination, where in the opinion of these officers no other remedy is appropriate. Where the financial implications of a decision to terminate a contract exceed, or may exceed £100,000, the reason for termination and any consequences must be reported to the next meeting of the Cabinet.
- 13.3. The Head of Legal Services may release any bond held by the Council, on request from the Head of Procurement.
- 13.4. The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Head of Legal Services accept such proposed sums.

- 13.5. Service Directors may vary contracts by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract.
- 13.6. Any variation with a value above £20,000 to a contract which cannot be fulfilled by following CPR 13.5 must be subject to the approval of the Head of Procurement.
- 13.7. Any variation ~~with a value in excess of £100,000~~ to a contract which cannot be fulfilled by following CPR 13.5 must be made in writing and signed in accordance with CPR 12.3 even if it does not need a ~~new-competitive~~ Procurement process.

RULE 14 - MISCELLANEOUS

- 14.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the Head of Legal Services and the Chief Finance Officer. This does not apply to any purchase of shares or similar for the purpose of investment.

Approved by Council [] 2017 and ADLGM May 2017
Apply from 1 June 2017

Contact Officer:
Mark Barnes

Appendix 1

Examples of Policies which are relevant to CPR 2.1(15)

Kirklees Council Social Value Policy Statement (see: http://www.kirklees.gov.uk/business/businessWithCouncil/pdf/socialValuePolicyStatement.pdf)
Information Security Policy
The Council's "Project Management Handbook" and "Framework for Successful Projects" when the Head of Procurement advises that they are relevant
Evaluation Panel Guide

Appendix 2

EU Procurement Rules Thresholds

	EU Thresholds 2012-2013	EU Thresholds 2014-2015	EU Thresholds 1 Jan 2016 –31 Dec 2017
Supply and service contracts	£173,934	£172,514	£164,176 (£160,000*)
Light Touch Regime Contracts (Annex XIV)		£625,050	£589,148 (£580,000*)
Works contracts	£4,348,350	£4,322,012	£4,104,394 (£4,100,000*)
Small lots – supplies & services		£66,672	£62,842 (£60,000*)
Small lots – works		£833,400	£785,530 (£780,000*)

* These are current the values for the purposes of these CPRs.

Appendix 3

Information to be Reported to the Head of Procurement (CPR 11)

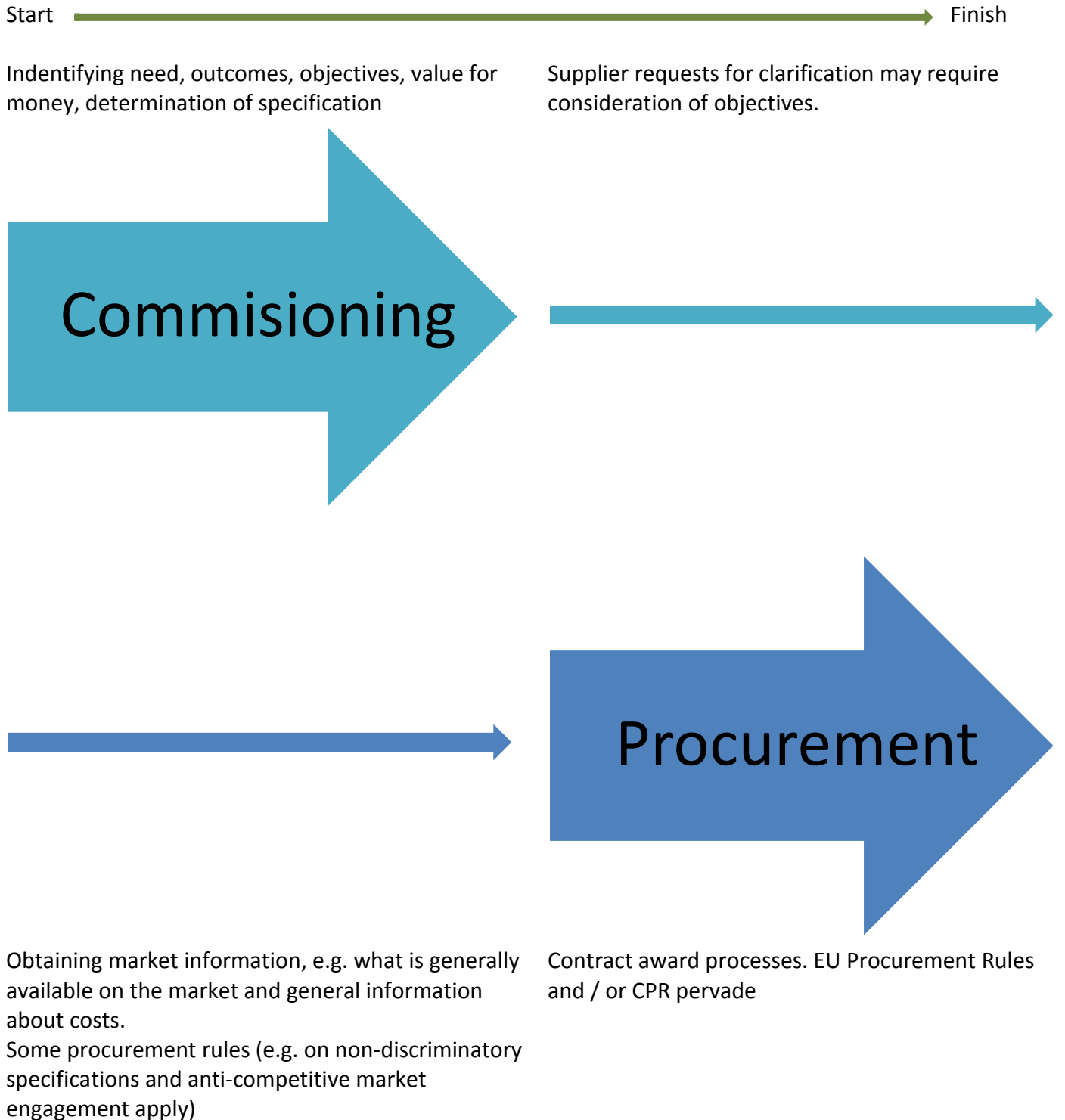
	Information	When
A.	Details of all contracts awarded for Supplies of £100,000 or above following a competitive process including the name of the Supplier, and amount of the Quotation and if the chosen supplier was not the cheapest, then the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.	When Requested

B.	Details of all contracts awarded for Supplies of £100,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.	When Requested
C.	Details of all contracts awarded for supplies of £20,000 or above which a Director <u>Service Director</u> considered to be exempt from the competitive requirements by virtue of CPR 7.1, including the reason for the exemption.	When Requested
D.	Contracts with a value of £5,000 or more (see CPR 11.1), with the following information: <ol style="list-style-type: none"> 1. reference number 2. title of agreement 3. local authority department responsible 4. description of the goods and/or services being provided 5. Supplier name and details 6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract) 7. Value Added Tax that cannot be recovered 8. start, end and review dates 9. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and 10. whether or not the Supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number 	In All Cases On Contract Award
E.	all other information necessary to enable compliance with the Council's obligations under legislation and regulation to publish data about its contractual arrangements and payments.	In All Cases On Request
F.	Copies of Regulation 84 reports	All cases where the EU Procurement Rules apply On Contract Award

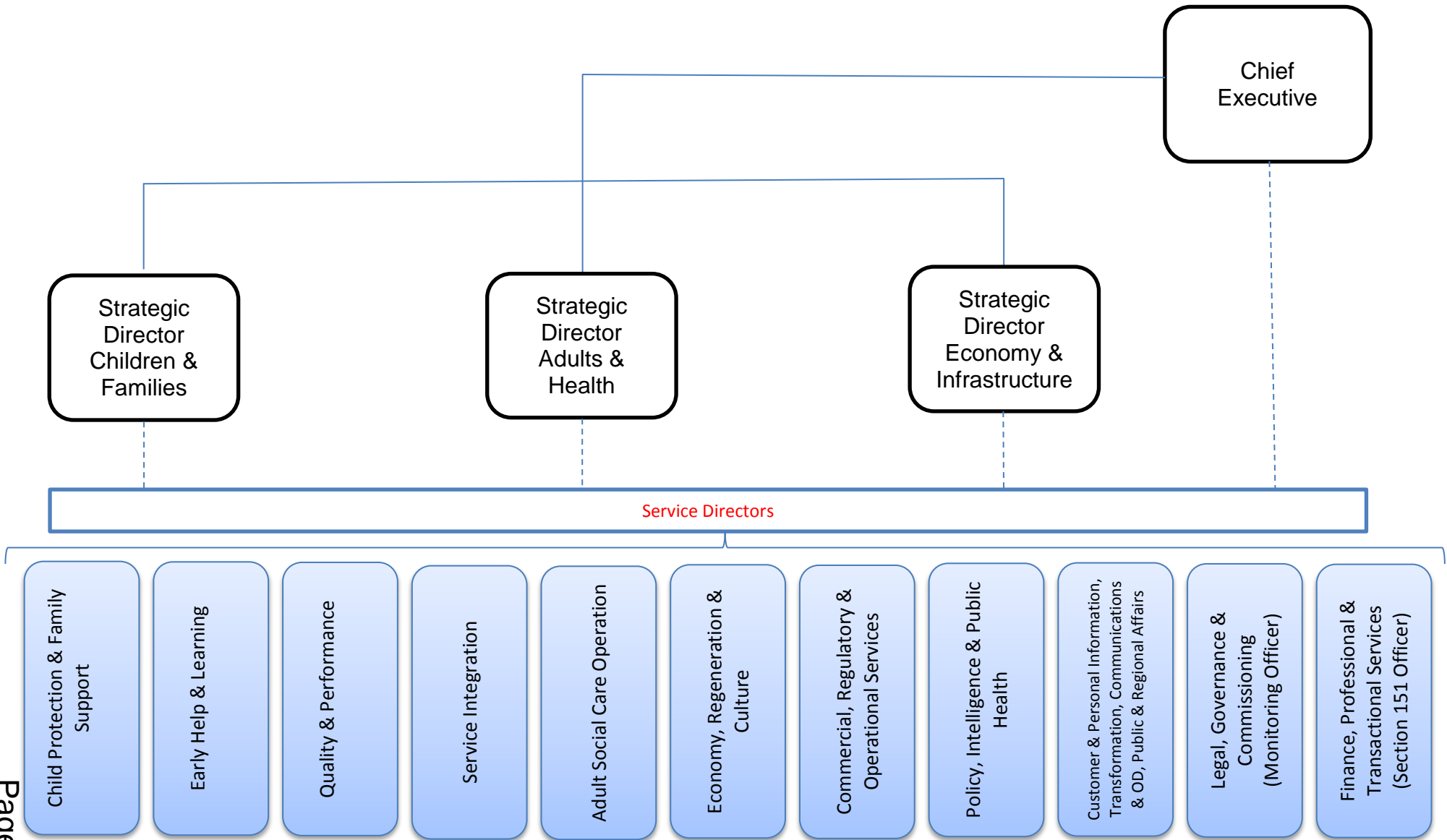
Appendix 4

Relationship between Commissioning and Procurement

The arrows indicate the stages of the whole resourcing process



Appendix 5
Council Structure as at 1 April 2017



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Name of meeting: Corporate Governance and Audit Committee

Date: 12 May 2017

Title of report: Proposed Amendments to Overview and Scrutiny 2017-18

Purpose of report: To consider amendments to Overview and Scrutiny structures for the 2017/18 municipal year

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable The decision will be made by Council therefore call in does not apply
Date signed off by <u>Strategic Director</u> & name	Give name and date for Cabinet reports
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Give name and date for Cabinet reports
Is it also signed off by the Service Director for Governance and Commissioning Support?	Julie Muscroft 04/05/17
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: none specific

Ward councillors consulted: Not applicable

Public or private: Public

1. Summary

1.1 The current Overview and Scrutiny structures, which have been in place for two years, have allowed Scrutiny the flexibility to respond to the priority issues facing the Council and develop a focussed and constructive approach. This report reflects on the learning of the last two years and the most recent issues identified through the Children's Services improvement work which have implications for Scrutiny. The report highlights the progress made and puts forward suggested amendments to ensure an integral Overview and Scrutiny function moving forward.

1.2 Any proposals for Overview and Scrutiny also need to have cognisance of the findings and recommendations of the Kirklees Democracy Commission once they are available. Changes to Scrutiny agreed at Annual Council need to be flexible enough to reflect any amendments resulting from the implementation of the Democracy Commission work.

2. Information required to take a decision

Scrutiny 2015 – 2107

2.1 The last two municipal years have seen increased Scrutiny engagement with Cabinet Members and a constructive challenge on strategic pieces of work. It has been a demanding and fast moving agenda for Scrutiny, with Cabinet forward plans, priority theme work and service change all in view.

2.2 Scrutiny has sought to build constructive relationships and carry out its role in a culture of openness; encouraging those attending to have the confidence to be open and honest in responding to scrutiny. Overview and Scrutiny needs to continue to develop this moving forward.

2.2 Irrespective of the structure, the long established principles of Overview and Scrutiny in Kirklees Council, as set out in the Constitution, have remained the same. Overview and Scrutiny is not a form of party political opposition and as such party politics are left at the door. Scrutiny is a constructive and challenging, critical friend. Wherever possible Scrutiny has sought to influence decisions before they are made rather than criticise after the decision is taken. The last two years have seen examples of such pre decision scrutiny work. In order to maximise this core role, pre decision scrutiny needs to become a more routine part of scrutiny work and be embedded within decision making pathways.

2.3 When reflecting on the lessons to learn from the outcomes of the OFSTED inspection and the ongoing improvement work within Children's Services, there is a need to ensure that Scrutiny has the ability to focus in more detail on priority areas for the Council. Any Scrutiny function needs to be responsive and able to adapt to provide the appropriate level of challenge, focussed in the right areas. The Ad Hoc Scrutiny Panel into Children's Services demonstrated how the function could quickly consider a priority issue and present findings and recommendations to the Cabinet and Council in a timely manner.

2.4 The ad hoc scrutiny panels have allowed flexibility and should continue to be an option for in depth Scrutiny work but in some areas there is a need to have standing panels to ensure a detailed focus is maintained on key areas of work.

3. Scrutiny 2017 /18

3.1 Overview and Scrutiny seeks to continue to build on the effective approaches it has used over the last two years. However it also needs to be flexible and agile to be best placed to respond to the need identified for closer scrutiny of Children's Services, changes to organisational structures, key themes and proposals for partnership working.

3.2 An overarching Scrutiny Committee would remain in place to manage and co-ordinate the work programme and the use of Scrutiny resources. It is suggested that the OSMC would have the capacity to take on responsibility for the statutory Scrutiny requirements in relation to scrutiny of crime and disorder and flood risk management. The Chair of Overview and Scrutiny and the Lead Members of standing panels would make up the Management Committee.

3.3 For the reasons described in paragraphs 2.3 / 2.4 there is a need to establish a Scrutiny standing panel in respect of Children's Services to ensure dedicated scrutiny of the ongoing improvement work and service performance.

3.4 Proposals have been put forward for revised partnership working arrangements and it is suggested that it would be helpful if initially Scrutiny was structured to show a clear relationship between structures. This would mean establishing a further standing panel for economy and neighbourhoods.

3.5 It is further proposed that a Corporate Scrutiny Panel be established to pick up those areas that do not fall within the remit of any of the above mentioned panels.

3.6 The key components of Overview and Scrutiny work would fall broadly into the categories below:

- **Pre decision scrutiny** - providing an opportunity for non executive councillors to influence proposed decisions before they are made. If Scrutiny increases the number of standing panels, this will enable more councillors to have the opportunity to develop an understanding of the changing nature of Council provision and contribute to and challenge the development of proposals in key areas.
- **Performance monitoring** - As identified through the Children's Services work, there is a need for the effective oversight and challenge of meaningful performance information. The Casey report identified that Scrutiny has a role "in asking searching questions, drilling down into information and data, ensuring targets are kept to and agreed actions implemented." Included in this will be monitoring the implementation of any agreed Scrutiny recommendations.
- **Service delivery** - at the current time of change across the Council, Scrutiny will largely focus on plans to review how services are delivered, the impacts on citizens, consultation and engagement, decision making processes, the implementation of change and evaluating outcomes and impacts. Scrutiny encouraging forward planning and communication that provides councillors with the opportunity to be better informed and clear on how proposed change affects their role.
- **Policy Review** - If capacity is added to Scrutiny through the addition of panels, then there would be the opportunity for Scrutiny to undertake some policy review work and contribute to policy development.

- **Partnerships and Regional Working** - Where appropriate Scrutiny will also look to scrutinise partners and regional working.
- **Holding decision makers to account** cuts across all strands of overview and scrutiny work. In establishing a panel structure, Scrutiny can build on practice over the last two years with Cabinet portfolio holders and other decision makers, attending panel meetings and being held to account in a public arena for the decisions they are making, thereby enhancing transparency and accountability. It is also important that Overview and Scrutiny considers the impact of significant decisions and whether the Executive achieves the anticipated outcomes.

4. Membership of Overview and Scrutiny

4.1 As previously acknowledged at the Leading Members meeting in March, Overview and Scrutiny is a good arena for new councillors to learn about the Council and develop skills. However there is a need for membership to be balanced with the involvement of experienced members who have the ability and skills to lead or contribute to overview and scrutiny work.

Scrutiny should be led by councillors who can put personal interests to one side and commit the time needed to the role. To be effective in holding the executive to account, the Lead Member and Scrutiny Panel needs to have a constructive relationship with Cabinet portfolio holders and Strategic and Operational Directors. Unless this is underpinned by effective communication and planning, Scrutiny will be unable to effectively exercise the power of influence over decisions to be made.

4.2 The number of members on Scrutiny Panels has varied with a maximum of 9 and minimum of 3. There was a deliberate effort to move away from the formal traditional committee style to an informal “team approach” where all councillors could play a full role in discussions. Both statutory and voluntary scrutiny co-optees have played an essential role in providing a lay perspective to scrutiny work. The last panel structure had 6 councillors on each Panel and a minimum of two scrutiny co-optees.

5. Proposed Structure

5.1 As explained in section 2, in order to respond to the lessons identified by the recent Children’s Services improvement work, an increase in the number of scrutiny panels is required. This would also create the opportunity for more non executive councillors to be involved in scrutiny work.

- Retain overarching **Overview and Scrutiny Management Committee (OSMC)** to manage the overall work programme and prioritise the work of the Scrutiny Panels. The OSMC to continue to carry out the statutory requirements in relation to crime and disorder and flood risk management. The OSMC to be led by the Chair of Overview and Scrutiny and comprise the Leading Members of the standing panels (4).
- Retain the current Health and Social Care Scrutiny Panel but rename **Health and Adult Social Care** to clarify the focus (including Public Health). This panel retains the statutory scrutiny of Health responsibilities. The power to refer concerns about proposals for significant changes to local health services to the Secretary of State is vested in the individual Joint Health Scrutiny Panels.
- Establish a **Children’s Scrutiny Panel**

- Establish an **Economy and Neighbourhoods Scrutiny Panel** (to pick up work under the Economic Resilience theme)
- Establish a **Corporate Scrutiny Panel**
- Standing Panels to be made up of a lead member, 5 councillors and a minimum of 2 co-optees.
- **Ad Hoc Scrutiny Panels** - single issue in depth scrutiny of a priority issue to be established by OSMC with set terms of reference. May be chaired by a Lead Member or a councillor with experience of the topic under scrutiny. An allowance is available to allow for councillors who are not Lead Members to chair.

5.2 A copy of the proposed structure is attached at appendix one together with the consequent changes to the Scrutiny Articles and procedure rules should the changes be approved at Council.

Allowances implications:

5.2 The proposed structure is attached (see appendix 1) and can be delivered within the current allowances envelope.

6. Implications for the Council

6.1 Early Intervention and Prevention (EIP)

No specific implications

6.2 Economic Resilience (ER)

No specific implications

6.3 Improving Outcomes for Children

No specific implications

6.4 Reducing demand of services

No specific implications

6.5 Other (eg Legal/Financial or Human Resources)

The financial implications as set out in paragraph 5.2 of the report indicate that the proposed structure can be supported without an increase in special responsibility allowances

7. Consultees and their opinions

The members of the OSMC are supportive of establishing standing panels

8. Next steps

Following consideration by the Corporate Governance and Audit Committee the report will be referred to Annual Council for discussion and approval of agreed changes.

9. **Officer recommendations and reasons**
 1. That the Committee consider the proposed amendments to Overview and Scrutiny for the 2017/18 municipal year and make any comments or recommendations to Council
 2. That Committee recommend to Council that the Service Director Legal, Governance and Commissioning be delegated with authority to make appropriate changes to the Constitution to reflect the agreed changes to the scrutiny arrangements.
10. **Cabinet portfolio holder's recommendations**
N/A
8. **Contact officer**
Penny Bunker - Governance and Democratic Engagement Officer
9. **Background Papers and History of Decisions**
n/a
10. **Service Director responsible**
Julie Muscroft , Service Director Legal, Governance and Commissioning

**Overview and Scrutiny
Management Committee**
(Chair of Scrutiny + 4 Panel Lead
Members)

**Health and
Adults Social
Care**
Lead Member + 5 Cllrs
and 3 Co-Optees

Children's
Lead member + 5 Cllrs
and 2 Co-Optees

**Economy and
Neighbourhoods**
Lead Member + 5 Cllrs and 2
Co-Optees

Corporate
Lead Member + 5 Cllrs
and 2 Co-Optees

**Ad Hoc
Scrutiny Panels**

**Statutory Joint
Health Scrutiny
Panels**

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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. The Overview and Scrutiny Management Committee will have responsibility for the statutory requirements in relation to scrutiny of crime and disorder matters and Flood Risk Management Strategy.

The Management Committee will also co-ordinate, oversee and manage the performance of those functions carried out by any overview and scrutiny panels or ad hoc 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 the Chair of Overview and Scrutiny and the Lead Member of each of the Scrutiny standing panels. ~~of four based on a 1:1:1:1 ratio, including the Chair of Overview and Scrutiny.~~ 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. ~~Health and Social Care Scrutiny Panel to carry out overview and scrutiny work in line with statutory health scrutiny requirements.~~ All scrutiny panels will constitute formal subcommittees of the Overview and Scrutiny Management Committee. The Management Committee appoint single issue Ad Hoc Scrutiny Panels to carry out in depth scrutiny work and appoint members and co-optees to those panels. It will also appoint members to joint health scrutiny 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.

The following standing committees will be established but it is recognised that there will be some need to ensure flexibility across areas of responsibility and they may need to adapt a more mobile and agile approach as required by OSMC, for example panels may need to jointly examine and scrutinise matters where appropriate.

Panel	Scope
<u>Economy and Neighbourhoods Scrutiny Panel</u>	All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the <u>Economy, Infrastructure, Regeneration and Culture</u> and activities relating to partnerships and partner bodies within the portfolio.
<u>Health and Adult Social Care Panel</u>	As above in relation to <u>service provision for adults including Public Health and activities relating to health partner bodies.</u> The Panel's role includes the specific responsibilities of the council for scrutiny of health matters <u>(see also 6.2.2 below).</u>
<u>Children's Scrutiny Panel</u>	As above in relation to service provision for children and all matters considered by partnerships and partner bodies within the portfolio.
<u>Corporate Scrutiny Panel</u>	As above in relation to any matters relevant to the issues of corporate services, <u>including Finance and other Support Services</u> and activities in respect of any partner bodies within the portfolio

Health and Adult Social Care Scrutiny Panel

6.2.2 ~~The~~ The Health and Adult Social Care Scrutiny Panel will discharge ~~an overview and scrutiny function in relation to the following matters:~~

~~6.2.1-~~

~~6.2.2 All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the health and social care portfolio, including Public Health matters and activities relating to health partner bodies.~~

~~The Panel's role includes~~ the specific statutory responsibilities of the council for scrutiny of health matters which are:

- a) To review and scrutinise matters relating to the planning, provision and operation of the health service in the local authority area
- b) To request information to be provided by the relevant NHS body or health service provider, in relations to (i) above
- c) To make reports and recommendations to the relevant NHS body or health service provider
- d) In certain circumstances to refer NHS substantial configuration proposals to the Secretary of State for Health

Membership

6.2.3 The membership of any 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:

There is a statutory requirement that when an issue is discussed relating to education matters that the Committee shall include in its membership (if nominated by the relevant body) the following representatives with rights to vote on education matters:-

- a) 1 Church of England diocese representative;
- b) 1 Roman Catholic diocese representative; and
- c) 2 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).

6.2.4 The Chairs of the standing Overview and Scrutiny Panels will be known as Lead Members for the relevant functions.

6.2.5 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, ('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 and the number of co-opted members shall not exceed the number of elected members. Any panel dealing with education matters must also include the church and parent governor statutory representatives.

Joint Health Committees

6.3.3 The Overview and Scrutiny Management Committee will appoint members to any Joint Health Scrutiny Committees which may be required with neighbouring authorities. Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

Councillor Call for Action Scrutiny Panels

6.3.4 The Overview and Scrutiny Management Committee will appoint members to any Councillor Call for Action Scrutiny Panels, established as a result of a councillor call for action. Terms of reference and all connected matters will be agreed by the Overview and Scrutiny Management Committee.

6.4 Political Balance

6.4.1 The Overview & Scrutiny Management Committee may, subject to compliance with legal procedures, decide that the normal political balance requirements shall not apply to scrutiny panels. In that case the Management Committee may determine an alternative distribution of membership between political groups.

6.5 General Role of the Scrutiny Function

- a) Review and scrutinise decisions made or actions taken in connection with the discharge of the council's functions

- b) On behalf of the council review or scrutinise all Cabinet / Cabinet Committees recommendations to the council, including policy and budgetary proposals.
- c) 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 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.

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OVERVIEW AND SCRUTINY PROCEDURE RULES

Revised August 2015

Overview and Scrutiny Procedure Rules

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

1.1 The Council will appoint the Overview and Scrutiny Management Committee, including the four scrutiny standing panel Lead Members, to oversee the management, co-ordination and development of the overview and scrutiny function. The Committee will appoint Standing Panels, Ad-Hoc Panels, Councillor Call for Action Scrutiny Panels, and members of Joint Health Scrutiny Committees as set out in Article 6 of the Constitution and will appoint to them as it considers appropriate from time to time. The Overview and Scrutiny Management Committee may appoint further sub-committees as may be required.

2. Terms of Reference & Functions of Committee & Panels

2.1 The Overview and Scrutiny Management Committee

2.1.1 The Overview and Scrutiny Management Committee will:

- (i) Have overall responsibility for the management, co-ordination and development of the scrutiny function through which the decisions taken by the Cabinet and by committees and officers of the Council are scrutinised and the use of resources/provision of services are reviewed.
- (ii) Have overall responsibility for the work programme and co-ordinate and monitor progress on the work programmes of any Overview and Scrutiny Panel.
- (iii) Exercise the right to submit a “notice of concern” on proposed decisions and “call-in” and review Executive decisions (see definition at 2.2.3) as set out in the procedures in these rules, particularly on issues that fall between the responsibilities of the separate panels.
- (iv) Agree arrangements for managing overview and scrutiny business (including the call-in of Executive decisions) within the scope of more than one panel.
- (v) Receive requests from members of the public/Councillors/officers of the Council /co-optees/other organisations for particular topics to be scrutinised and determine the appropriate action.
- (vi) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.
- (vii) Receive proposals from the ~~Health and Social Care Scrutiny Panel~~ Scrutiny standing panels for planned in-depth scrutiny reviews, investigations and reports on issues relating to the Council’s functions and determine the appropriate action.

- (viii) Appoint task-orientated, ('ad-hoc') overview and scrutiny panels to review in depth, investigate and report on a particular topic with such terms of reference and duration as it considers appropriate to that topic.
- (ix) Agree terms of reference and work plans of ad-hoc review panels and Councillor Call for Action Scrutiny Panels and monitor their progress.
- (x) Advise ad-hoc review panels and Councillor Call for Action Scrutiny Panels on the contents of reports.
- (xi) Consider and formally agree the reports of all ad-hoc Panels, ~~and~~ Councillor Call for Action Scrutiny Panels and standing panel review reports and submit them to Cabinet and/or relevant agencies for response and action.
- (xii) ~~Consider and formally agree the reports of all ad-hoc Panels and Councillor Call for Action Scrutiny Panels and submit them to the Council and/or Cabinet for consideration.~~ (delete repetition error)
- (xiii) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, local partnership body structures, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xiv) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xvi) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvii) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xviii) Monitor and review the effect of and consequence of the call-in of Executive decisions, including those taken through the scheme of delegation.
- (xix) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xx) Co-ordinate the production of an annual report to Council at the end of each municipal year on the activity of the overview and scrutiny function.
- (xxi) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.

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- (xxii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxiii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxiv) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function.

2.2 Standing Overview and Scrutiny Panels

2.2.1 Any Overview and Scrutiny panels will:

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated executive decisions, including those taken under the Scheme of Delegation.
- (ii) Scrutinise, advise and contribute to the Cabinet/Cabinet Committee and any relevant Council Committees in relation to issues arising from its work programme;
- (iii) **Through the use of pre-decision scrutiny to scrutinise and contribute to the development of strategic proposals prior to decisions being taken by the Cabinet / Cabinet Committee**
- (iv) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (v) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions taken by or on behalf of the Executive as set out in the Overview & Scrutiny Procedure Rules.
- (vi) Have an overview of the practice and policy of the relevant service areas;
- (vii) Identify areas of service practice and implementation or of policy that cause concern to members of the public and Councillors and report these to the Overview & Scrutiny Management Committee to determine what action should be taken;
- (viii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;
- (ix) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;
- (x) Promote the work of the panels, including through the local media.
- (xi) Develop focused programmes of work and identify the most appropriate means of progressing such work.

- (xii) Scrutinise the work of the Partnerships and the council's contribution to them, specifically in relation to shared partnership priorities.
- (xiii) To scrutinise the effectiveness of the Council's representatives in regional/sub regional and national forums.

2.2.2 NOTE: The role of the Health and **Adult** Social Care Scrutiny Panel will in addition include the specific responsibilities of the Council for the scrutiny of health. Statutory responsibilities in respect of the **Community Safety Partnership** ~~rime and Disorder Partnership~~ will be vested in the Overview and Scrutiny Management Committee.

2.2.3 Executive decisions: Executive decisions may be discharged by Cabinet/Cabinet Committees/Cabinet member or an officer of the Council in line with Executive Procedure Rule 1.2.5. Scrutiny powers also apply to those decisions taken by officers that are as a result of further delegation of the Cabinet, a Committee of the Cabinet or a member of the Cabinet.

2.3 Ad-hoc Overview & Scrutiny Panels

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

2.4 Councillor Call for Action Scrutiny Panel

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

2.5 Joint Health Scrutiny Committee

2.5.1 The Overview and Scrutiny Management Committee will make the necessary arrangements to establish any Joint Health Scrutiny Committees which may be required with neighbouring authorities including the appointment of members. Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

3. Membership of Overview and Scrutiny

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

4. Co-optees

The Overview and Scrutiny Management Committee will agree the appointment of non-voting co-optees for Committee or panels.

5. Education representatives

- 5.1 When the Overview and Scrutiny Management Committee, an ad-hoc panel or a Councillor Call for Action Panel meets to discuss any issue relating to education matters it shall include in its membership the following voting representatives (if appointed by the relevant group):
- (a) 1 Church of England diocese representative;
 - (b) 1 Roman Catholic diocese representative; and
 - (c) 2 parent governor representatives.
- 5.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

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

- 6.1 The Overview and Scrutiny Management Committee and its Panel(s) will meet as required to conduct the necessary business efficiently and effectively. There shall be at least 6 ordinary meetings of the Management Committee and each Standing

Panel each year. The ad-hoc Panels will meet as required to fulfil the task allocated to them.

- 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Management Committee/Panel, by any 3 members of the body or by the [Service Director Legal, Governance and Commissioning in accordance with Council Procedure rule 40\(4\)](#) if he/she considers it necessary or appropriate.

7. Quorum

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

8. Chairs of Overview and Scrutiny Management Committee/Panels

- 8.1 The council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a Standing Panel.
- 8.2 The Chair of Overview and Scrutiny will be from a different political group to that of the Leader of the council.
- 8.3 The Chair of Overview and Scrutiny will chair the Overview and Scrutiny Management Committee.
- 8.4 The Council will appoint the Lead Members of the Standing Panels who will chair those panels.
- 8.5 The Overview and Scrutiny Management Committee will appoint the Chairs of Ad-Hoc Panels. These ~~may be will be~~ drawn from the membership of the Overview and Scrutiny Management Committee [or from other members of the Council with the necessary expertise](#). Chairs of Joint Health Overview and Scrutiny Committees may also be drawn from other members of the Council with the necessary expertise.

9. Work programme

- 9.1 The Overview and Scrutiny Management Committee will be responsible for setting its own objectives and work programme and in doing so shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.
- 9.2 The Standing Panels (subject to the agreement and monitoring of the Overview and Scrutiny Management Committee) shall be responsible for setting their own work programme to overview and scrutinise the work of the Cabinet, Cabinet Committees, partnership body structures, relevant Council Committees and services and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

- 9.3 Ad-hoc Panels will be set up by Overview and Scrutiny Management Committee with specified terms of reference to scrutinise and review in-depth particular issues.

10. Agenda items

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

11. Policy review and development

- 11.1 The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, partnership body structures and Council and hence to ensure that these views are taken into account in policy development.
- 11.2 The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the Budget and Policy Framework, recommendation to Council.

- 11.3 The minimum role of Overview and Scrutiny in relation to the development of the Council's Budget and Policy Framework is set out in Rule 2 of the Budget and Policy Framework Procedure Rules and in Rule 11.2 above.
- 11.4 In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 11.5 If there are concerns about the implementation or subsequent outcomes of an agreed policy the Overview and Scrutiny Management Committee may commission standing panels or appoint Ad-Hoc Panels to hold enquiries and investigate the available options to recommend changes/improvements to the policy to make it more effective.

12. Reports from Overview and Scrutiny Management Committee

- 12.1 Once an ad-hoc Panel (or in some instances a Standing Panel) has formed recommendations on proposals for development, a report will be prepared for informal consultation with the Overview and Scrutiny Management Committee.
- 12.2 Once the Overview and Scrutiny Management Committee's comments have been taken into account, the draft report shall be submitted by the Overview and Scrutiny Office, to be considered informally by the relevant officers/Cabinet Member/Cabinet/Cabinet Committee/or partnership body.
- 12.3 The Cabinet member (portfolio holder)/Cabinet/Cabinet Committee/partnership body/officers shall comment on any issues or factual inaccuracy within the report. Scrutiny shall consider the comments and make changes to the report as it considers appropriate. The Cabinet portfolio holder, in consultation with the relevant **Strategic** Director/**Service Assistant** Director(s) shall prepare a draft response to the scrutiny recommendations in the form of an action plan. For each recommendation that is accepted they shall state when and how it will be implemented. For those that are not accepted the relevant reasons must be set out.

The draft response to the recommendations, set out in the form of an action plan, should be completed within three weeks of receipt of the Scrutiny report. During that time the portfolio holder, senior officers and the Councillor who chaired the scrutiny investigation, may meet to discuss or clarify any aspects of the report.

- 12.4 The report, together with the portfolio holder's draft response will be submitted to Cabinet for debate and approval of the action plan response to the recommendations. Once the response to the report is approved, the report is considered final and may be submitted to Council and/or any appropriate Committee or partnership body for information or debate, particularly on issues of difference.
- 12.5 The reports of Overview and Scrutiny referred to Cabinet shall be given consideration as soon as practicable following the receipt of the draft portfolio response. If the Cabinet does not consider the report and reach a final agreement on the response to the recommendations within one month, the Overview and

Scrutiny Management Committee will have the right to refer the report direct to Council without following the procedure set out above.

- 12.6 If any recommendations would require a departure from or a change to the Budget and Policy Framework these must be considered by Council.
- 12.6 If a significant minority of a Scrutiny Management Committee/Panel cannot agree on the final recommendations of the report to the Cabinet/Cabinet Committee/Council as appropriate, then the report will indicate where the major differences lie. Minority reports will not be accepted.
- 12.7 The Cabinet/Cabinet Committee and where appropriate Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.

13. Rights of Overview and Scrutiny Management Committee & Panel members to documents

- 13.1 In addition to their rights as Councillors, members of Overview and Scrutiny Management Committee/Panels have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 13.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee and Panels as appropriate depending on the particular matter under consideration. Indeed this liaison is encouraged to enable members of scrutiny panels to develop an effective overview of services, developments, and issues for consideration.
- 13.3 All members of the Council will have access in accordance with the Access to Information Procedure Rules to agendas, reports in support of decisions to be made and notices of decisions (to be posted within 3 working days) through the Intranet.
- 13.4 Overview and Scrutiny Members will also be informed of decisions made by officers under the scheme of delegation.

14. Members and officers giving account

- 14.1 Overview and Scrutiny Management Committee or any panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, senior officers, or other officers if necessary to attend before it to explain in relation to matters within their remit:
- a) any particular decision or series of decisions;
 - b) the extent to which the actions taken implement Council policy; and/or
 - c) their performance.

- 14.2 By virtue of the provisions of the Local Government Act 2000 and the Localism Act 2011, the Overview and Scrutiny Management Committee/Panels can require officers and Cabinet Members to respond to their requests and attend their meetings, and (by virtue of the Act) it is the duty of those persons to attend if so required.
- 14.3 Requests for attendance of officers or the provision of information to Overview and Scrutiny shall generally be channelled through the Council's Directors/Heads of Service who will identify appropriate officers to respond to the requests. Services shall also identify contact officers for each Overview and Scrutiny Management Committee/Panel.
- 14.4 Such requests will be made in writing by or on behalf of the Chair of the relevant Management Committee/Panel and as much notice of the meeting as practicable will be given allowing for the need to gather information and/or prepare a report.
- 14.5 Where, in exceptional circumstances, a Cabinet Member or officer is unable to attend on the required date, then the Chair of the relevant Overview and Scrutiny Management Committee/panel shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place as soon as practicable from the date of the original request.

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

15. Attendance by others

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

16. Decision-Making and Call-in

16.1 A key function of overview and scrutiny is to hold the Cabinet to account for the discharge of its functions. Two of the principal elements of this are:

- Scrutinising decisions which are proposed to be taken by or on behalf of the Executive, and
- Scrutinising executive decisions before they are implemented (a so-called 'call-in' mechanism)

16.2 One of the basic principles that has been important to the development of scrutiny in Kirklees is that the Council is one body and it is in the interests of all Councillors and the public that the Council makes the right decision first time. This implies a constructive role for Overview and Scrutiny, as it would be perverse to wait until the point of decision-making (or after) to raise concerns.

16.3 The roles of the Overview and Scrutiny Panels and their Chairs make it clear that they should be working with the Cabinet Member, and the [Directors/](#) Heads of Service that report to her/him, to build up an understanding of the work programme in that portfolio, the issues that are around, and the decisions that are on the horizon.

16.4 This will mean that the Overview and Scrutiny Panel Chair and the panel will be aware at an early stage of the issues that the Cabinet/Cabinet Committee will be addressing. They must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focussed on a particular option and likely decision. Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.

16.5 Through early involvement it should be possible to take on board the concerns of scrutiny and ensure that the right decision is taken first time. However, there may be times when differences will not be resolved, or when an item surfaces at short notice on an agenda. In these circumstances Overview and Scrutiny and non-executive councillors should follow the procedure set out below. This procedure gives Overview and Scrutiny the opportunity before a decision is taken to issue a formal 'notice of concern' which will be recorded, and after a decision is taken, but before it is implemented, to 'call-in' a decision.

16.6 It is fundamental to remember that:

- the Cabinet Member is responsible for the work programme within her/his portfolio and to determine, in consultation with the Leader of the Council, the items that will be on the Cabinet/Cabinet Committee agenda, and
- the Cabinet/Cabinet Committee has the responsibility to make decisions within its remit, and to oversee and be accountable for the taking of decisions on its behalf by officers, joint committees or area committees.

16.7 The procedure set out in this section is designed to give Overview and Scrutiny a proper role in having an overview of decision-making.

17. Notice of Concern - Procedure

17.1 The Overview and Scrutiny Panel Chair will receive the Forward Plan, information about other decisions to be taken, papers in support of a decision to be considered by the Cabinet Member/Cabinet/Cabinet Committee, including the reports containing the Cabinet Member's recommendation or details of a delegated Executive decision to be made by an officer.

17.2 If the Overview and Scrutiny Panel Chair or Chair of Overview and Scrutiny at this stage feels that scrutiny's concerns have not been adequately addressed or it is an item brought forward late at short notice, and the Scrutiny Panel Chair or Chair of Overview and Scrutiny is unhappy with the Cabinet Member or officer's recommendation, the Scrutiny Panel Chair or Chair of Scrutiny should issue a 'notice of concern'. This must be sent in writing to the [Service Assistant](#) Director Legal, Governance and [Commissioning Monitoring](#), the main recipient and also for information to the Cabinet Member and, if appropriate, the Chair of Overview and Scrutiny within 3 working days starting the day after the Cabinet/Cabinet Committee agenda is published and finishing at 5.30 pm on the third day.

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

17.4 All Councillors who are not in the Cabinet can contribute to Overview and Scrutiny and can request Overview and Scrutiny to issue a 'notice of concern'.

17.5 The notice must set out the grounds that cause the concern.

17.6 The notice will have more strength if it also indicates a proposed course of action and the further considerations that should be taken into account.

17.7 The Cabinet Member in consultation with the relevant member of [Director Group Executive Team](#) and the Leader of the Council will have full discretion on how to proceed. The item could be deferred for further consideration or continue on the agenda.

17.8 If the concerns set out in the notice of concern are adequately addressed prior to the meeting, the Overview and Scrutiny Panel Chair/Chair of Overview and Scrutiny may withdraw the notice of concern.

17.9 If the item is kept on the agenda for the Cabinet Member/Cabinet/Cabinet Committee, the 'notice of concern' will be indicated on the agenda. At the meeting, when that item is taken, the [Service Assistant](#) Director Legal, Governance and [Commissioning Monitoring](#) will formally announce that Overview and Scrutiny had placed a 'notice of concern' on that item and the reasons given. The meeting will consider the item in the light of that knowledge.

17.10 Under the delegated authority of the Cabinet/Cabinet Committee the decision that is made at the meeting will be the final recorded decision, subject to the call-in procedures below. The minutes though will record the 'notice of concern'.

17.11 However, if the Cabinet/Cabinet Committee at its meeting had agreed an amendment to the Chair's recommendation, the Scrutiny Panel Chair/Chair of Overview and Scrutiny in consultation with panel members may, after the meeting and within 5 working days, withdraw the 'notice of concern', if it is felt that the concerns have been adequately addressed. A note will be added to the minutes to this effect.

17.12 If the decision is a delegated executive decision to be made by an officer on a specified date, then consideration must be given to the issues raised in the notice of concern prior to the decision being made. The consideration procedure set out in 17.9 and 17.10 should also be applied to the delegated executive decision. The delegated executive decision is also subject to the call-in procedures.

18. Call-in - procedure

18.1 The decision summary of Cabinet/Cabinet Committee and any other executive decision will be published within 2 working days of the decision and sent to the members of the appropriate Overview and Scrutiny Panel – e.g. this will be the Friday following a Cabinet Meeting on Wednesday.

18.2 There will be a standard period of 5 full working days (commencing the next working day following the day the decision is taken and ending at 5.30 p.m. on the fifth working day) before decisions can be implemented (eg call in period will end at 5.30 p.m. on Tuesday following a Cabinet/Cabinet Committee meeting the previous Tuesday). A decision can be called-in only during this period.

18.3 To call in an executive or a delegated executive, written notice must be given to the [Service Assistant](#) Director Legal, Governance and [Commissioning Monitoring](#) as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma and guidance information will be made available from the [Governance Team](#) ~~Scrutiny Office~~ to make this easier.

18.4 A decision can be called in by:

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

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

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

- 18.6 When a valid written notice is received within the period referred to above, all action to implement the decision must be suspended for 2 weeks from the end of the call-in period, during which time the appropriate Overview and Scrutiny Panel must meet. If the issue that has been called-in falls between or overlaps with the responsibility of more than one panel, the Service Assistant Director Legal, Governance and Commissioning Monitoring will take the advice of the Overview and Scrutiny Management Committee, which will determine which Panel to refer the matter to or indeed whether it should be considered by the Overview and Scrutiny Management Committee.
- 18.7 When a valid written notice is received the Service Assistant Director Legal, Governance and Commissioning Monitoring will notify all Cabinet Members and the Leader of the Council. A meeting of the appropriate Overview and Scrutiny Panel will take place within two weeks of the call-in, giving notice required by Rule 4 of the Access to Information Procedure Rules. If the decision has been called-in by 5 non-executive Members they must attend, if possible, the Overview and Scrutiny Panel Meeting. At least one signatory to the call-in notice is required to be present during the call-in hearing. The Service Assistant Director Legal, Governance and Commissioning Monitoring will also notify all Members that this decision has been called-in.
- 18.8 The Service Assistant Director of Legal, Governance and Commissioning Monitoring, and in his/her absence the Chief Executive -Director for Resources, shall have discretion to extend the period during which the appropriate Overview and Scrutiny Panel must meet, where in his/her opinion, exceptional circumstances so require.
- 18.9 Once signed and submitted to the Service Assistant Director of Legal, Governance and Commissioning Monitoring, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call-in.
- 18.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the decision maker. The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Service Assistant Director of Legal, Governance and Commissioning Monitoring, or in his/her absence the Chief ExecutiveDirector for Resources.
- 18.11 In the case of delegated executive decisions, made by an officer, the Leader/Cabinet Member is accountable for the decision (see section 16.6). However the officer who made the decision should also be present at the call-in hearing wherever possible.
- 18.12 Having considered the decision in question, the Overview and Scrutiny Panel must resolve either to
- Free the decision for implementation; or,
 - Refer it back to the Cabinet /Cabinet Committee or decision-maker with a recommendation for amendment; or,

- In exceptional circumstances, refer the issue to the next Council Meeting if the decision is not consistent with the budget or any policy previously agreed by the council. This can only be done with advice from the relevant senior officers and the Service Assistant Director Legal, Governance and Commissioning Monitoring.

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

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

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

18.14 A decision may only be reviewed once.

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

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

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

18.18 Delegated executive decisions taken by officers – If an executive decision is to be taken by an officer under the scheme of delegation, all councillors and Overview and Scrutiny will have the same rights to information and to use the procedures set out above for the call-in of decisions.

19. Call-in of decisions outside the budget or policy framework.

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

19.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the [Head of Governance and Democratic Services](#) ~~Director of Resources~~ and any other relevant officer. If that advice is that the decision is not outside the framework, the Panel may either:

- Accept that advice and free the decision for implementation; or
- Decide to follow the procedure set out in Rule 19.3.

19.3 If the advice is that the decision is or may be outside the Budget or Policy Framework, the Overview & Scrutiny Panel must resolve either:

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

19.4 If the Panel refers the decision back to the Cabinet/Cabinet Committee, it will be considered at the next meeting of the Cabinet/Cabinet Committee. The Cabinet/Cabinet Committee may take any of the actions set out in Rule 18 other than to confirm its original decision.

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

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

20. The Group Business Manager

20.1 The Council views whipping as incompatible with overview and scrutiny. Therefore, the political groups shall not give any instruction to any Councillor as to how that Councillor shall speak or vote on any matter before overview and scrutiny, nor

apply any sanction in respect of that Councillor should he/she speak or vote in any particular manner.

21. Procedure at overview and scrutiny meetings

21.1 The Overview and Scrutiny Management Committee and its Panels are encouraged to develop less formal approaches to meetings that support the reflection required by the Overview and Scrutiny role. In doing so the Management Committee and Standing Panels will ensure the inclusion of some basic items, such as minutes of the last meeting; declarations of interest; consideration of any decisions that have been called in; issues from the Cabinet's forward plan and/or of service delivery; responses of the Cabinet to reports of the Overview and Scrutiny Management Committee; and the business otherwise set out on the agenda for the meeting.

21.2 Where ad-hoc Panels or Councillor Call for Action Panels conduct investigations, they or the Overview and Scrutiny Management Committee may also ask people to attend to give evidence at panel meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting the panel by giving evidence be treated with respect and courtesy; and
- iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

21.3 Following any investigation or review, the Panel in consultation with the Overview and Scrutiny Management Committee shall prepare a report for submission to the Cabinet/Cabinet Committee and/or Council as appropriate and shall make its report and findings public.

22. Matters within the remit of more than one overview and scrutiny panel

22.1 Where a matter for consideration by overview and scrutiny falls within the remit of one or more overview and scrutiny panels, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Management Committee.

22.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all panels affected by the issue and to report the outcomes to all such panels.

Name of meeting: Corporate Governance and Audit Committee

Date: 12 May 2017

Title of report: The Call In Process in Kirklees

Purpose of report: To set out the findings of research into approaches to the Call In process and consider options for amending practice in Kirklees.

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	No – the decision will be taken by the Council
Date signed off by <u>Strategic Director</u> & name	Give name and date for Cabinet reports
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Give name and date for Cabinet reports
Is it also signed off by the Service Director for Governance and Commissioning Support?	Julie Muscroft
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

1. Summary

1.1 Following earlier consideration by Corporate Governance and Audit Committee on a protocol in respect of call in meetings, the Committee agreed that the Overview and Scrutiny Management Committee could implement the initial proposals. However in light of feedback following a series of call in meetings, the Committee approved a further piece of work to examine the approach to Call-in in Kirklees and determine whether any changes or clarification of current arrangements were required.

1.2 This report sets out the findings of research into approaches to call in, including steps that could be taken prior to getting to the call in stage. The report presents options which aim to address learning from recent call in meetings whilst ensuring a transparent process going forward.

1.3 Following consideration by leading councillors as part of consultation, it was agreed that the call in work should be rolled into a more fundamental proposal regarding the future operating model for Overview and Scrutiny in Kirklees. This report is therefore accompanied by a further report proposing amendments to current Scrutiny arrangements.

2. Information required to take a decision

2.1 Legislative background

The Local Government Act 2000 saw the establishment of the Executive/ Scrutiny model of governance. As part of the functions of Scrutiny set out in the Act, Section 21(3) of the Act states that overview and scrutiny has:

The power of an overview and scrutiny committee under subsection (2)(a) includes power to review or scrutinise a decision made but not implemented –

(a) to recommend that the decision be reconsidered by the person who made it,
or

(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.

The power to review a decision prior to implementation is a core part of the role of overview and scrutiny committees in holding the Executive to account for the decisions it has made. They can call-in a decision which has been made by the executive but not yet implemented and may recommend that the executive reconsider and amend the decision.

Government guidance makes it clear that call-in should rarely be exercised and that councils should act to ensure that their local protocols and procedures meet this end.

2.2 Early Intervention options prior to call in

Cabinet decisions can be scrutinised at a number of different stages in the decision making process. There are different ways of undertaking this role; the most common mechanisms for scrutiny are set out below:

- Pre-Scrutiny - The role of Pre-Scrutiny was established to provide a clear focused member lead process at the pre-decision stage. This is the process by which Members of the Overview and Scrutiny Committee (or Panel) become involved with decisions at a stage before the decision is formally taken. This approach is advantageous for the following reasons:

- It involves non-executive Councillors at the pre-decision stage;
- It could reduce the need for call-ins through developing an understanding of an issue, and ensuring that reports for decisions adequately reflect different options and approaches;
- It adds value to reports through wider consultation.

It requires that the OSMC is made aware of forthcoming decisions that Cabinet /Committee will be addressing at an early stage. The constitution is clear that the Committee must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focused on a particular option and likely decision.

If there are cases where differences cannot be resolved and/or an item arises at short notice on an agenda then there is a procedure set out below which gives the OSMC an opportunity to issue a formal 'notice of concern'.

- Notice of Concern - The procedure for this is set out in Section 4 of the Constitution – Overview and Scrutiny Procedure Rules. The OSMC takes receipt of the Forward Plan, information about decisions to be taken and reports to Cabinet containing recommendations. If they feel that Scrutiny's concerns have not been addressed and the Scrutiny Panel Chair or Chair of OS is unhappy with the report recommendation, the OS Panel Chair or Chair of Scrutiny can issue a 'notice of concern'.

All councillors who are not in Cabinet can contribute to Overview and Scrutiny and request Overview and Scrutiny issue a notice of concern setting out the grounds for concern. The item can be deferred for further consideration or continue on the agenda. This is an opportunity for any areas of weakness to be highlighted.

Effective report writing

2.3. A Cabinet report is an important document for pre-scrutiny concerns as it sets out in detail the options and information required by Councillors to assist in their decision making. It is essential that reports are sufficiently detailed, clear and unambiguous with the required information and options available. There is a clear link between the effectiveness of pre-scrutiny and the quality of report writing. High quality reports provide a further opportunity to support robust decision making and ensure any concerns are adequately addressed. One essential element is to ensure that all options are set out fully in reports and reasons why they are not appropriate. This report does not focus on this area in detail as there is already a review being carried out by the Governance team, in relation to report writing and report writing guidance.

3. The Kirklees Council Approach to Call In

3.1 The Overview and Scrutiny Procedure Rules in the Council's Constitution set out the process to be followed to call in a decision. It is important to note that section 16 of the O & S Procedure Rules sets out the principles that underpin the approach in Kirklees to scrutinising decision making.

3.2 It emphasises that one underpinning principle is that the Council is one body and it is in the interests of Councillors and the public that the Council makes the right decision first time. Implicit in this is a constructive role for Overview and Scrutiny to be proactive in raising concerns before a decision is made.

The Constitution states that Overview and Scrutiny Lead Members (or members with portfolios) should be working with the Cabinet Member and senior officers to build upon

understanding of the work programme in that portfolio, including the decisions that are on the horizon.

Scrutiny should be making the Cabinet Member aware at an early stage of any issues of concern. Grounds for concern may include that all options are not being adequately explored or that there may not have been adequate public consultation

The procedure in Kirklees

3.3 The call in process in Kirklees is set out in the Council's Constitution at section 18 of the Overview and Scrutiny Procedure rules. The current procedure is attached at Appendix 1. The main points of the process are:

- The decision notice setting out the Cabinets decisions is published
- There is a period of 5 working days in which a decision may be called in. The 5 days starts on the next working day after the day the decision is taken and ends at 5.30 p.m. on the 5th working day.
- A decision can only be called in by giving written notice on an electronic pro forma. The pro forma must be signed by all parties to the call in and must state the reasons for the suspension of the decision and request a review.
- A decision can be called in by:
 - either 5 non-executive councillors
 - or 2 Members of the Overview and Scrutiny Management Committee, one of whom must be the Chair

 - or 2 Members of the relevant Overview and Scrutiny Panel, one of whom should be the Chair
- All efforts should be made to consult with the Chair of the Overview and Scrutiny Management Committee.

3.4 If a valid call in notice is received then the implementation of the decision must be suspended for two weeks (which begins at the end of the call in period)

3.5 Research indicates that there are a range of different approaches taken to the call in process. The key components are;

- The call in timescales /deadlines - for both calling in decisions and holding the call in meeting
- The pro forma setting out the reasons for call in
- Restrictions on what may be called in
- The process for agreeing a valid call in
- The process at the call in meeting

4. What happens elsewhere?

4.1 According to a study by the Centre for Public Scrutiny, since 2009, the proportion of decisions amended as a result of call-in has declined as a percentage of the total number of decisions that have been called in. However, call-in should be seen in context – firstly, it is a

means to provoke further debate on a topic of political contention, and acts as a democratic safeguard against the unconstrained exercise of executive power. Secondly, it is one of a number of tools available to scrutiny to influence decision-making. Members may, for example, carry out pre-decision scrutiny, which can lessen the need for call-in. Call-in can also be seen as part of a process whereby scrutiny can challenge the assumptions and evidence behind decisions.

4.2 Opinion about the general value of call-in is very mixed across councillors and officers around the country. Predominantly, councillors consider it to be ineffective, although in those authorities where it is used more, it is considered to be a useful tool.

4.3 The number of call-ins varies hugely from council to council. A large number have none at all (and many have had none at all for several years); one council had 38 call-ins in 2012/13. There is no obvious correlation between councils with high (or low) numbers of call-ins and those with effective scrutiny functions; a larger number of call-ins has no direct effect on the proportion of those call ins that lead to an amended decision.

5. Local statistics

5.1 To date,

- Kirklees has not had any call ins in the 2016 /17 municipal year but had 3 call ins in 2015/16. In 2014/15 there were 2 call ins and in 2013/14 only 1 call in was considered.
- Bradford did not have figures to hand but on average do not have more than 3 or 4 call ins per year but in the last six months they had not had any. The Council is led by the majority party but is made up by 8 other political groups.
- Leeds had 4 call ins during 2013/14.
- York until the year 15/16 had around 10-15 call ins per year. They recently had a change of administration and amended their call in procedure in an effort to try and reduce the numbers of decisions being called in.

It seems that Kirklees is not significantly out of step with other local authorities in West Yorkshire. A short table setting out the details is attached at Appendix 2.

6. Pro forma

6.1 Many Local Authorities, including Kirklees use pro formas that are required to be completed when submitting a call-in. Locally, Leeds and Barnsley use forms and they have found them helpful in setting out specific reasons relating to call in reviews and in narrowing the issues.

The pro forma document is important as it sets out the basis of the call in and the exact reasons for the Committee to review the decision. It is essentially the starting point for the call-in review and should be sufficiently detailed. Attached at Appendix 3 is an example form from Leeds which is clearly drafted and sets out the specific principles of decision making taken from their articles. This is not currently included in the Kirklees form which is attached at Appendix 4. It would be helpful to have those principles inserted so that Councillors are clear about which principle is being challenged and proving full and detailed evidence of the grounds on which each principle is challenged.

6.2 In learning from recent call ins it appears that the Kirklees pro forma needs strengthening to ensure a consistent interpretation of the decision making principles. It may also assist to

request the nominated signatory insert the outcome they are seeking when submitting the call in.

7. The call in meeting

7.1 Sometimes, call-ins are appended to the agendas of existing meetings, but it is more usual to convene a separate meeting for this purpose (and sometimes a separate “call-in committee” exists, for example in **Brent** and **Dorset**). It is usual for the Cabinet member and the chief officer for the service involved to be invited to give evidence. However, it is at the discretion of the Chair how the meeting is run, and he/she may invite others to give evidence. This might include other council officers, members of the public directly affected by the decision or representatives of partner organisations.

7.2 On some occasions at Kirklees the contribution of the public has led to the meetings being extended. Guidance to the public may assist them in understanding their role, manage expectations and provide a greater understanding of the call in meeting and its purpose. This would still need to be managed by the Chair to ensure contributions were kept to the grounds and not used as an opportunity for repetitive concerns and complaints about the decision made.

7.3 Within West Yorkshire most councils have a flexible approach to the conduct of the call in meeting and adapt to each call in on a case by case basis which seems to work well, allowing more time when necessary. Although there is a formal agenda the Chair is required to ensure that members of the public (if they attend and are given the opportunity to speak) keep to the specific basis of the call in and discussion is not diverted to reconsidering the decision as a whole or irrelevant information. The process of the call in meeting and management of it is determined by the Chair. Most do not have a formal procedure but use a basic outline and adapt this depending on the circumstances of the call in.

7.4 One local Council relies heavily upon pre-scrutiny prior to any decision being taken by Cabinet. This allows for anything which is likely to be contentious to be scrutinised and considered at an early stage. Scrutiny will often stay involved and be updated and can be involved in clarifying any issues of concern. This has been used as a method to ensure a formal call in is averted in relation to any matter which is believed to be controversial.

8. Restrictions on call in

8.1 Legislation makes it clear that when a council committee is acting in a quasi-judicial capacity then call in does not apply. This includes Licensing and Planning Committee decisions. The reason for this being that there are other means of appealing against decisions made by these bodies.

8.2 Councils have tried different methods to try resolving the issues prior to submission of the call in pro forma. Some Councils have put in pre call in requirements that mean that the lead signatory for a call in has to take steps to try and resolve concerns prior to submitting the call in. Whilst this puts the emphasis in trying to resolve concerns outside of a formal meeting, it has to be done in the restricted timeframe allowed to call in a decision.

8.3 Some Councils have opted to restrict call in to key decisions only. Whilst it is more usual in Kirklees for called in decisions to be key decisions, it is not exclusive. In Kirklees this would not have led to any change in the decisions called in over the last year as they were all key decisions. However this is an option the Council may wish to consider.

8.4 Leeds City Council require the nominated signatory to the call in to have contacted the relevant Director and Cabinet Member to have tried to resolve the concerns and discussed any relevant issues in an effort to try and resolve matters. This is an attempt to ensure that

all has been done to try and avert a call in. In practice they have found this works well and could prove advantageous in averting the need for the call-in if the query can be easily resolved. There has certainly been one of the 3 most recent call ins in Kirklees that would have benefitted from this and could have avoided that particular call in. The call in pro forma has a specific section to record details of the discussion and concerns and points raised and must be included.

8.5 York Council has amended its call in procedure in October 2015 and now has a pre-decision call in and a set procedure to follow contained in their constitution. This is as well as a post decision call in. Any decision can be called in on any basis as there are no parameters to limit the basis contents of the call in. This has reduced the number of post decision call ins but has shifted the emphasis to pre-decision. Effectively it places more emphasis on scrutiny of the Forward plan once published. In practice this is still resource intensive and results in a significant number of decisions being called in pre-decision without any assessment of the contents or strengths of the reasons for call in.

9. Validity of Call in notice

9.1 Call in is not appropriate simply because councillors disagree with the decision made or having been unsuccessful in changing the decision at Cabinet they want a review to see if Scrutiny might support their point of view and recommend amending the decision. Valid grounds should be based on a flawed decision making process that does not adhere to the decision making principles in the Constitution. Any alleged flaw should be supported by evidence which is made available at the time the notice is submitted

9.2 In Kirklees the Assistant Director Legal, Governance and Monitoring must determine if it is a valid call in notice. However currently the grounds of validity are limited and focus on having complied with the pro forma and timescale requirements. In the interests of natural justice there should be clarity for all parties of the reasons for a call in. The reasons should relate directly to a breach of the decision making principles and be supported by evidence.

10. Conclusions

10.1 It is apparent that practice is varied across the country and locally, but there are still a number of similarities. In terms of statistics relating to the number of call ins that Kirklees has, it is not disproportionate for the size of the council and political make up.

The review has highlighted some areas at Kirklees where practice could be improved especially in relation to pre-decision. This would be in furtherance of the guidance to the legislation which envisaged that call ins would be used rarely.

Pre decision

10.2 Whilst conducting the review it was clear that placing more emphasis on pre-scrutiny would benefit members as this provides members with an opportunity to challenge and consider reports before decisions are made, especially in regard to controversial or significant decisions. This could result in a lower amount of call ins if members followed the procedure.

This would mean that members are acting in a pro-active way and the contents of a report could be examined in a non-political and constructive manner.

Validity of Call In

10.3 Grounds - Having considered previous call ins and the grounds for requesting the review it is clear that requests have either not supplied evidence or in some cases the request has lacked sufficient detail to evidence how the decision has not been made in accordance with the decision making principles. This is an area that could benefit Members

by strengthening the call in procedure as it could ensure that the OSC are clear about the exact basis for the call in. This would make sure that the requests are not too wide and that the hearings are limited to the specific basis of the call in request. It would enable proper consideration as to the validity and content of the actual request which is not part of the current procedure. This could mean requests which are not sufficiently detailed or evidenced could be rejected.

It is also not apparent how the member has raised concerns and contributed to the decision making process prior to the decision being made, in line with the constitution and call in procedure.

10.4 Consultation - When the call in is requested there is a requirement set out at Section 18.4 which states “...*All efforts should be made to consult with the Chair of the Overview and Scrutiny Management Committee.*” In recent years this step has not been followed but if it was included then it could form a useful role in enabling the Chair of Scrutiny to comment on the concerns in light of any previous scrutiny involvement in the issue.

In light of practice elsewhere, Members may wish to consider whether it would be advantageous to add to the procedure a requirement for the nominated signatory to the call in to have contacted the relevant Director and Cabinet Member to try and resolve the concerns through discussion of the relevant issues. Having considered previous call ins there was one call in that would have benefitted from this and negated the need for the review, as in essence the request related to terminology contained in a report and how it had been defined. If members are minded to insert this caveat then the call in procedure and pro forma would require amendment to include this.

Call in Hearing

10.5 Format - In practice it was clear that all local councils had an outline hearing procedure that was adapted on a case by case basis. This allowed for flexibility depending on the circumstances of the review. In terms of procedure the most popular approach was a concise one to ensure that matters were kept to the specific grounds of the call in and did not stray into irrelevant areas. In brief, the procedure at the hearing in most cases began with the nominated signatory giving evidence, followed by cabinet holder with responsibility and any relevant officers and then the Panel to ask questions.

Another useful tool could be altering the current hearing procedure to make it more streamlined. A copy of the current procedure is attached at Appendix 5. It would be suggested that the amended procedure would be as outlined above and an example of a possible new procedure is attached at Appendix 6. It seeks to streamline and focus the process whilst allowing the Committee considering the call in to hear the salient facts from all parties.

10.6 Role of the public - Most if not all, councils gave a very limited opportunity for the public to contribute at this section or just before the Panel begin its scrutiny.

During the review it was evident that management by the chair is essential to ensure the public remain focused upon the relevant grounds and that they understand the purpose of the review and its limitations. It is suggested that guidance provided to the public may assist in this regard and would be a helpful tool in providing the information prior to the hearing and managing expectations, which would also assist the Chair.

Decision Making Principles

10.7 An area that has been highlighted during the review and is something that has risen from previous call ins, is to ensure that the Panel is clear that they are required to consider whether constitutionally the decision has complied with the decision making principles in Article 13. Issuing guidance to members about the extent of their powers would help to

ensure that there is a consistent interpretation when conducting the call in review. This would enable the Panel to be unambiguous in its role and understand that Scrutiny is limited to considering the specific grounds of the call in and ensuring that it is in line with the decision making principles as set out in the constitution. It would also be plain to Members who had brought the call in that Scrutiny is not there to substitute a different decision simply because they believed the wrong decision had been made or that a particular option had not been considered. Rather the Scrutiny Panel are restricted to considering whether constitutionally the decision has complied with the decision making principles. Producing a guidance note to the OSC members could be informative in this regard.

11 Conclusions and proposals:

11.1 Following consideration of the approach to call in Kirklees in light of the feedback received and the findings of research, the following proposals are put forward for consideration:

- a. That a reminder be issued to members which;
 - Highlights the importance of pre scrutiny
 - may reduce necessity for call in post decision scrutiny
 - encourages consultation with the Chair of Scrutiny in line with current procedure at time of call in
- b. That a revised call in procedure be developed which;
 - extends the requirement for validity of a call in
 - requires specific evidence or sufficient detail relating to the decision making principles
 - is sufficiently detailed for full and proper analysis
 - Requires nominated signatory to try and resolve issues prior to call in
 - enables Panel to narrow the issues
 - may reduce the length of hearings
 - places importance upon resolution
- c. That the call in pro forma be revised to:
 - Include the changes to the call in procedure
 - include the decision making principles
 - include a requirement to have tried to resolve concerns about a decision prior to the decision being made with the relevant Director and Cabinet Portfolio Holder.
 - include more detail about reasons and supporting evidence where appropriate
 - provide sufficient details in order to fully assess the validity of the call in
 - demonstrate that constitutional procedure has been followed
- d. That guidance be produced for the public to:
 - help the public understand the purpose and limitations of the call in
 - manage expectations
 - support the Chair in the management of the hearing
- e. That guidance be produced for Scrutiny members on how to consider the review in accordance with the decision making principles in the constitution which:
 - ensures consistent interpretation
 - provides helpful information in order to narrow the issues when considering the call in request
- f. That the OSMC agree a revised call in hearing procedure which is more streamlined and simplifies the current procedure.

12 Implications for the Council

12.1 Early Intervention and Prevention (EIP)

There are no implications

12.2 Economic Resilience (ER)

There are no implications

12.3 Improving Outcomes for Children

There are no implications

12.4 Reducing demand of services

There are no implications

12.5 Other (eg Legal/Financial or Human Resources)

There are no significant resource issues in making the changes recommended, however streamlining procedures and adding further detail when considering the validity of the call in will impact by reducing the time and resources spent on call ins. Investing in pre scrutiny will avert the more intensive use of resources which can increase costs when holding lengthy call-in meetings.

Legal Implications:

The procedure for call ins currently meets the legislative requirements of the Local Government Act 2000 and the suggested amendments do not alter this. The legal implications arising from this report would be some minor constitutional changes depending on the response from members.

The constitutional amendments would include slightly altering the call in procedure in relation to the submission of the call in the requirements and validity of the call in. Minor amendments to the current pro forma to accommodate those changes would need to be included.

Once a view has been reached at Corporate Governance and Audit, the consequent constitutional amendments will be worked up and follow the appropriate decision making pathway.

13. Consultees and their opinions

The views of consultees are attached at appendix 7 of the report

14. Next steps

Once a view has been reached at Corporate Governance and Audit Committee, the consequent constitutional amendments will be worked up and follow the appropriate decision making pathway.

15. Officer recommendations and reasons

That the Committee consider the research findings set out in the report and the proposals put forward at section 11 and determine next steps.

16. Cabinet portfolio holder's recommendations

Not applicable

17. Contact officers

Samantha Lawton Samantha Lawton – Senior Legal Officer
Penny Bunker - Governance and Democratic Engagement Manager

18. Background Papers and History of Decisions

1. Local Government Act 2000 and Model Constitution Guidance
2. Centre for Public Scrutiny – Practice Guide; Key Decisions and Power of Call In – June 2014
3. Northern Ireland Assembly – Briefing Paper - Call In Operation in England and Wales – February 2014

Appendices:

1. Kirklees Call in procedure
2. Local Call-In Information Table
3. Leeds pro forma
4. Kirklees pro forma
5. Call in meeting procedure
6. Draft new call in meeting procedure
7. Consultee Views

19. Service Director responsible

Julie Muscroft - Service Director Legal, Governance and Commissioning

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Call- In Procedure

All councillors have the power, through overview and scrutiny, to “call in” any decision made by cabinet. The call-in period, during which no decisions can be implemented, commences the day after the decision is taken and lasts for 5 working days, ending at 5.30pm.

All efforts should be made to consult the Chair of Scrutiny at the earliest opportunity.

When a valid notice of call-in has been received, all action to implement the decision is suspended for two weeks from the end of the call-in period (5 working days after the date of the Cabinet decision). The Assistant Director Legal Governance and Monitoring has discretion, under section 18 of the Overview and Scrutiny Procedure rules to extend the period during which the appropriate Scrutiny Panel must meet.

During this period Scrutiny must meet and will be given access to all papers considered by the Cabinet and be able to question relevant council officers and Cabinet Members. If required, Scrutiny can also hear evidence from all interested parties including Councillors and members of the public.

Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.

A good reason is required such as a contract or other legal process needs to be implemented immediately, or funding could be lost if the decision is suspended immediately, or funding could be lost if the decision is suspended for two weeks because it has been called in.

Written notice on the Pro-forma must be given to the Assistant Director, Legal Governance and Monitoring as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma and guidance information will be made available from the Governance Team.

A decision can be called in by:-

- Either, 5 non-executive councillors
- Or, 2 Members of the Overview and Scrutiny Management Committee or Overview and Scrutiny Panel for Health and Social Care, one of whom should be the Chair

Decisions may be exempt from Call-In, if implementation is needed urgently and the Chair of Overview and Scrutiny has given prior approval. (This is a separate requirement to that relating to key decisions not included in the Forward Plan).

At the Call-in Hearing, the Overview and Scrutiny Management Committee will consider very carefully the issues raised by the notice of call-in and listen to the views and supporting evidence from the signatories to the call-in, the council's decisions makers, Councillors of the authority and members of the public.

NB: Planning decisions and judicial matters cannot be called in.

How to Call-In a Decision

STAGE 1

Identify decision you believe has not been made in accordance with Council's Decision-Making Principles

**CHECK – are you in the Call-In period?
Is it an urgent 'waived' decision?**

Stage 1

Council's Decision-Making Principles:

- Due regard to all relevant considerations and disregard of irrelevant factors
- Proportionality
- Lawfulness and financial propriety and prudence
- All due consultation
- Taking of professional advice from officers
- Respect for human rights and application of Human Rights Act 1998
- Presumption in favour of openness
- Clarity of aims and desired outcomes
- Ability to explain options considered and reasons for decisions

STAGE 2

Advise Chair of Scrutiny

Stage 2

All efforts should be made to advise the Chair of Scrutiny at the earliest opportunity.

STAGE 3

Complete Call-In Notice ensuring correct number of signatories, clear explanation of reason for call-in, and proposals for alternative course of action

Stage 3

Call-In proforma can be obtained from councillors' part of website or from Governance Team.
To be valid, the Call-In notice must have the necessary number of signatories and must state the reasons for calling-in the decision.

NOTE: Options for signatories:

- 5 non-executive councillors
- 2 members of Overview & Scrutiny Management Committee or Overview and Scrutiny Panel for Health and Social Care (including Chair)

STAGE 4

Submit completed Call-In notice to Assistant Director: Legal Governance and Monitoring

Stage 4

Call-in notice must be submitted on the Pro-forma (hard copy or electronically) to Assistant Director: Legal Governance and Monitoring
A copy should also be sent to:
Chief Executive
Chair of Scrutiny
Governance and Democratic Engagement Manager

Call-In Procedure

Decision Taken
(By Cabinet)

The Call-In Period Commences

(Commences the next working day following the Cabinet meeting)

Call-In Period Ends

(5 working days **after** date of Cabinet decision, ending at 5.30pm)

If prior agreement from Chair of Scrutiny that decision is urgent, then no option for call-in and decision takes effect immediately

If no call-in is received, the decision can be implemented immediately

Valid Call-In Received by Assistant Director: Legal Governance & Monitoring
(Completed pro forma detailing: signatures of all signatories; and specifying reasons for calling-in decision)

Implementation of Decision Suspended
(For 2 weeks from end of call-in period)

Overview and Scrutiny Management Committee Meets to Review Decision
(Usually within two weeks of the call-in being received, unless exceptional circumstances agreed by Assistant Director, Legal Governance and Monitoring)

Decision Referred Back to Cabinet (With recommendation for amendment)

Decision Freed for Implementation

Decision Referred to Council
(Only if not consistent with budget or policy framework)

Cabinet Meets

It can:

- Accept scrutiny recommendation and amend decision
- Defer decision for further work
- Not accept scrutiny recommendation and confirm decision
- Refer issue for discussion at Council

Council Meets

It can:

- Decide decision within existing budget and policy framework and free for implementation
- Decide decision is contrary to budget and policy framework but agree to decision being implemented
- Decide decision is contrary to budget and policy framework and require Cabinet to reconsider

Call in – Local Council Information Table

	Bradford	Leeds	Calderdale	Wakefield	York	Barnsley
No of Call ins	Average 3 or 4 per year	None since May 15	3-5 per year	*Nil – last one 2008	10 -15 per year in previous 2 years	*Nil – last one 2008
Pro forma Used	No – accepted on email as long as reasons stated	Yes	Yes	No – accepted on email as long as reasons stated	No	Yes
Who instigates call in	Chair of OSC must call in when requested by one member	2 non exec Mbrs (not from same political group) Or 5 non exec Mbrs (one should be nominated signatory)	Any 3 members but one must be member of scrutiny panel within whose remit the decision falls	Chair or any 3 members of committee within whose remit the decision falls	Any 3 members	Any Elected member (not cabinet) supported by 4 other members
Timescales	3 working days	5 working days	7 working days	5 working days	By 4pm within 2 working days	By 4.30pm within 4 working days
Who is Notice given to	City Solicitor	Request to Scrutiny Officer (Head of Scrutiny and Member Development)	Head of Democratic and Partnership Services (in consult with Ch call meeting)	Chief Exec (in consultation with Chair)	Assistant Director of Governance	Chief Exec – who will then copy to relevant Exec Dir and always to Head of Leg and Gov

Which decisions can be called -in Necessary ?	Decisions of Executive, or exec decision of area ctte	Decisions of exec board, H & Wellbeing board and key decisions by officers	Cabinet, Cab Mbr, Ctee of Cab, area cttee or joint arrangements	Cabinet. Key decision of officer with auth of Cabinet	Any decision	Cabinet Decisions
Method of notifying call in	-	Pro forma must contain original signatures of those calling in decision ** Prior to call in nom sig must contact relevant officer or exec member to discuss concerns and reasons for wanting to call in decision - no sig must ascertain financial conseq to authority for Call in and must be detailed on pro forma	No reference	- Refers to valid	Written notice signed by members	Form – Must have Reasons why wish to review the decision and propose alternative solution – can email

*- Barnsley and Wakefield both have one party with a strong majority

CALL IN REQUEST – Option (b)

A Call In request may be made by:

Two non-executive Members of council if they are not from the same political group

Date of decision publication:.....

Delegated decision ref:or

Executive Board Minute no:

Decision description:

.....

.....

.....

Discussion with Decision Maker:
Prior to submitting a Call In, a nominated signatory must first contact the relevant officer or Executive Member to discuss their concerns and their reasons for wanting to call in the decision. Part of this discussion must include the Member ascertaining the financial implications of requesting a Call In.

Please identify contact and provide detail.

Director/author of delegated decision report.

Executive Board Member

Detail of discussion (to include financial implications)

.....

.....

.....

.....

.....

.....

.....

.....

.....

Leeds City Council Scrutiny Support Unit

The following signatories request that the above decision be called in:

1) Signature.....	Political group.....
Print name	

2) Signature.....	Political group
Print name.....	

This form should be submitted to the Head of Scrutiny and Member Development (Scrutiny Support Unit, 1st Floor West, Civic Hall) by **5.00pm on the fifth working day after the decision publication date**. The office is open from 9.00am to 5.00pm.

(For further information on the Call In procedure please refer to the Scrutiny Support Unit intranet site, or contact the Unit on 39 51151).

For office use only: (box A)		
Received on behalf of the Head of Scrutiny and Member Development by:		
.....(signature)		
Date:	Time:	SSU ref:

For office use only: (box B)	
Exemption status checked: <input type="checkbox"/>	Call In authorised: Yes / No
Date checked: <input type="checkbox"/>	Signed:
Signatures checked: <input type="checkbox"/>	Date:
Receipts given: <input type="checkbox"/>	
Validity re article 13 <input type="checkbox"/>	
Receipt details:	

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NOTICE OF 'CALL IN' TO OVERVIEW AND SCRUTINY

We, the undersigned, give notice of our wish to refer the decision of Cabinet, made at (insert item number and name of decision) of the agenda considered at the meeting on (insert date), to Overview and Scrutiny for review under the 'call in' procedure contained in section 19 of the Overview and Scrutiny Procedure Rules. (For information follow link to relevant section of the constitution <http://bit.ly/y3h4cJ>)

We regard the Cabinet's decision to (provide details of the decision made by Cabinet and provide a brief overview as to why it is felt the decision should be called -in)

In addition we believe that the decision made by Cabinet is a breach of the following sections of Article 13.2 of the Council's Constitution, which states that the following principles should apply to decision making: (Delete as appropriate and leave those that you do not believe were applied)

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

IN PARTICULAR

(in this section please state in detail the reasons for calling-in the decision and why you are requesting a review)

ADDITIONAL INFORMATION AND/OR RECOMMENDED COURSE OF ACTION

(In this section please provide any additional information that you feel may help the Scrutiny Panel in reviewing the decision including where appropriate recommending an alternative course of action(s).

DATED: (Insert date call-in notice issued)

SIGNED: (Must be signed by either: 5 non-executive councillors OR 2 members of the Overview and Scrutiny Management Committee (one of whom must be the chair) OR 2 members of the relevant Scrutiny Panel (one of whom must be the chair))

Please submit completed notice to: Assistant Director: Legal, Governance & Monitoring and send a copy to the Chief Executive, the Chair of the Overview and Scrutiny Management Committee and the Governance and Democratic Engagement Manager. Page 269

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Call-In Hearing Timetable
(Title of report)

Meeting		Timetable
1.	Welcome by Chair of Committee	10.00 am*
2.	Opening Statement by signatories to the Call-In - the signatories' spokesperson will outline the reasons for Call-In	10.05 am
3.	Clarification by Committee Members - Panel Members raise issues of clarification with signatories to the Call-In	10.20 am
4.	Opening Statement by Decision-Makers - the relevant decision-makers, with support from appropriate officers, will outline the reasons for their decision and the issues that they took into account (this could include the Leader of the Council and/or the relevant portfolio holder)	10.35 am
5.	Clarification by Committee Members - Panel Members can raise issues of clarification with the decision-makers	10.50 am
6.	Public Participation (Councillors) - councillors who are not signatories may attend to give evidence on issues raised by the Call-In (up to 5 minutes each) - Panel Members may seek clarification on points raised by councillors	11.10 am
7.	Public Participation (Public) - members of the public may attend to give evidence on issues raised by the Call-In (up to 5 minutes each – it is recommended that pressure groups are represented by 1 speaker) - Committee Members may seek clarification on points raised by members of the public	11.30 am
BREAK		11.50 am
8.	Committee Questions - Committee Members can ask any outstanding questions of the decision-makers	12.20 pm
9.	Signatories to the Call-In have the opportunity to identify any outstanding questions through the Chair. The Chair will then look to the decision-makers to respond to the Panel on those issues.	12.40 pm
BREAK – COMMITTEE WITHDRAW TO FORMULATE DECISION		1.00 pm (Lunch) Committee reconvene at 2:30 pm
10.	Committee reconvenes to read out their decision and the reasons for this, which will be in accordance with the Council Procedure Rules: (1) take no further action and free the decision for implementation (2) refer it back to the Cabinet with recommendation/s for amendment (3) in exceptional circumstances, refer to the next Council (only if the decision is not in line with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Head of Legal Services.)	

*please note that the timings are for guideline purposes only and are subject to change on the day

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**Call-In Hearing Timetable
(Title of report)**

Appx 6

Meeting		Timetable
1.	Welcome by Chair of Committee	
2.	The lead signatory to the Call-In will explain his/her concerns as set out in the Notice of Call-In	
3.	Public Participation - members of the public may attend to give evidence relevant to the grounds of the Call-In (up to 5 minutes each – it is recommended that pressure groups are represented by 1 speaker)	
4.	Cabinet Member will respond to the concerns raised by the Signatories and public with support from appropriate officers and will explain the reasons for the decision and the issues that Cabinet took into account	
5.	Clarification by Committee Members - Committee Members can raise issues of clarification throughout the process	
BREAK – COMMITTEE WITHDRAW TO FORMULATE DECISION		
6.	Committee reconvenes to read out their decision and the reasons for this, which will be in accordance with the Council Procedure Rules: (1) take no further action and free the decision for implementation (2) refer it back to the Cabinet with recommendation/s for amendment (3) in exceptional circumstances, refer to the next Council (only if the decision is not in line with the budget or any policy previously agreed by the Council. This can only be done with advice from the relevant senior officers and the Head of Legal Services.)	

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Consultee Comments on Proposals for the Call In Process in Kirklees

Overview and Scrutiny Management Committee

1. Proposals for Call In process in Kirklees Council

The views of the Overview and Scrutiny Management Committee on the proposals set out in the Call In process report were as follows:

Pre Scrutiny

The OSMC supported the proactive use of pre scrutiny of significant decisions prior to the Cabinet decision being taken. Whilst this would not guarantee that an item wouldn't be called in, it would enable discussion in a cross party arena and could highlight issues that may otherwise have been identified through call in. It was felt that timely pre scrutiny work had the potential to save both Councillor and officer time.

Consulting Chair of Scrutiny

The requirement for the lead call in councillor to consult with the Chair of Scrutiny should remain. The Chair of Scrutiny should have the opportunity to discuss the reasons why the councillor feels the decision should be called in. Where possible, the OSMC Lead Member for the area under review should also have the opportunity to consider the call in request with the Chair of Scrutiny.

Evidencing how concerns have been raised prior to call in

The OSMC saw the merits of the approach taken in some local authorities which required the lead call in councillor to meet with the Director and Cabinet portfolio holder to try to resolve the issues prior to issuing the call in notice. However, the OSMC had concerns about the limited time in which a call in could be submitted and the ability to hold a meeting in that period. The OSMC supported an alternative suggestion that the lead councillor should demonstrate as part of the call in proforma, what steps he/she had taken to resolve their concerns prior to the decision being made and call in.

Validity – OSMC supported the redesign of the call in pro forma. This should include clarity around the interpretation of the decision making principles so officers and members have a shared understanding of what they mean.

Validity should not just be based on following the process requirements , ie use proforma, submit in deadline etc it should be about the appropriateness of the grounds. Call in grounds should set out the “real issues” and not simply be about not liking a decision.

The OSMC felt that there was a need to ensure that the grounds for call in are supported by evidence which is provided with the call in proforma.

Call In Hearings – The OSMC agreed it could streamline hearings and would give consideration to the most appropriate approach to the meeting for each call in received.

In line with practice in other authorities, a meeting to consider a ward specific decision may take a different format to a decision that affected all area of Kirklees.

Involving the Public - the OSMC felt that past feedback indicated that the public valued the opportunity call in hearing gave them to put forward their views and concerns about a decision. Contrary to some councils, OSMC felt it was very important that it heard from the public. It was recognised that more could be done to try and ensure that the public contribution relates to the grounds of the call in. The OSMC agreed that it could strengthen the guidance given to the public to clarify what can and cannot be considered at a call in meeting. However, the Council must recognise that the public will not necessarily understand the nuances of governance processes and it is not always possible to ensure that all contributions totally adhere to the areas under consideration.

Comments of Cabinet (Leadership Team)

The Team was supportive of the proposal that signatories to Call In requests should provide evidence of the steps they had taken to discuss their concerns with the relevant Cabinet Portfolio Holder and Senior Management with a view to resolving the situation.

The Team felt there should be an opportunity for Cabinet Portfolio Holders to challenge assertions made by Members of the Public/Councillors at the Call In meetings. It was suggested that the Portfolio Holder should be able to ask for an explanation on matters where he/ she felt that clarification was required.

It was the view of the Team that lines of enquiry at call in hearings should be restricted to consideration of the issue on which the Call In was requested. Hearings should not stray into other areas.

The Team felt it would be useful if a guidance note was produced for circulation to members of the public and Councillors on how Scrutiny Call In meetings operate, which includes a list of do's and don'ts in terms of the way business should be transacted.

Comments of Group Leaders (Leading Members)

Some concerns were expressed on proposals to strengthen what constituted a valid call in and the need for the provision for supporting evidence, however , overall, it was agreed that the call in proposals should be rolled into a more fundamental proposal regarding the future operation arrangement for scrutiny in Kirklees.

Name of meeting: Corporate Governance and Audit Committee

Date: 12 May 2017

Title of report: Proposed Dates of Council – 2017 to 2018 Municipal Year

Purpose of report:

To seek a recommendation to Council in respect of the proposed dates and times for meetings of Council for the 2017-2018 municipal year

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports) ?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name	
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	N/A
Is it also signed off by the Service Director - Legal Governance and Commissioning	Yes 4.5.17
Cabinet Member portfolio	Not applicable

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or Private Status: Public

1. Summary

Council Procedure Rule 2 (1) advises that the dates of ordinary Council Meetings in each Municipal Year will be determined by the Council following recommendations made by the Corporate Governance and Audit Committee.

Council Procedure Rule 5(1) states that there shall be two types of Ordinary meeting of the Council, one which focuses on Holding the Executive to Account, and the other for Key Discussions. No less than four ordinary meetings must be designated as Holding the Executive to Account.

The following dates/times are proposed, all meetings to be held in Huddersfield Town Hall at 5.00pm.

The meeting of Annual Council, scheduled for 23 May 2018, will commence (with a civic ceremony) at 12.30pm.

Date	Council Meeting
2017	
Tuesday 11 th July	Holding Executive to Account
Wednesday 20 th September	Key Discussion
Wednesday 11 th October	Holding Executive to Account
Wednesday 15 th November	Key Discussion
Wednesday 13 th December	Holding Executive to Account
2018	
Wednesday 17 th January	Key Discussion
Wednesday 14 th February	Budget Council
Wednesday 21 st March	Holding Executive to Account
Wednesday 23 rd May	Annual Council

2. Information required to take a decision

Not applicable

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

Not applicable

3.2 Economic Resilience (ER)

Not applicable

3.3 Improving Outcomes for Children

Not applicable

3.4 Reducing demand of services

Not applicable

4. Consultees and their opinions

Leading Members (The report submitted to Corporate Governance and Audit Commit for comment, prior to submission to Council)

5. Next steps

Feedback from the Committee on the content of the report will be included in the submission to the meeting of Annual Council.

6. Officer recommendations and reasons

That the schedule of Council meetings for 2017-2018, as set out within the considered report, be endorsed and submitted to Council with a recommendation of approval.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Andrea Woodside, Governance Officer

9. Background Papers and History of Decisions

Not applicable.

10. Assistant Director responsible

Julie Muscroft, Legal, Governance and Monitoring

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