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

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Thursday 7 September 2017

Notice of Meeting

Dear Member

Corporate Governance and Audit Committee

The **Corporate Governance and Audit Committee** will meet in the **Meeting Room 1 - Town Hall, Huddersfield** at **11.00 am** on **Friday 15 September 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 Carole Pattison
Councillor Kath Pinnock
Councillor Linda Wilkinson
Councillor Ken Sims
Councillor Nigel Patrick

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
D Bellamy
J Dodds
V Lees-Hamilton
G Wilson
D Firth
J Taylor

Green

K Allison
A Cooper

Independent

C Greaves
T Lyons

Labour

E Firth
C Scott
M Sokhal
S Ullah
S Hall
S Pandor

Liberal Democrat

J Lawson
A Pinnock

Ex Officio Members

Councillor G Turner - Cabinet Portfolio Holder (Resources)
Councillor M Khan - Cabinet Portfolio Holder (Resources)
Councillor A Marchington – Chair of Standards Committee

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: Minutes of Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 4 August 2017.

3: Interests

7 - 8

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.

4: 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.

5: 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.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Annual Corporate Emergency Planning and Business Continuity Report 9 - 12

To receive the report.

Contact: Sean Westerby, Emergency Planning and Continuity Manager

8: Information Governance Annual Report 13 - 66

To receive the report.

Contact: Katy Deacon, Information Governance Manager

9: Corporate Customer Standards Annual Report 2016-2017 67 - 98

To receive the report.

Contact: Chris Read, Corporate Customer Standards Officer

10: Changes to Procedures - Dismissal of Statutory Officers 99 - 122

To consider the report.

Contact: Samantha Lawton, Senior Legal Officer

11: Code of Corporate Governance 123 - 132

To consider the report.

Contact: Samantha Lawton, Senior Legal Officer

12: Arrangements for selecting an external auditor for the year 2018/19 and onwards

133 - 136

To consider the report.

Contact: Martin Dearnley, Head of Audit and Risk

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Friday 4th August 2017

Present: Councillor Hilary Richards (Chair)
Councillor Carole Pattison
Councillor Linda Wilkinson
Councillor Ken Sims
Councillor Nigel Patrick

Apologies: Councillor Julie Stewart-Turner
Councillor Kath Pinnock

1 Membership of the Committee

Apologies for absence were received on behalf of Councillors K Pinnock and Stewart-Turner.

2 Minutes of Previous Meetings

RESOLVED – That the Minutes of the Meetings held on 21 April and 12 May 2017 be approved as a correct record.

3 Interests

Councillor Pattison declared an 'other' interest in Agenda Item 12 on the grounds that she is a Governor at Royds Hall Community School.

Councillor Richards declared an 'other' interest in Agenda Item 12 on the grounds that she is a Governor at Crow Lane Primary School.

4 Admission of the Public

It was noted that Agenda Item 12 (Minute No. 12 refers) would be considered in private session.

5 Deputations/Petitions

None received.

6 Public Question Time

No questions were asked.

7 Appointment of Independent Person

The Committee gave consideration to a report which sought approval for the appointment of an Independent Person to assist the Monitoring Officer in the application of the Code of Conduct and Standards Regime, following a review of the role which had been endorsed by Council on 26 April 2017. The report advised that, following the review, the role had been developed and expanded and now included becoming a consultee as to whether an investigation should take place, in addition to taking decisions with the Monitoring Officer in regards to (i) whether a complaint should proceed for early dismissal and whether it is valid and (ii) whether there has been a breach of the Code of Conduct at the informal resolution stage.

The Committee were advised that due to the changes to the standards process, the position of Independent Person was advertised in June 2017, and following a recruitment exercise, Michael Stow was selected as the successful applicant by both the Monitoring Officer and the Chair of Standards Committee, subject to the approval of Council. The Committee were asked to endorse the recommendation of the appointment of Michael Stow to the meeting of Council on 13 September 2017.

In discussing the report, the Committee were advised that the advertisement of the role had indicated that there would be remuneration of a £500 annual allowance, plus expenses. It was requested that the submitted report be amended to provide some detail on the proposed Independent Person, providing a summary of his background experience.

RESOLVED – That that report be submitted to the meeting of Council on 13 September 2017, with the recommendation that Mr Michael Stow be appointed as the Independent Person for a period of two years.

8 External Assessment of Internal Audit, as required by Public sector Internal Audit Standards

The Committee gave consideration to a report which set out details of the process for the external assessment of internal audit. The report indicated that it was necessary for an assessment of the Council's compliance with Public Sector Internal Audit Standards to be carried out every five years, by an independent person or organisation. It advised that the West and South Yorkshire Audit Group had committed to providing the assessment, on a mutual basis, and that it was proposed that the Head of Internal Audit at Wakefield Council be asked to carry out the assessment, in accordance with the mutually agreed scheme. The Committee were informed that, whilst securing the assessment was the responsibility of the Head of Internal Audit, there was also a requirement to agree the scope with a sponsoring person, which it was noted would be the Chair of the Committee.

The Committee noted that the assessment needed to be undertaken by the end of the financial year in order to comply with the timeframe requirements. The report advised that, in anticipation of an agreement to join the mutual arrangement, Kirklees had already provided an assessment for Doncaster Council. It was also noted that Internal Assessor would attend a future meeting of the Committee to provide a report on the outcome of the assessment.

RESOLVED – That approval be given to the use of the South West Yorkshire Audit Group mutual scheme as provider of the 5 years audit assessment, on the grounds of known quality and cost.

9 Council- Final Accounts Update - 2016/17

The Committee received a report which provided an update on the final accounts and audit processes for 2016/2017. The report explained that the draft accounts had been signed on 26 May 2017 and that subsequently the financial statements audit work had been undertaken and was substantially complete. The six week public inspection period ran until mid July, during which time two objections were raised by local electors. The Committee were informed that the first objection, which was accepted by KPMG on 17 July 2017, related to the lawfulness of the Council's Lender Option Borrower Option loans on the Council's balance sheet. The second objection, which was yet to be formally accepted, related to the lawfulness of the three of the Council's Private Finance Initiative Schemes. The report advised that, due to the amount of time it was likely to take KPMG to investigate, conclude and report on the objections, it was not expected that they would be in a position to complete the 2016/2017 audit, and provide an audit opinion, before the statutory deadline of 30 September 2017.

A letter from KPMG Audit, which was appended to the considered report, set out the current position with regard to the anticipated timeline for completion, and highlighted key matters arising to date, including a position statement on (i) the objections to the accounts in accordance with the Local Audit and Accountability Act 2014 (ii) Financial Statements and audit work and (iii) Value for Money conclusion work.

The Committee discussed and noted the content of the report, particularly in regards to the implications of the objections and the impact upon the closure of the accounts. It was noted that once the matter had been concluded, a further report would be submitted to a future meeting of the Committee.

RESOLVED –

- 1) That it be noted that the audit work on the 2016/17 Financial Statements is substantively complete.
- 2) That it be noted that two objections were raised within the public inspection period, one of which still has to be formally accepted by KPMG, subject to completion of their initial review.

- 3) That, pursuant to (2) above, the information provided regarding KPMG's timeline for the likely completion of the audit and provision of audit opinion be noted.

10 Annual report on bad debt write-offs, 2016-17

The Committee received a report which set out details of debts that had been written off during the 2016-2017 financial year, in accordance with the requirement for the submission of an annual consolidated report of all written off debts. A summary schedule of the debts that had been written-off over the past twelve months was submitted at Appendix A of the considered report.

The Committee noted that, overall, debts written off in 2016-2017 totalled £5.8m which, as a percentage of debt raised in the year, equated to 1.4%, which compared to 1.7% in the previous year. It was noted that Council Tax arrears were falling and that collection was rising year on year, with arrears falling by 25.8% since 2014/15. The report explained that the Council would use all available powers to recover any outstanding amounts, and ensured that debts were pursued to maximise recovery.

The Committee welcomed the reduction in the debts, but asked that information be provided which would reflect the position over the past five years, and also a comparison with other similarly sized Local Authorities.

RESOLVED - That the report be received and noted.

11 Exclusion of Public

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

12 Internal Audit - Quarterly Report (Quarter 1)

(Exempt information within Part 1 of Schedule 12A of the Local Government Act 1972, namely that the report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making).

The Committee received a report which set out information on internal audit activity, including details of investigations that had been undertaken, in the first quarter of 2017/2018. The Committee noted the outcomes of the investigations, and discussed in detail the [report](#) relating to Children's Services. It was agreed that if progress in relation to this [matter](#) was not identified within the next quarterly report, which was

Corporate Governance and Audit Committee - 4 August 2017

due for submission on 17 November 2017, an Officer representing the service should be asked to attend the meeting for further discussion.

RESOLVED –

- 1) That the Internal Audit Quarterly Report (Quarter 1) be received and noted.
- 2) That, in regards to the details of the investigation relating to Children's Services, it be requested that in the event that the Head of Audit and Risk is not satisfied with the changes and progress made, a relevant Officer be asked to attend the meeting of the Committee at the reporting of Quarter 2.

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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

Date: September 2017

Title of report: Annual Corporate Emergency Planning and Business Continuity Report

Purpose of report

The purpose of this report is to provide an update on emergency planning and business continuity issues and developments for the financial year 2016/17. The report will assist with corporate understanding, and may create an additional incentive for senior managers to ensure that plans are kept up to date.

This report is for information only.

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 Strategic Director & name	Richard Parry – 21/08/2017
Is it also signed off by the Service Director - Finance, IT and Transactional Services?	-
Is it also signed off by the Service Director - Legal Governance and Commissioning?	-
Cabinet member portfolio	Cllr Viv Kendrick

Electoral wards affected: None

Ward councillors consulted: None

Public or private: Public

1. Summary

Authors: Sean Westerby and Martin Jordan (Kirklees Emergency Planning Team)

Report Recipients: Chair and members of the Corporate Governance and Audit Committee

Additional Information: This is the second Corporate Report on Emergency Planning and Business Continuity submitted to the Corporate Governance and Audit Committee.

Introduction and background

Several pieces of legislation drive emergency planning and business continuity, most notably the Civil Contingencies Act (CCA) (2004). The CCA places 7 core duties on Local Authorities (as a Category 1 Responder) including the duty to assess the risk of emergencies occurring; the duty to put in place emergency plans and the duty to put in place business continuity management arrangements. In addition to the legislative requirement, ensuring that the Council holds valid Emergency and Business Continuity Plans and arrangements makes good business sense.

Key points

The financial year 2016/17 was once again, a productive and challenging year for the Emergency Planning Team. This report will summarise the three most significant headline developments and issues within each discipline.

Emergency Planning – headline developments

- The Team continued to embrace the concept of New Council in all aspects of their work. The Team recognised that over future years, time and work pressures are likely to lead to Officers having less time to attend formal and structured training. Therefore, to ensure that Officers remain competent in their resilience roles, the Team has developed a comprehensive e-learning package, available on MiPod. The package enables Officers to work through a suite of modules at a time convenient to them. Currently 58 Officers named in the Council's Major Incident Plan have part or fully completed the e-learning package (this equates to 66%).
- The Team continued to be very active within the local resilience community, chairing three of the seven sub groups within the West Yorkshire Resilience Forum. The Team embraced and embedded the new Joint Emergency Services Interoperability Principles (JESIP – national best practice for multi-agency emergency management) into their plans and arrangements. The Team also began to use and embed the Resilience Direct System into Emergency Planning and response procedures (Resilience Direct is a secure web portal for emergency responders to share plans and jointly manage incidents). The Team continued to demonstrate excellent compliance towards Emergency Preparedness, Resilience and Response (EPRR), scoring 98% compliance in the 2016/17 EPRR assurance process.
- The Team trained and exercised over 700 Kirklees Officers in several aspects of emergency planning in 2016/17. Training included role specific training (e.g. – logging and strategic leadership training), subject specific training (e.g. – Project Griffin and lockdown training) and holistic emergency planning training.

Emergency Planning – headline issues/concerns

- National Threat Level – The National Threat Level for a terrorist attack is currently at 'Severe'. This means that an attack is highly likely. An attack in Kirklees would have a significant lasting impact on the district.
- New Council – As teams change in size, remit, budget and capabilities through the transition to New Council, it is important that the Emergency Planning Team remain fully briefed on any changes to ensure plans and arrangements remain valid and emergency planning, response and recovery are not impacted.

- Changes within External Partner Organisations – Similar to the Council, many partner responding organisations are undergoing changes that are affecting their size, remit, budget and capabilities. These changes may impact on multiagency working both in peacetime and during emergencies.

Emergency Planning – incidents/exercises

- In the year 2016/17 the Team was involved in the planning, response and/or recovery to/from over 45 significant emergencies and planned events in Kirklees. These emergencies and events included the murder of Jo Cox MP and the associated events that followed; flooding at various locations across the district; the response and recovery from the Lockwood waste site fire; and various utility disruptions affecting Kirklees residents and vulnerable establishments. All learning from incidents has been included in relevant emergency plans and arrangements to improve future responses. The integration of lessons identified into emergency plans and arrangements is a well-established process within the Emergency Planning Team.
- The Team led six large Emergency Planning exercises in the year 2016/17. These exercises were based around a number of issues, including flooding, evacuation and outbreaks of disease.

Business Continuity – headline developments

- The Council's Corporate Business Continuity Framework and the Service Level Business Continuity Plan template were amended to reflect changes to legislation, guidance, best practise and learning from business disruptions and exercises. This has further increased the resilience of the Council to business disruptions.
- As the Council continued its transition into New Council, the Emergency Planning Team assisted several Services to significantly amend, and in many cases, re-write their Business Continuity Plans to ensure they remain fit for purpose.
- In June 2016, the annual Service business continuity assurance process (a process to assess each Service's compliance towards the Council's standard for business continuity – aligning to the main principles of ISO 22301) revealed an average compliance score of 87%. This was an improvement of 3% from the previous year's score.

Business Continuity – headline issues/concerns

- Business Continuity Facilitation – The Emergency Planning Team believe that without regular prompts, advice and assistance (from Emergency Planning), Service Business Continuity Plans and arrangements will quickly become out of date and business continuity training and exercises would, not in the main be undertaken.
- Lack of Time to Undertake Business Continuity – Many Services are reporting that they lack the time needed to complete a full business continuity planning process. The Emergency Planning Team recognises this and dynamically tailors the full planning process to suit the time allocation given by each Service to ensure plans and arrangements are still comprehensive and robust.
- New Council – During the transition to New Council, many Services are changing in their responsibilities, processes, structure and staffing. It is important that the Emergency Planning Team is kept up to date with planned and scheduled changes to ensure that they can work with Teams to ensure Business Continuity Plans and arrangements remain current and valid. It is also important that new and existing contactors and third parties hold valid Business Continuity Plans and arrangements (particularly for contracts where the legislative duty for delivering the activity will fall back to the Council).

Business Continuity – incidents/exercises

Business disruptions reported by Services in 2016/17 included utility failures and other similar premises issues, issues with contracted Services and suppliers and significant IT loss.

The Emergency Planning Team continues to work with Services to ensure Business Continuity Plans are exercised in accordance with the requirements set out in the Business Continuity Policy. In the year 2016/17, the Emergency Planning Team delivered 12 Business Continuity Exercises to Services*. The Team also delivered a small Business Continuity exercise to the Councils strategic Officers as part of planned Emergency Planning training.

*Several Services activated their Business Continuity Plans during the December 2016 IT outage, and therefore weren't required to test their plan through an exercise.

2. Information required to take a decision

Not Applicable

3. Implications for the Council

Robust, flexible and tested emergency planning and business continuity arrangements are vital to protect the health, safety and well-being of Kirklees residents, community cohesion, the finance and the reputation of the Council.

4. Consultees and their opinions

This report has been consulted and approved by the Service Director for Policy, Intelligence and Public Health (Rachel Spencer-Henshall) and the Strategic Director for Adults and Health (Richard Parry).

5. Next steps

The Emergency Planning Team will continue to develop emergency planning and business continuity both in Kirklees and in West Yorkshire. The Team will remain current with changes to legislation, guidance and best practise and will continue to debrief and identify lessons following significant emergencies, exercises, events and business disruptions.

6. Officer recommendations and reasons

That the report be noted.

7. Cabinet portfolio holder's recommendations

Not applicable

8. Contact officer

For further information on this report please contact Sean Westerby (Emergency Planning and Business Continuity Manager) or Martin Jordan (Senior Emergency Planning Officer) via the Council switchboard (01484 221000) or via sean.westerby@kirklees.gov.uk or martin.jordan@kirklees.gov.uk

9. Background Papers and History of Decisions

The Emergency Planning Team has previously submitted one report to the Corporate Governance and Audit Committee. This report can be provided on request by Sean Westerby or Martin Jordan.

10. Service Director responsible

Rachel Spencer-Henshall



Name of meeting: Corporate Governance & Audit Committee
Date: 15th September 2017

Title of report: Information Governance Annual Report 2016/17

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
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name Julie Muscroft, Service Director for Legal, Governance and Commissioning	Yes – 5 th May 2017
Cabinet member approval	Cllr Graham Turner

Electoral [wards](#) affected: N/A
Ward councillors consulted: N/A

Public or private: Public

1. Purpose of report

To report on the main Information Governance events and activities for the year 2016/17 including:

- Information Governance matters
- Information access requests under the Freedom of Information Act 2000,
- Environmental Information Regulations 2004
- Subject access requests made under the Data Protection Act 1998.
- An outline of the improvements and developments planned for 2017/18, particularly in the context of supporting the organisation to achieve compliance with the new General Data Protection Regulation

This report is for information and comment.

2. Key points

Information governance should be seen in the context of wider corporate governance. The way in which we utilise, manage, retain, share and dispose of our information are the core components of robust information governance. It assists the council to reach a point where

information and data becomes an asset and an enabler to the council and its communities. It is the foundation of delivering our wider intelligence vision.

This report seeks to set out the breadth of activity and challenges in the context of information governance as a whole. By way of an overview, headline actions include:

- Ongoing work and continued monitoring of information requests
- Work intended to improve the information governance culture within the organisation and minimise risk from non-compliance, including:
 - Reviewing policies, guidance and frameworks
 - Promoting and updating awareness through learning and development
 - Implementing initiatives to improve information security
 - Delivering projects to update procedures for records management
 - Review information security incidents to identify Council Services where additional training and support is required
 - Reporting performance of the Council Services with respect to Information Access requests to the Information Governance Board

3. Implications for the Council

In the context of wider corporate governance it is important that the Council has a strategic approach to information governance that ensures legislative compliance whilst realising the opportunities and benefits of robust practice.

4. Consultees and their opinions

Members of the Information Governance Board were consulted on the contents of the attached report and endorse the information and proposals contained therein. The Annual report was considered by the Information Governance Board on May 5th 2017 who noted the report and agreed that the report should be considered by Corporate Governance & Audit Committee

5. Next steps

The learning from the last 12 months and planned activity for the next reporting period (as set out in the Annual Report) will form the basis of the work programme for the Information Governance Board with a clear focus on compliance with the new General Data Protection Regulation. This work will be closely aligned to the strategic objectives of the council in the context of the Corporate Plan.

6. Officer recommendations and reasons

That Corporate Governance and Audit Committee note and comment on the Information Governance Annual Report 2016/7

7. Contact officer and relevant papers

Katy Deacon – Information Governance Manager
Lindsay Foody – Information Access Officer
Julie Muscroft – Service Director for Legal, Governance and Commissioning
Carl Whistlecraft – Head of Democracy

Information Governance Annual Report

2016/17

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Executive Summary

This Information Governance Annual Report sets out how the Council has performed throughout 2016/17 in the following areas:

- **IG Toolkit** – Updating on the Councils compliance with the NHS IG Toolkit accreditation standards
- **Legislation** - Reporting on the Council's achievements against legislation including Freedom of Information Act 2000, Environmental Information Regulations 2004, Data Protection Act 1998 and Local Government Transparency Code 2014
- **Data Sharing** - Outlining how the Council is moving towards a more joined-up organisation between Services and with Partners through the establishment of an effective Data Sharing culture
- **Information Security Incidents** - Reporting on the annual record for Information Security Incidents and what action is being taken to ensure Council information continues to be held securely
- **Governance** - Explaining the progress which has been made around formal governance for the Information Governance Framework across the Council
- **Training and Awareness** – Outlining the Information Governance training for all members of staff and users of the Council's IT system
- **Communications** – Providing an update on how Council-wide culture change is being implemented through ongoing communications initiatives to all members of staff

An outline is also provided for the work programme for 2017/18, to enable Members to understand how this important topic is being further developed and embedded within the Council.

There have been significant achievements throughout the year including:

- Achievement of the Level 2 Accreditation for the NHS IG Toolkit with a score of 71%
- The ongoing achievement of Open Data legislation requirements
- Development of the Information Governance Action Plan to improve policy, implementation and understanding of IG matters across the organisation

These achievements required the collaboration of Officers from all Directorates and partners from across the region. These examples of strong and joined-up working practices provide confidence for the future development of the Information Governance culture within the Council.

The Information Governance Board would be grateful for any comments from Members on the content of this report and ideas of what items Members would find useful to have included in future Information Governance Annual Reports.

Introduction

Information Governance (IG) brings together all of the requirements, standards and best practice that apply to the handling of information on all media. It allows the Council to manage information in an appropriate, efficient and secure manner that balances the importance of maintaining confidentiality and individual privacy at the same time as promoting openness and transparency.

The Council has five core pillars of IG:

- **Records Management** including email - to ensure the Council effectively manages and uses its paper and digital records
- **Publication and Transparency** - the council should adopt a strategic and shared approach to developing a publication scheme that is up to date, relevant and easy to navigate, which will involve a council wide approach, centrally co-ordinated, to manage and publish relevant information
- **Information Sharing and Processing** - to enable Services to meet statutory duties and support integrated services and joint commissioning
- **Legislation compliance** with regards to Data Protection, Environmental Information and Freedom of Information
- **Organisational Culture Change** - Services develop their Information culture and effectively allocate responsibilities for Information Assets within their Service.

Having effective Information Governance practices:

- assists with the effective use of our information assets
- enables effective information sharing, generating useful intelligence streams
- creates an effective and dynamic organisation
- instils confidence in the citizens of Kirklees
- contributes to the management of risk
- helps officers protect the Council's reputation
- helps avoid statutory penalties

In order to achieve effective Information Governance practices the Council uses the tools within its Information Governance framework. This framework ensures that the organisation and individuals have information that is accurate, meets legal requirements, is dealt with effectively and is secure. This is an important foundation for the Intelligence requirements of the new Council.

The Information Governance Framework has five fundamental aims:

- To support and promote the effective and appropriate use of information
- To encourage responsible staff to work together, preventing duplication of effort and enabling more efficient use of resources
- To develop support arrangements and provide staff with appropriate tools and support to enable them to discharge their responsibilities to consistently high standards
- To enable the Council to understand performance relating to information use and manage improvement in a systematic and effective way

- To enable the effective sharing of information across Council Services and with partners

The Framework currently encompasses:

- Data Protection Act 1998
- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Local Government Transparency Code 2014
- Information Governance Strategy which incorporates
 - Information Governance Policies
 - Information Sharing Policies and Guidance
 - Records Management Policies and Guidance
 - Information Security Policies and Guidance

The IG Framework and its corresponding Strategy is updated annually to reflect the changes required to develop IG to support Intelligence in the New Council.

Background

Information Governance is a dynamic area in terms of regulation with a range of new and amended requirements each year.

Prior to 2012 the Council's focus on Information had essentially been driven by legislation compliance, including the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004. The Information Access Team had been established for a number of years to co-ordinate and manage the requests for information from the public and their responses from Services.

In 2012 the Council appointed the position of Information Governance and Senior Support Manager. Part of this role was to take stock of the Council's Information Governance landscape and help the Council develop an Information Governance framework.

In 2013 it was identified that in order to have a consistent and Council-wide approach to Information Governance a Director-led Board was required. This Information Governance (IG) Board was established and is chaired by the Council's Senior Information Risk Officer (SIRO). The Terms of Reference for the Board are updated annually and can be found in Appendix A.

There follows a summary of the work carried out over the 2016/17 financial year.

Work completed through 2016/17

NHS IG Toolkit Accreditation

In 2014/15 it was identified that in order to establish, strengthen and maintain partnership relations with national government and the NHS, the Council would have to annually prove their IG credibility by achieving the IG Toolkit to a level 2 accreditation level.

For Local Authorities this Toolkit focuses on the following topic areas:

1. Information Governance Management
2. Confidentiality & Data Protection Assurance
3. Information Security Assurance
4. Care Records Assurance

Achieving this standard requires significant resource investment and compliance with rigorous IG standards by the whole organisation. The level 2 accreditation was achieved in 2015/16 with a score of 66%. The same level 2 accreditation is required for 2016/17 but with an increased score which shows the organisation is 'working towards level 3'.

This increased score was achieved by Council services and in March 2017 the council submitted the toolkit evidence with a score of 71%.

Data Protection

The topic of Data Protection is primarily focussed on the safe keeping of personal data about individuals rather than Council data. This is a very high priority for the Council and its partners, as they serve a diverse range of people and therefore data protection relates to a significant volume of data across the Council.

Data protection requests are currently managed centrally from Governance & Democratic Services within the Information Governance Team and also within some specific service areas. In 2016 Children and Young people Services appointed to a full-time Access to Records Officer post, this is the part of the Council which receives the bulk of the subject access requests in terms of volume. The published figures for data protection requests, known as Subject Access Requests (SARs), show an increase of 10% on last year from 187 in 2015/16 to 205 in 2016/17.

The response rate by Kirklees Council to these requests has decreased slightly from 81% compliance in 2015/16 to 80% compliance in 2016/17. This is well below the ICO's required compliance rate of 90% within 40 calendar days. More detail on these figures can be found in Appendix B.

Disclosures

In addition to the Subject Access Requests received by individuals, the Council is committed to assisting the law enforcement agencies in their investigations whilst still achieving compliance with the Data Protection Act 1998. These requests are termed Disclosures.

There are no measured response deadlines for Disclosures; however the Council uses the SAR response deadline measurement of 40 days to assist with monitoring performance around disclosures.

In 2016-17 the Council received 436 disclosure requests which is an increase of **52.45%** on the number received in 2015-16 (286), and achieved a 91% response rate within 40 days, which is an improvement on the 84% rate in 2015-16

General Data Protection Regulation (GDPR)

In May 2016 a new Regulation was passed for Data Protection which brings all European countries into line. The GDPR comes into force in May 2018. Many of the concepts and principles of the Data Protection Act (DPA) are the same within the GDPR however there are some new elements and some significant enhancements, so the Council will need to approach data protection differently in order to remain compliant.

The GDPR places greater emphasis on the documentation that the Council, as a data controller, must keep to demonstrate their accountability. Compliance with GDPR will require the Council to review our approach to information governance and how we must manage data protection as a corporate issue.

The Information Governance Board started work in 2016/17 to adapt policies, increase training, identify all information assets and strengthen arrangements with partners to ensure the Council remains compliant with the new legislation. Further information about GDPR can be found in the [Legislation Changes](#) section of this report.

Freedom of Information Act 2000 & Environmental Information Regulations 2004

This section details how the Council has performed throughout the 2016/17 year in respect of information access requests received and processed under the Freedom of Information Act 2000 (Fol) and Environmental Information Regulations 2004 (EIR).

The Act and the Regulations require public authorities, including the Council to reply to information requests within 20 working days - either providing the information or saying why it cannot be provided.

The Council received 1,636 requests during 2016-17 which is 139 more than the number received in 2015-16, which is a 9.3% increase.

The Council's compliance rate for responding to requests has reduced to 81% which is below the Information Commissioner's Office (ICO) current minimum standard of 85% and well below the new expectation that 90% of responses should be sent out within deadline.

Compliance rates have fluctuated greatly over the 12 months, ranging from 68% in February 2017 up to 89 in July; July saw the second highest monthly volume of requests received.

The average response time for 2016-17 was, at the time of writing, 17.08 days although some requests remain open and within date.

The increase in the volume of requests received is, for the first time, not a common theme across most of the West Yorkshire Council's, Kirklees has the highest, increase at 9%, with two of the other West Yorkshire Council's seeing increases of 4% and less than 1%.

Cost of Fol requests

The cost of Fol responses has been a discussion point for a number of years. During the year, the Finance Department analysed the work required to complete an FOI request. Using this analysis, the Council estimates the average cost of responding to Fol requests is £267.08 per request. This results in an estimated cost of responding to FOI requests at £436,946.96.

Internal reviews and Complaints

The number of internal reviews carried out of the responses to requests has increased significantly on the previous year, from 38 in 2015-16 to 80 in 2016-17. The Council needs to ensure that internal reviews are concluded in a more timely manner.

The number of complaints made to the ICO has increased by 6, from 8 in 2015-16 to 14 in 2016-17. The ICO did not take any regulatory action against the Council in any of the cases they have made a decision on to date. One ICO Decision Notice from 2015-16 was appealed to the First Tier Tribunal (Information Rights) in 2016-17 but withdrawn by the Appellant prior to hearing.

The IG Board reviews Fol response figures each month, which helps raise the profile of any specific difficulties when they arise.

More detail on the Fol and EIR response rates for 2016/17 is included in the Freedom of Information Act 2000 and Environmental Information Regulations 2004 Annual Report in Appendix C.

Open Data

The Local Government Transparency Code 2014 was initially published in May 2014 replacing the Code of Recommended Practice for Local Authorities on Data Transparency, first published in September 2011. The Code sets out the minimum data that local authorities must publish and data that the Government recommends local authorities to publish.

The regulations came into force in October 2014. At the same time the Department for Communities and Local Government [DCLG] published a revised version of the Code including some notable changes as well as a further recommendation that local authorities go further than its requirements and provide additional datasets with more detail. The Transparency Code has not been updated since 2015. During

2016, DCLG carried out a consultation on proposed changes to the Code. Since the consultation, there has been no updates made to the Code.

The code has two elements; information which must be published and information that is recommended for publication. In 2016, Kirklees Council published data and information, where available, to meet the mandatory requirements of the code. We also started to obtain data & information that would meet the recommended elements at this point.

For 2017, this local emphasis on requesting data that meets the recommended element of the code has continued and some compliance improvements from 2016 have been made.

The continued focus on the recommended requirements is in preparation for a future anticipated request for all authorities to meet the recommended criteria.

The full detail of the situation up to the end of 2016/17 can be found in Appendix D.

Data Sharing

To achieve effective, streamlined services, both internally and with partners, it is vital that the information held is shared effectively and in line with the Data Protection Act. There are a range of reasons why data must be shared and there are also legislative reasons why data must not be shared. It is very important that the culture of the Council is focussed on achieving a modern and efficient approach to information whilst maintaining data security and ensuring data sharing uses established legal gateways or the full consent of the individual. It is the role of the Information Governance team within the Council to perform the enabling role required by Council Services to ensure data can be shared with colleagues and Partners.

This is essential for the future as the organisation will be working more closely with community partners to commission and deliver joined services which require sharing personal information. In order to achieve these requirements, it is important that Information Governance is considered within all arrangements to enable effective and legal data sharing between Council Services and also between the Council and Partners.

Whenever data is shared, there must be an agreement in place which identifies the requirements of the data sharing exercise and also the potential legal gateways which are being utilised, or a full record of consent by the individuals concerned, if Personal Data is being shared.

On a wider scale the Council is one of the 45 signatories to the West Yorkshire Inter-Agency Information Sharing Protocol. This protocol sets out the requirements for the signatories to utilise when sharing information between each other, which makes the sharing process much more effective and efficient.

Information Security

There were 56 Information Security incidents reported in 2016/17. These incidents are recorded by the Information Governance Team and each incident was raised to Senior Managers for assessment against criteria for reporting to the ICO. Each of these incidents is investigated and training and communications implemented to mitigate against repeated incidents of these types.

Following assessment, none of these incidents were considered to meet the criteria which require a referral to the ICO.

Governance

Throughout 2016/17 the IG Board has worked through a clear IG Action Plan, particularly focussed around the 2016/17 IG Strategy and the requirements of the IG Toolkit.

There is now more corporate understanding of Information Governance and the opportunities it presents. We have strong commitment from the New Council Transformation budget to put in place more resources to develop the IG culture and facilitate Services to establishing robust IG practices. At the end of the year Agilisys, a national IG consultant, was commissioned to come in and begin work with the IG team to develop a strong IG Strategy, Records Management Plan, Publication and Transparency framework and establish an organisation Information Asset Register.

The IG Board has an established approach to policy review which means that all of the IG related policies are reviewed and updated annually at the IG Board. These Policies form part of the Information Governance Framework which provides the foundation for the Council's intelligence work.

The IG Board performs a council-wide, strategic role for Information Governance, with three task groups which report up to the board having performed more of the operational tasks for IG. The three task groups review the appropriate IG policies before they are taken to the IG board as well as:

- Information Security Task Group – overseeing all information security incidents and information sharing or processing agreements
- IG Implementation Task Group – overseeing IG Toolkit requirements, Publication arrangements and links to Intelligence
- Records Management Task Group – setting standards for records management, overseeing the Central Council Archive and ensuring retention schedules are updated.

Training and Awareness

Having a strong culture of Information Governance is vital to the success of many Council activities going forward and IG training is now mandatory for all Kirklees Council employees, councillors, volunteers, contractors or other individuals who may have access to council data

The mandatory training has been developed in a number of formats to ensure that every individual working within the Council can access IG training as required. A new approach to IG Training has been developed towards the end of the year. This will ensure all users of IT equipment will be required to complete regular training on IG topics or policy updates.

Communication

Colleagues from the Communications and Marketing Team sit on the IG Board and form part of the Task Groups implementing the Action Plan. A Communications Plan is well established, and links closely to the IG training approach to ensure relevant and targeted messages are released across the Council.

Information Risk Management

Information Risk encompasses all the challenges that result from an organisation's need to control and protect its information. Poorly managed information could lead to a material impact on the Council's operation. Information risks can affect the Council:

- financially
- operationally
- they can damage reputation
- they can lead to regulatory sanctions

The purpose of information risk management (IRM) is to reduce the Council's information risks to an acceptable level and to keep them under control in a manageable way, rather than try to eliminate them entirely. The IG Board has a standing agenda item for IRM, which means that any identified risks are highlighted and resulting action agreed, to keep the risk manageable and mitigating actions effective.

Information Governance Resources and Budget

2016/17 has seen a step change in the approach the Council has towards Information. The approval of the Intelligence Vision for New Council came with the recognition that to have a successful Intelligence Hub requires robust IG practices across the organisation.

As part of this change, the IG Team has received New Council Transformation funding to create a new post, Information Governance Officer, and appoint three IG Officers and an additional two Business Support staff on a temporary basis until December 2018.

These Officers were appointed in January 2017 and have specific responsibilities for:

- Information Sharing and Information Security
- Records Management and Central Archive
- Legislative Compliance and Publication

This increased resource will also help support the legislation changes with the introduction of GDPR in 2018.

In addition to the funds for increased resources, the Transformation Fund has also paid for the commissioning of an IG Consultant, Agilisys, who will help develop the IG approach through 2017/18. Funds have also been provided for senior management training, specifically around the role of Information Asset Owner and Senior Information Risk Owner.

Work Programme for 2017/18

Legislation Changes

The General Data Protection Regulation (GDPR) comes into force in **May 2018** and replaces the current Data Protection Act (1998). Many of the concepts and principles of the Data Protection Act (DPA) are the same within the GDPR however there are some new elements and some significant enhancements, so the Council needs to approach data protection differently as an organisation.

The GDPR places greater emphasis on the documentation that the Council must keep to demonstrate their accountability. Compliance will require the Council to revisit our approach to information governance and emphasises how we must manage data protection as a corporate issue.

The legislation expands the potential for breaches and increases the possible fines from £500,000 under the Data Protection Act to **£20,000,000** under GDPR.

GDPR applies to ALL personal information collected and used. It places greater emphasis on:

- the documentation that the Council must keep to demonstrate accountability
- the explicit consent obtained in order to use and share personal information
- the speed the Council must respond to requests for personal information (from 40 days to 30 days)
- the ability of the council to DELETE all personal data about an individual if requested
- reporting all information security incidents over a set threshold to the ICO within 72hours
- having a full, clear and up to date view on what personal information is held by the Council, and which organisations this information is shared with
- updating and communicating information use to the public through privacy notices
- holding a thorough and current information processing log for all appropriate contracts
- appointing a Data Protection Officer, focussing on Data Protection, operating independently and reporting to the Chief Executive
- ensuring Data Protection by Design across all Service areas utilising Privacy Impact Assessments for all projects

Key work areas for development

To achieve compliance with GDPR and enable the success of the Councils Intelligence Vision, the following activities will be continued through the 2017/18 financial year:

- The strategic leadership and management of IGM for the Council is prioritised and implemented

- The principles of the intelligence vision will be applied to information management itself using the Information Asset Register.
- The Information Asset Owners will manage use of the information within their areas of responsibility to ensure information sharing is carried out in an effective manner, compliant with the Information Sharing Policy
- Information Asset Owners will ensure that the Information Asset Register is maintained for their areas of responsibility
- The knowledge within reports created by Services for decisions at Cabinet are made available to the Intelligence Hub and re-used to support a more intelligent Council.
- The publication of information is carried out by all services in an open and transparent way, enabling the Intelligence Hub and the wider public to have access to data sets to produce efficient services for residents.
- The Records Management Plan, will be developed in accordance with the Model Records Management Plan requirements of the Keeper of Records Scotland, and will be implemented across all Services to ensure the Councils records are logged and managed effectively in compliance with the Records Management Policy.
- An Archive will be created at the Red Doles Lane site, which will eventually contain all paper records which the Council holds.
- An Email Management Strategy is implemented across all users to ensure email records are maintained consistently and non-essential emails are regularly deleted in compliance with the Records Management Policy
- Training for all employees will be available to ensure a robust IGM culture is embedded throughout the organisation.

Achieving these actions will support the work to develop the intelligence culture for the council and ensure the Council is making strong progress to remain compliant with the new General Data Protection Regulation.

Conclusion

The work across the Information Governance Framework has achieved considerable momentum throughout 2016/17. This has included increased promotion of IG through Comms messages and awareness raising for managers.

The strengthened New Council position on Intelligence has meant that having a robust IG foundation has become a priority. This has brought in resources and funding to commission external support for some large development projects.

The IG Pillars of Information Sharing, Publication and Records Management are now coming into view, with projects planned for implementation in 2017/18 which will make a significant difference to bringing robust IG focus to Council processes going forward.

These developments cannot be made without considerable collaboration between Council Officers from all Directorates. The cross-service working demonstrated through IG activities in 2016/17 has been incredible and there has been a fantastic team effort to make it all happen so successfully. This needs to be continued throughout 2017/18 to build the strong IG foundation, which will enable the Council to develop into an Intelligent organisation.

The Information Governance Board would be grateful for any comments from Members on the content of this report and ideas of what items Members would find useful to have included in future Information Governance Annual Reports.

Appendices

Appendix A – IG Board Terms of Reference

Information Governance Board

Terms of Reference

(Updated March 2017)

Purpose

The Information Governance Board provides a framework and strategic steer to the organisation in relation to Information Governance. The Board ensures that the Council safely uses its information assets to deliver its priorities and objectives legally, securely, effectively and efficiently.

The Board will:

- Develop and promote robust and consistent Information Governance practices across the Council;
- Embed the Kirklees Information Governance Framework throughout the organisation;
- Support and Advise the Council, Contractors and Partners on IG related matters
- Address Information Security risks and establish a risk management framework;
- Establish, monitor and enforce legal compliance with regards to Information Governance including authorising and approving Data Sharing Agreements;
- Promote and support a transparent information culture;
- Develop and implement Council-wide communications around Information Governance and associated training.
- Support, advise and challenge Services on the implementation of and compliance with associated/relevant legislation and Council policy;
- Ensure the organisation complies with statutory requirements set out by the Information Commissioners Office (ICO).
- Research and advise on relevant new legislation in relation to FOI, EIR, Data Protection, Open Data, Information Security and Records Management;
- Identify and provide organisational development arising from new/amended policies/procedures and assist services in response to changing legislation;
- Support Services to share information with partners effectively and securely and to process information in a legal and safe manner.

- Develop and promote a transparent information culture across the Council, with an aim to having 90% of the Council's non-personal information in the public domain;
- Develop and implement Council wide communications around Information Governance and associated training.

Governance

The **Senior Information and Risk Owner** will chair the Information Governance Board. The SIRO has organisational responsibility for all aspects of Information Governance, including the responsibility for ensuring that Kirklees Council has appropriate systems and policies in place to maintain the security and integrity of Kirklees Council's information. The SIRO will consult with the Board to obtain guidance in relation to Information Governance decisions.

The **Caldicott Guardian** will be a member of the Board acting as the 'conscience' of an organisation. The Guardian actively supports work to enable information sharing where it is appropriate to share, and advises on options for lawful and ethical processing of information. The Caldicott Guardian also has a strategic role, which involves representing and championing confidentiality and information sharing requirements.

Information Governance Manager (IGM)

The IGM is responsible for providing specialist advice and support on all aspects of Information Governance and is also responsible for reviewing the policy and ensuring it is updated in line with any changes to national guidance or local policy.

Terms of Engagement

- Frequency of meetings – every two months
- Attendance at meetings to be substituted by representatives as required, ensuring all Directorates are represented.
- The Board will provide updates to the Executive Team, Management Board, Corporate Governance and Audit Committee, the Cabinet Member responsible for Information Governance and Cabinet as appropriate.
- The Board will be Chaired by Julie Muscroft, Senior Information Risk Owner and Assistant Director for Legal, Governance and Monitoring
- The Information Governance and Senior Support Manager will co-ordinate the Board meetings, generate the agenda on consultation with the Chair and distribute papers
- Representatives from all work areas will sit on the board, with non-members being invited to present papers as appropriate

- Communications Strategy – the Communications Plan is updated on a monthly basis in line with developments across the organisation

Review

The Board will review the relevance and value of its work on an annual basis.

Working methods

The Board will have a strategic overview of the Information Governance framework across the organisation. This includes

- Legislative requirements – including FOI, EIR, Data Protection and Transparency
- Information Security
- Incident Reporting
- Records Management
- Information Sharing and Processing
- Organisational Culture, Training and Development
- Open and Transparent Publication

IG Sub-Groups

The Board will oversee a range of sub groups, each with an individual mandate for operation and performance. In 2017/18 these will include:

- Information Governance Implementation Team – Focussing on the GDPR compliance, the IG Toolkit conformance and Integrated Intelligence
- Records Management Team – Focussing on updating policies and guidance, overseeing and supporting the creation of the Central Archive and supporting the update of the council's retention schedules
- Information security team - Focusing on updating policy, approving information sharing agreements, creating a council-wide incident reporting matrix and developing an organisational approach to information security incidents.

Board membership

The Board is made up of Council Officers, with all Directorates represented. The 2017/18 membership is outlined in Appendix A

Appendix A

Information Governance Board Membership 2017/18

Chair -	Julie Muscroft (SIRO) – Assistant Director, Legal, Governance and Monitoring
Commissioning & Health Partnerships	Saf Bhuta (Caldicott Guardian) – Directorate Lead for Performance, Intelligence and Business Systems
Governance & Democratic Services	Carl Whistlecraft – Head of Governance & Democratic Services
	Katy Deacon - Information Governance & Senior Support Manager
	Lindsay Foody – Information Access & Security Officer
IT -	Andrew Brammall – Head of IT and Change
	Terence Hudson – IT Operational Manager
Audit -	Simon Straker – Audit Manager
Customer & Exchequer Services	Steve Bird – Head of Welfare & Exchequer Services
	Julian Hobson – Policy Officer
HR -	Maureen Manson – HR Officer
Learning & Organisational Development	Alison Monkhouse – Principal Strategic Liaison Officer
Communications -	Helen Rhodes – Senior Communications Officer
Safe & Cohesive Communities	Tim Cornwall – Service Improvement Manager
Public Health -	Sean Westerby – Emergency Planning & Business Continuity Manager
Investment & Regeneration	Adele Buckley - Head of Regeneration, Environment and Funding
	Jane Lockwood – Procurement Strategy and Advice Manager

**Data Subject Access Requests
Data Protection Act 1998**

Annual Report 2016-17

Executive Summary

This report details how the Council has performed throughout 2016-17 in respect of requests for access to personal information received and processed under the Data Protection Act 1998 (DPA).

During 2016-17, Kirklees Council received 18 more requests (a 10% increase) for access to personal information than it did in the previous 12 months, increasing from 187 in 2015-16 to 205 in 2016-17.

The Council's performance in terms of compliance with the legislative timescales decreased slightly from the previous year, from 81% to 80%. The number of requests responded to within the statutory 40 calendar day timescale allowed under the DPA is well below the ICO's minimum expectation of 90% compliance.

The Council's performance in terms of the time taken to respond to requests appears to have improved slightly when looking at the average response time for dealing with requests; it was 32.7 days in 2016-17 compared with 35.9 days in the previous year. This does remain within the statutory 40 calendar day timescale allowed under the DPA and where the Council has not been able to respond within the statutory deadline this is generally because the requests are complex and voluminous. One case dealt with this year comprised 35 files and there were a couple of other which had 20+ files.

The compliance rate is of concern in the lead up to the implementation of the General Data Protection (GDPR) which is the new data protection legislation which comes into force on 25 May 2018; the GDPR will see the time for compliance drop from 40 calendar days to 1 month. During 2016-17 the Council responded to just 57% of requests within 30 calendar days.

The DPA does not provide for an extension of time to deal with requests. It is worth noting that the ICO does not take mitigating factors such as public holidays or lack of resources into account when making decisions about regulatory action to be taken. The Council does still need to make significant improvements to ensure that information and records are managed efficiently and effectively and resources are available to ensure compliance with the legislative timescales. It also needs to make sure that it advises applicants as soon as it is known that there may be a delay and keep them informed of progress.

Regionally, from the West Yorkshire Councils which have submitted annual figures, Kirklees is the only Council which has seen an increase in the number of requests, three other Councils having had between 4% and 20% less than in the previous year.

Guidance on dealing with requests for access to personal information continues to be reviewed and shared with officers dealing with requests.

Lindsay Foody
Information Access & Security Officer

3 May 2017

Contents:

1. Introduction

2. Summary of the Legislation

3. Kirklees Context

4. Statistics:

- a. Numbers of Requests
- b. Time Taken to Respond to Requests
- c. Requests by Directorate
- d. Outcomes

5. Information Commissioner

- a. Powers
- b. Complaints Received re Kirklees

1. Introduction

This report discusses the main events of the year 2016-17 in relation to requests made under the Data Protection Act 1998, along with recommendations for improvements to the processes.

2. Summary of the Legislation

[Section 7](#) of the Data Protection Act 1998 (DPA) gives individuals important rights including the right to know what information is held about them and the right to correct information that is wrong. The Act helps to protect the interests of individuals by obliging organisations to manage the personal information they hold in an appropriate way.

The DPA sets out eight principles governing the use of personal data with which data controllers must comply unless an exemption applies:

- **Principle 1 – Personal data shall be processed fairly and lawfully**
This means that any personal data collected by an organisation must be provided with the consent of the individual. To be seen as acting fairly, the organisation collecting personal data must be transparent and ensure individuals are fully informed and understand what will happen to their personal information.
- **Principle 2 – Personal data shall be obtained for one or more specified and lawful purpose(s)**
This means that collected information must only be held and used for the reasons given to the Information Commissioner’s Office (ICO) and the individual. Personal information must not be processed in any manner incompatible with the original purpose(s).
- **Principle 3 – Information collected must be adequate, relevant and not excessive**
This means that all data collected must be necessary to complete the needs of the data controller, who should not ask for or hold any personal data that is outside their concern. They will be in breach of the Data Protection Act if they hold data irrelevant to their purpose(s).
- **Principle 4 – Information collected must be accurate and up to date**
Data controllers must make every effort available to ensure the information they use is accurate. Inaccurate use could result in misrepresentation on behalf of the individual.
- **Principle 5 – Information must not be held for longer than is necessary**
The Data Protection Act states that a data controller must not hold onto data for any longer than is necessary. Retention schedules should be in place and records held

(including personal data) review regularly and any information no longer needed should be securely destroyed or archived as appropriate.

- **Principle 6 – Information must be processed in accordance with the individual’s rights**

This includes:

- A right of access to a copy of their information which is held;
- A right to object to processing their data;
- A right to prevent processing for direct marketing;
- A right to have inaccurate personal data rectified, blocked, erased, or destroyed;
- A claim to compensation for damaged caused by a breach of the Act.

- **Principle 7 – Information must be kept secure**

Data controllers have a duty to ensure personal information held is kept securely and appropriate technical and organisational measures taken to prevent unauthorised access and accidental loss, disclosure, destruction of or damage to it. Significant monetary penalties may be incurred for data protection breaches.

- **Principle 8 – Information should not be transferred outside the European Economic Area unless adequate levels of protection exist.**

This means that any personal information held by a data controller must not be stored overseas, unless adequate safe harbouring laws are met.

3. Kirklees Context

The Council maintains five register entries as data controllers:

Kirklees Metropolitan Council	Z575071X
Electoral Registration Officer For Kirklees Metropolitan Council	Z605248X
Superintendent Registrar for Kirklees Metropolitan Council	Z4939146
Kirklees Youth Offending Team	Z5437178
Returning Officer for Kirklees Metropolitan Council	ZA060314

The Council also maintains the register entries for its 69 Councillors who are Data Controllers in their own right in their capacity as Ward Councillors.

The Information Access Team, which manages the process of receiving and responding to requests made to the Council under information access legislation, changed in December 2016/January 2017 from one full-time Information Access & Security Officer and three part-time Business Support Officers to one full-time Information Access & Security Officer, 2 full-time Information Governance Officers, one part time Information Governance Officer and two part-time Business Support Officers

The Team sits within Governance & Democratic Services, part of the Assistant Directorate of Legal, Governance & Monitoring.

The Information Access Team works with a network of Co-ordinators located within the different service areas across the Council in order to collate information requested. In May 2016, Children’s social care appointed to full-time Access to Records post.

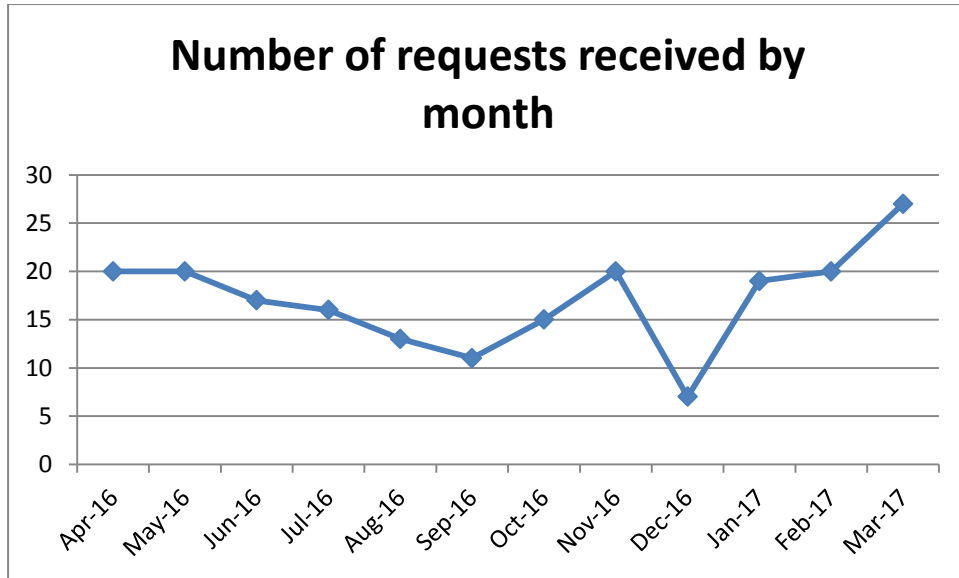
4. Statistics:

a) Numbers of Requests

The number of requests for access to personal information received between 1 April 2016 and 31 March 2017 has increased by 9% from figures reported last year, from 187 to 204, averaging at 17 requests per month compared to 15.6 per month in 2015-16.

Monthly	Number	Quarterly	Number
April 2016	20	Quarter 1	57
May 2016	20		
June 2016	17		
July 2016	16	Quarter 2	40
August 2016	13		
September 2016	11		
October 2016	15	Quarter 3	42
November 2016	20		
December 2016	7		
January 2017	19	Quarter 4	66
February 2017	20		
March 2017	27		
Total	205	Total	205

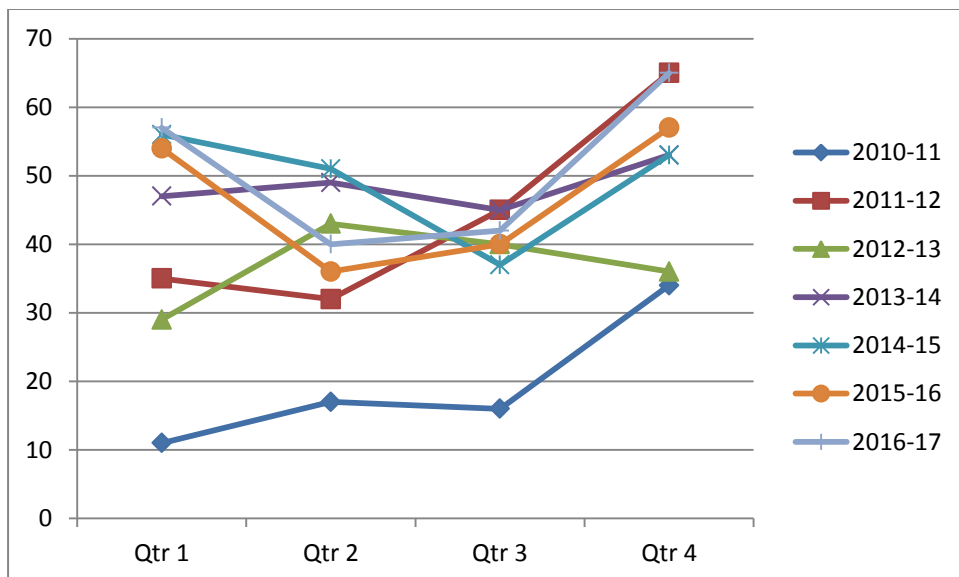
The following chart plots the figures from the above table:



Year on year figures are:

Quarters	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Qtr 1	11	35	29	47	56	54	57
Qtr 2	17	32	43	49	51	36	40
Qtr 3	16	45	40	45	37	40	42
Qtr 4	34	65	36	53	53	57	66
Totals	78	177	148	194	197	187	205
% Change	n/a	+127%	-16%	+31%	+2%	-5%	+10%

The following chart plots the figures from the above table:



b) Time Taken to Respond to Requests

The DPA requires data controllers to reply to requests for access to personal information within 40 calendar days. There is no scope in the Act for extending this.

Compliance with the 40 calendar day deadline is reported quarterly through PERFORM; targets and tolerances are:

Primary Ref No	PI Definition (Kirklees Action)	Target 2014-15	Tolerances					Factors influencing the setting of targets / tolerances
			R	RA	A	AG	G	
KI 366	% of Data Protection requests replied to within 40 calendar days	100%	79%	80%	85%	90%	100%	Legal compliance and the ICO's minimum expectation of performance is 90% No scope for extending deadline

In 2016-17 the Council responded to 80% of requests received within the deadline; this compares with 81% in 2015-16, showing a slight decrease in compliance, but significant scope for improvement and the Council's compliance falls short of the ICO's minimum expectation of a 90% compliance rate.

Requests Received		Legal Deadline of 40 Calendar Days		Response Within 30 Calendar Days *	
Monthly	Number	Number	%	Number	%
April 2016	20	18	90%	13	65%
May 2016	20	18	90%	12	60%
June 2016	17	12	71%	8	47%
July 2016	16	13	81%	8	50%
August 2016	13	11	85%	7	54%
September 2016	11	10	91%	6	55%
October 2016	15	12	80%	9	60%
November 2016	20	17	85%	14	70%
December 2016	7	5	71%	3	43%
January 2017	19	17	89%	12	63%
February 2017	20	17	85%	12	60%
March 2017	27	6	46%	5	38%
Total	205	156	80%	104	57%

* The figures in the last 2 columns are shown only to identify the number of requests which were responded to within 30 days which will become the legal deadline under GDPR

The average response time in 2016-17 was 32.7 days; this compares with 35.9 days in 2015-16, which shows an improvement in time taken to respond to requests.

c) Requests by Directorate

The total figure in this section is higher than the 205 total number of requests received because 36% of the 205 requests received (74) were for information held by two or more services.

The figures below show the total number of requests each dealt with, so for example, where a request was made for personal information and this was sent to both Adults Services and Exchequer & Welfare, the same request is counted twice in the table below.

Note: Requests which related to information held by a large number of areas of the Council are recorded just once as "Council-wide".

Directorate	2016-17	Percentage of Total Received
Chief Executive's Office	4	1%
Adults (social care, public health, commissioning)	47	17%
Children Services (social care and learning)	117	42%
Communities, Transformation & Change	22	8%
Place	29	10%
Resources	57	20%
Council-wide	2	1%
KNH	1	0%
Not Council – Other Org	0	0%
Total	279	100.00%

d) Outcomes

Outcome	2016-17	Percentage of Total Requests Received
Supplied	97	47%
Refused (in whole or in part)	25	12%
Not Held	14	7%
Discontinued	49	24%
Outstanding / Suspended	20	10%
Total	205	100%

At the time of writing, 20 requests remain outstanding: 6 responses are overdue and 14 are suspended whilst we await further information from the applicant; the responses to the open and overdue requests are being chased.

Where requests are refused in whole or in part, this is because one of the exemptions from disclosure applies, including personal information relating to a third party, same or similar requests, legal privilege, etc. [Part IV](#) of the DPA sets out the exemptions. [Section](#)

[8](#) of the DPA lists some of the circumstances in which a request need not be complied with.

5. Information Commissioner

The Information Commissioner's Office (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

a) Powers

The ICO has a number of options available for taking action to change the behaviour of organisations and individuals that collect, use and keep personal information, including criminal prosecution, non-criminal enforcement and audit. The ICO also has the power to serve a monetary penalty notice on a data controller.

The main options (which the ICO may exclusively or any combination justified by the circumstances) are:

- *serve information notices requiring organisations to provide the Information Commissioner's Office with specified information within a certain time period;*
- *issue undertakings committing an organisation to a particular course of action in order to improve its compliance;*
- *serve enforcement notices and 'stop now' orders where there has been a breach, requiring organisations to take (or refrain from taking) specified steps in order to ensure they comply with the law;*
- *conduct consensual assessments (audits) to check organisations are complying;*
- *serve assessment notices to conduct compulsory audits to assess whether organisations processing of personal data follows good practice;*
- *issue monetary penalty notices, requiring organisations to pay up to £500,000 for serious breaches of the Data Protection Act occurring on or after 6 April 2010*
- *prosecute those who commit criminal offences under the Act; and*
- *report to Parliament on issues of concern.*

Source: <https://ico.org.uk/about-the-ico/what-we-do/taking-action-data-protection/>

b) Complaints Received re Kirklees

The Information Commissioner's Office made the Council aware of 6 complaints they had received about Kirklees in respect of data protection; this is an increase on the previous year's 2 complaints made to the ICO. The ICO considered it unlikely that the Council complied with the requirements of the Data Protection Act 1998 on one occasion only, but did not consider regulatory action was required in any case.

Summary	Outcome
Complaint about the handling of a DSAR by the Council and no response being received	ICO is not taking further action In respect of this matter.
Complaint that the Council has not provided all the information the data subject is entitled to under subject access	ICO decision is that the Council does not appear to have breached the Data Protection Act 1998.
Complaint that the Council has not provided all the information they are entitled to	ICO decision is that the Council does not appear to have breached the Data Protection Act 1998.
Complaint re Council's information rights practice	ICO decision is that it is likely the Council has breached the Data Protection Act 1998 in terms of its practice and notes the action taken and safeguards in place to prevent a recurrence. The ICO decision is that it is likely that the Council has not breached the Data Protection Act 1998 in terms of responding to the subject access request. ICO requires no further action.
Complaint about online electoral registration system creating error and not being able to amend it	Matter resolved by Council; ICO informed and no further action required.
Complaint about no response to a DSAR being received	ICO provided with no evidence of receipt of DSAR by Council and requires Council to respond within 18 days; response sent within timescale. No further action required.

**Freedom of Information Act 2000
and
Environmental Information Regulations 2004**

Annual Report 2016-17

Executive Summary

This report details how the Council has performed throughout 2016-17 in respect of information access requests received and processed under the Freedom of Information Act 2000 (FoI) and Environmental Information Regulations 2004 (EIR).

The Council received 1,636 requests during 2016-17 which is 139 more than the number received in 2015-16, which is a 9.3% increase.

The Council's compliance rate for responding to requests has reduced to 81% which is below the Information Commissioner's Office (ICO) current minimum standard of 85% and well below the new expectation that 90% of responses should be sent out within deadline.

Compliance rates have fluctuated greatly over the 12 months, ranging from 68% in February 2017 up to 89 in July; July saw the second highest monthly volume of requests received.

The average response time for 2016-17 was, at the time of writing, 17.08 days although some requests remain open and within date.

The increase in the volume of requests received is, for the first time, not a common theme across most of the West Yorkshire Councils, Kirklees has the highest increase at 9%, three other Councils having had increases of less than 1% and 6%.

The number of internal reviews carried out of the responses to requests has increased significantly on the previous year, from 38 in 2015-16 to 80 in 2016-17. The Council needs to ensure that internal reviews are concluded in a more timely manner.

The number of complaints made to the ICO has increased by 6, from 8 in 2015-16 to 14 in 2016-17. The ICO did not take any regulatory action against the Council in any of the cases they have made a decision on to date. One ICO Decision Notice from 2015-16 was appealed to the First Tier Tribunal (Information Rights) in 2016-17 but withdrawn by the Appellant prior to hearing.

Lindsay Foody
Information Access & Security Officer

3 May 2017

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1. Introduction

This report discusses the main events of the year 2016-17 in relation to requests made under the Freedom of Information Act 2000 (Fol Act) and the Environmental Information Regulations 2004 (EIR), along with recommendations for improvements to the processes.

2. Summary of the Legislation

The legislation gives the public rights of access to information held by public authorities. They allow requests to be made by anyone, from anywhere.

a) Freedom of Information Act 2000

The Fol Act has created a general right of access to information held by public authorities. People have the right to be told whether particular information is held in recorded form, and if so, to have a copy of it. Requests for information must be made in writing.

The Act places a number of obligations on public authorities in the way that they respond to information requests, and it also creates a number of exemptions. In particular, personal information about the person requesting information is exempt, because it is available under the Data Protection Act 1998, which also exempts private information about other people.

Other exemptions include information which is:-

- available by other means;
- intended for future publication;
- held in confidence;
- prejudicial to commercial interests;
- held for investigations and proceedings or law enforcement;
- environmental information, available under the EIR.

In many cases the exemption is not absolute, and we have to take account of the public interest before information can be refused.

The Fol Act also requires the Council to publish a number of classes of information in a Publication Scheme. This scheme commits an authority to publishing important information as part of its normal business activities so that people do not need to make specific requests.

b) Environmental Information Regulations 2004

The EIR give enhanced access to environmental information, by giving members of the public and others the right to access environmental information held by public authorities. A request can be made by letter, email, telephone or in person.

The regulations apply to most public authorities and to any organisation or person under the control of a public authority who has environmental responsibilities. This can include some private companies or public private partnerships, for example companies involved in energy, water, waste and transport.

Environmental information is divided into the following six main areas:

- the state of the elements of the environment, such as air, water, soil, land;
- emissions and discharges, noise, energy, radiation, waste and other such substances;
- measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment;
- reports, cost-benefit and economic analyses used in these policies, plans and agreements;
- the state of human health and safety, contamination of the food chain and cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment).

Environmental information should be proactively made available, and for information which is not already available, the default position is to make information available on request, but the Regulations allow public authorities to refuse requests for information in specific circumstances; these are called 'exceptions'.

3. Kirklees Context

The Information Access Team, which manages the process of receiving and responding to requests made to the Council under information access legislation, changed in December 2016/January 2017 from one full-time Information Access & Security Officer and three part-time Business Support Officers to one full-time Information Access & Security Officer, 2 full-time Information Governance Officers, one part time Information Governance Officer and two part-time Business Support Officers

The Team sits within Governance & Democratic Services, part of the Assistant Directorate of Legal, Governance & Monitoring.

The Information Access Team works with a network of Co-ordinators located within the different service areas across the Council, who arrange for information requested to be collated and draft responses to be signed off by nominated managers.

4. Statistics:

a) Numbers of Requests

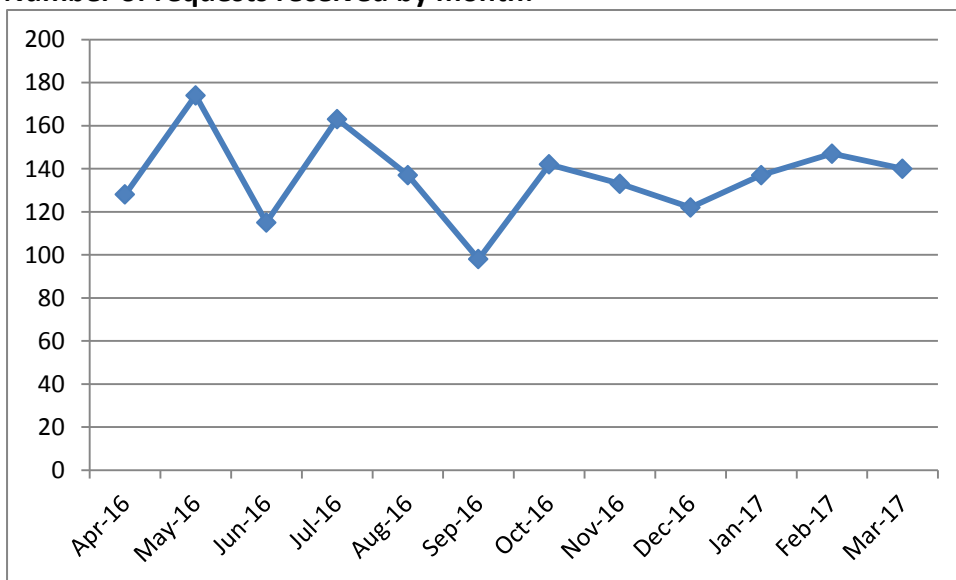
The number of Freedom of Information (FoI) and Environmental Information (EIR) requests received between 1 April 2016 and 31 March 2017 has increased by 139 (8%) from the previous year; an increase which averages at 136 requests per month compared to 125 per month in 2015-16:

Monthly	Number
April 2016	128
May 2016	174
June 2016	115
July 2016	163
August 2016	137
September 2016	98
October 2016	142
November 2016	133
December 2016	122
January 2017	137
February 2017	147
March 2017	140
Total	1,636

Quarterly	Number
Quarter 1	417
Quarter 2	398
Quarter 3	397
Quarter 4	424
Total	1,636

The following chart plots the figures from the above table:

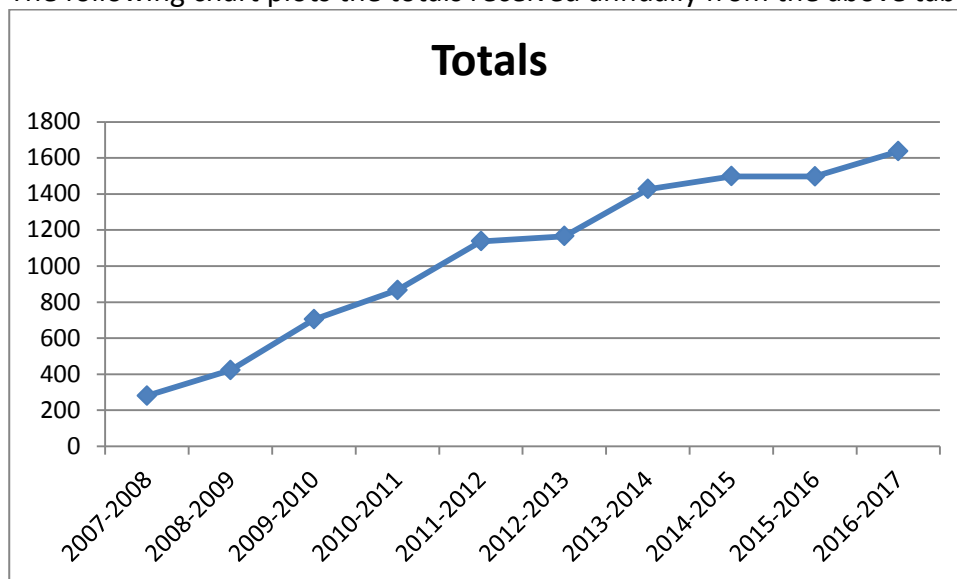
Number of requests received by month:



The increase in volume is a trend which has been consistent over the years since 2008-09, although it plateaued in 2012-13 and again 2014-15 and 2015-16, and has risen again in 2016-17:

Qtrs	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Qtr 1	62	86	135	185	299	332	283	353	336	417
Qtr 2	86	106	182	180	263	273	356	357	350	398
Qtr 3	53	97	193	197	248	218	384	352	361	397
Qtr 4	79	133	194	305	327	343	404	436	450	424
Totals	280	422	704	866	1,137	1,166	1,427	1,498	1,497	1,636
%Change	-1%	34%	40%	19%	24%	2%	18%	5%	0%	8%

The following chart plots the totals received annually from the above table:



b) Sources of Requests

Whilst both the FOI Act and the EIRs require an applicant to provide a valid name and address, applicants are under no obligation to say why the information is required, or whether they are applying as an individual or on behalf of an organisation. Some applicants do choose to provide this information voluntarily when making a request. The following tables are based on the limited information provided and so should be treated with a degree of caution.

Source of Request 2016-17	Number	% of Total Requests Received
Business	291	17.79%
Clubs, Societies & Charities	62	3.79%
Individuals	195	11.92%
Media	243	14.85%
Other	613	37.47%
Pressure Group (Local & National)	168	10.27%
Research & Academic	64	3.91%
Totals	1,636	100.00%

Source of Request - Comparison	2015-16	2016-17	Difference
Business	331	291	-40
Clubs & Societies	102	62	-40
Individuals	204	195	-9
Media	228	243	15
Other	429	613	184
Pressure Group (Local & National)	131	168	37
Research & Academic	72	64	-8
Totals	1,497	1,636	139

Requests which are classified above as ‘Other’ are generally where the addresses and content of the requests, give little clue as to the requester’s identity, background, or the intended use of the information. This is particularly the case with email requests.

2016-17 has seen a reduction in requests classified as ‘Business’ and a slight increase in requests classified as ‘Media’ which is at odds with previous years.

c) Requests by Directorate

The total figure in this section (2,067) is higher than the total number of requests received (1,636) because 431 requests were for information held by two or more services. The figures below show the total number of requests each Directorate dealt with, so, for example, where a request was made for information about Social Workers in Adults Services, this was sent to both Adults and HR, and the same request is counted twice times below.

Requests which related to information potentially held by all areas of the Council, for example, for registers of gifts and hospitality, are recorded just once as “Council-wide”.

Occasionally, the Council receives requests for information which the Council does not hold and which are transferred on to the public authority which does hold that information, for example, requests about Trading Standards are passed on to West Yorkshire Joint Services, and requests for information held by schools are passed on to the school in question. These are transferred on to the appropriate organisation, with the agreement of the applicant, and recorded as “Not Council – Other Organisation”.

Directorate	2016-17	% of Total Requests Received
Children’s Social Care & Learning	321	15.53%
Adults’ Social Care	107	5.18%
Commissioning & Health Partnerships	35	1.69%
Council-wide	10	0.48%
Communities, Transformation & Change	183	8.85%
Chief Executive’s Office	4	0.19%
KNH	46	2.23%
Place	708	34.25%
Public Health	51	2.47%
Resources	589	28.50%
Not Council – Other Organisation	13	0.63%
Total	2,067	100.00%

d) Time Taken to Respond to Requests

The Act and the Regulations require public authorities including the Council to reply to information requests within 20 working days either providing the information or saying why it cannot be provided.

In 2016-17 1,323 (81%) requests were responded to within 20 working days. This is under the threshold that triggers the Information Commissioner's Office's (ICO) monitoring of public authorities when responding to freedom of information requests which has been 85%, and is a decrease in performance on 2015-16 (86%).

It is of particular concern this year because the ICO announced in March 2017 that she has raised the threshold that triggers monitoring of public authorities to 90%. In an interview with the BBC last year, the ICO suggested that allowing authorities to be late on 15% of requests is not tough enough.

[Read the rest of the interview where the Information Commissioner sets out her thoughts on information rights here.](#)

Compliance with the 20 working day deadline is reported quarterly through PERFORM; targets and tolerances are:

Primary Ref No	PI Definition (Kirklees Action)	Target 2016-17	Tolerances					Factors influencing the setting of targets / tolerances
			R	RA	A	AG	G	
KI 363	% of FoI and EIR requests responded to in 20 working days	100%	74%	75%	80%	85%	100%	Legal compliance is 100% and the ICO's minimum expectation of performance is 85%

Overall, 92% of requests received a response within 30 working days or less, and although there is nothing within the legislation relating to this timescale, it does demonstrate that where deadlines are being missed, the majority are responded to fairly quickly afterwards, with a many being only a day or two late. This indicates that exceeding the 90% response rate is achievable with some more planning.

Requests Received		Legal Deadline of 20 Working Days		Response Within 30 Working Days	
Monthly	Number	Number	%	Number	%
April 2016	128	112	87.50%	123	96.09%
May 2016	174	148	85.06%	167	95.98%
June 2016	115	97	84.35%	108	93.91%
July 2016	163	145	88.96%	155	95.09%
August 2016	137	116	84.67%	131	95.62%
September 2016	98	77	78.57%	88	89.80%
October 2016	142	119	83.80%	137	96.48%
November 2016	133	108	81.20%	122	91.73%
December 2016	122	94	77.05%	107	87.70%
January 2017	137	103	75.18%	128	93.43%
February 2017	147	99	67.81%	119	81.51%
March 2017	140	107	79.26%	120	88.15%
Total	1,636	1,325	Av: 81.12%	1,505	Av: 92.18%

The Council met or exceeded the ICO's expected compliance rate in only 2 months of the year, which is a significant decrease in performance from the previous year when it achieved this in 8 of the 12 months.

At the time of writing: 6 requests remain 6 suspended (whilst the Council awaits clarification from the applicants), and 18 responses are overdue.

The Council estimates the average cost of responding to Fol requests is £267.08 per request. This results in an estimated cost of responding to FOI requests at £436,946.96.

e) Outcomes

The Fol Act and the EIRs have a limited number of circumstances under which requested information can be withheld. Under the Fol Act these are called 'exemptions' and under EIR these are called 'exceptions'. There are 8 'absolute' Fol exemptions, the remainder are 'qualified' which means that the Council has to consider whether the public interest in withholding the information outweighs the public interest in providing it or not. Under EIR, all the exceptions are qualified.

The legislation assumes that requested information will be disclosed unless one or more of the exemptions or exceptions is engaged. Of the 1,636 requests received during 2016-17, the Council provided the information requested on the majority of occasions. Where an applicant subsequently withdrew their request, this was recorded as 'Discontinued'. On occasions, the Council is asked for information which it does not hold, for example, trading standards or crime information, which is held by other organisations and not the Council; requests may also be for information which the Council does not already hold and has no requirement to hold, for example, the number of times a particular birth certificate has been viewed/ordered – in these cases the outcome is recorded as "Not Held".

In a small number of cases, the Council has refused to either confirm or deny whether it holds any requested information. The Fol Act allows a public authority to do this only where a confirmation that requested information is or is not held would in itself reveal information that falls under an exemption. This is called a 'neither confirm nor deny' (NCND) response.

Outcome	2016-17	% of Total Requests Received
Supplied (all or in part)	967	59.11%
Refused (all or in part)	474	28.97%
Not Held (and referred)	112	6.85%
Discontinued (and duplicate)	56	3.42%
Neither Confirm Nor Deny	3	0.18%
Open (and overdue)	18	1.10%
Suspended	6	0.37%
Total	1,636	100.00%

Some requests were refused, in whole or in part, and the relevant exemption or exception applied. In some cases, two or more Fol exemptions applied to information requested in a single request,

and so the total number of times exemptions or exceptions were applied will exceed the total number of requests received.

During 2016-17 607 exemptions / exceptions were applied (in whole or in part) to 479 requests (this number includes the 3 requests for which information was not held for the purpose of the FoI Act was requested and are recorded as 'Not Held' in the table above as well as the 3 cases which are recorded as 'Neither Confirm Nor Deny'):

FoI Exemptions / EIR Exceptions Applied			2016-17	% Total Requests Refused
EIR	reg12(4)(b)	Manifestly unreasonable	8	1.32%
EIR	reg12(4)(d)	Relates to unfinished documents or incomplete data	1	0.16%
EIR	reg12(4)(e)	Would involve disclosure of internal communications	0	0.00%
EIR	reg12(5)(b)	The course of justice, fair trial, conduct of a criminal or disciplinary inquiry	0	0.00%
EIR	reg12(5)(d)	Confidentiality of public authority proceedings when covered by law	2	0.33%
EIR	reg12(5)(e)	Confidentiality of commercial or industrial information when protected by law to cover legitimate economic interest	25	4.12%
EIR	reg12(5)(f)	Confidentiality of commercial or industrial information when protected by law to cover legitimate economic interest	16	2.64%
EIR	reg6	Already publicly available and easily accessible	52	8.57%
EIR	reg13	Personal data	30	4.94%
FoI	s12	cost of compliance exceeds appropriate limit	84	13.84%
FoI	S14	Repeated or vexatious request	11	1.81%
FoI	s21	Information reasonably accessible by other means	189	31.14%
FoI	s22	Information intended for future publication	6	0.99%
FoI	s24	National security	5	0.82%
FoI	s3(2)(a)	Not held for the purposes of the FoI Act	3	0.49%
FoI	S30	Investigations and proceedings conducted by public authorities	1	0.16%
FoI	s31	Law enforcement	31	5.11%
FoI	S36	Prejudice to the effective conduct of public affairs	1	0.16%
FoI	s38	Health and safety	5	0.82%
FoI	s40	Personal information	99	16.31%
FoI	s41	Information provided in confidence	14	2.31%
FoI	s42	Legal professional privilege	3	0.49%
FoI	s43	Commercial interests	21	3.46%
FoI	s44	Prohibitions on disclosure	0	0.00%
Total			607	100.00%

f) Internal Reviews

Where an applicant is unhappy with the response received to their information request they can ask for an internal review of the handling of the request / response received.

Internal reviews are carried out by officers in Legal Services who have had no input to the original response. The FoI Act does not specify a timescale for completing internal reviews, but the ICO requires these to be done promptly within a reasonable timescale, which he considers to be 20 working days from receipt of the request. The EIRs require internal reviews to be completed within 40 working days of receipt of the request.

In 2016-17 the Council carried out 80 internal reviews, compared with 38 in 2015-16.

The Council notes that 40% of all internal reviews requested (32) were made by two applicants, who each submitted multiple requests throughout the year (71, which was 4.34% of all requests received) which has accounted for the unusually high number of internal reviews requested during 2016-17:

Monthly	Number received	Responded to within Deadline	% in deadline	Average Time to respond (working days)
April 2016	8	4	50.00%	24.5
May 2016	5	2	40.00%	21.67
June 2016	18	17	94.44%	22.61
July 2016	7	7	100.00%	14.29
August 2016	7	6	85.71%	21
September 2016	14	7	50.00%	24.29
October 2016	5	1	20.00%	46.6
November 2016	2	2	100.00%	28.5
December 2016	2	1	50.00%	20
January 2017	1	1	100.00%	19
February 2017	7	6	85.71%	21.14
March 2017	4	3	75.00%	18.67
Total	80	57	Av: 70.91%	Av: 23.52

At the time of writing, 3 internal review decisions remain outstanding and are overdue.

Internal Review Outcome	2016-17	% of Total Requests Received
Not Upheld	55	68.75%
Partially Upheld	8	10.00%
Upheld	14	17.50%
Open (and overdue)	3	3.75%
Total	80	100.00%

Although there is no timescale for completion of internal reviews which is set out in the FoI legislation, the Council would wish to see a significant improvement in the timescales for FoI reviews.

5. Information Commissioner

The Information Commissioner's Office (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

a) Powers

There are a number of tools available to the ICO for taking action to help organisations follow the Freedom of Information Act, Environmental Information Regulations, INSPIRE Regulations and associated codes of practice. They include non-criminal enforcement and assessments of good practice.

Specifically, where authorities repeatedly or seriously fail to meet the requirements of the legislation, or conform to the associated codes of practice, the ICO can take the following action:

- *conduct assessments to check organisations are complying with the Act;*
- *serve information notices requiring organisations to provide the ICO with specified information within a certain time period;*
- *issue undertakings committing an authority to a particular course of action to improve its compliance;*
- *serve enforcement notices where there has been a breach of the Act, requiring organisations to take (or refrain from taking) specified steps in order to ensure they comply with the law;*
- *issue practice recommendations specifying steps the public authority should take to ensure conformity to the codes;*
- *issue decision notices detailing the outcome of the ICO's investigation to publically highlight particular issues with an authority's handling of a specific request;*
- *prosecute those who commit criminal offences under the Act; and*
- *report to Parliament on freedom of information issues of concern.*

Source: <https://ico.org.uk/about-the-ico/what-we-do/taking-action-freedom-of-information-and-environmental-information/>

b) Complaints Received about Kirklees

The ICO made the Council aware of 14 complaints they had received about Kirklees' handling of FoI and EIR requests:

Summary	Outcome
Complaint about delay in responding to a request	ICO instructed Council to respond within 10 working days. Response sent to applicant within timescale specified
Complaint about handling of an Fol request (NCND refusal under s40 – personal information; appeal not upheld at internal review)	ICO decision is that the Council correctly applied the exemption provided by section 40(5) and does not require any steps to be taken. The ICO notes that the internal review outcome was sent outside 40 working days and recommends IR outcomes are provided within 20 workings days. See Decision Notice FS50623104 below
Complaint about handling of an Fol request (refusal under s12 – exceeds appropriate time limit)	ICO decision is that the Council has correctly applied the exemption set out at section 12(1) of the Fol Act (time for compliance) and also complied with the requirement at section 16(1) to provide advice and assistance. See Decision Notice FS50630261 below
Complaint about handling of an Fol request (response was information not held; appeal not upheld at internal review)	ICO decision is that the Council has not complied with section 1(1) (the general right of access to information) of the Fol Act and requires the Council to issue a fresh response that does comply with Section 1(1) or issue a valid refusal notice under s17. Response sent to applicant within timescale specified See Decision Notice FS50630073 below
Complaint about handling of an Fol request (refusal under s31 – law enforcement)	ICO decision is that the Council was correct to rely on the section 31(1) to neither confirm nor deny that the information is held. The ICO does not require the Council to take any steps to comply with the legislation Decision Notice FS50642945 refers
Complaint about handling of an Fol request (refusal under s42 – legal privilege)	ICO decision is that the Council has properly applied section 42 to the withheld information and requires the Council to take no further action in this matter See Decision Notice FS50645010 below
Complaint about handling of an Fol request	Awaiting contact from ICO
Complaint about handling of three Fol requests	Awaiting contact from ICO
Complaint about handling of an Fol request (refusal under s14(1))	Awaiting contact from ICO
Complaint about handling of an Fol request (refusal under section 3(2)(a))	Awaiting contact from ICO
Complaint about handling of an Fol request (refusal under section 3(2)(a))	Awaiting contact from ICO
Complaint about handling of an EIR request (refusal under Reg13)	Awaiting contact from ICO

Complaint about handling of an EIR request (refusal under section Reg13)	Awaiting contact from ICO
Complaint about handling of an FoI request (refusal under s21, s31, s40)	Awaiting contact from ICO

c) Decision Notices

When a complaint is made under the FOI Act against a public authority, the ICO investigates the facts behind the complaint and may then issue a decision notice. This is the Commissioner's view on whether or not the public authority has complied with the FOI Act or the EIR and can include legally binding steps for the public authority to follow.

When a decision notice is issued, the ICO informs both parties of their right to appeal to the First-tier Tribunal (Information Rights).

The ICO published the following Decision Notices in relation to 4 complaints made about Kirklees in 2016-17:

Case Ref: FS50623104

15 September 2016, Local government (District council)

Summary: The complainant has requested information from Kirklees Metropolitan Council ("the Council") about communications between the Council and the Crown Prosecution Service ("the CPS") in relation to given building addresses. The Council applied the exemption provided by section 40(5) of the Freedom of Information Act ("the FOIA"). The complainant subsequently contested the Council's application of this exemption. The Commissioner's decision is that the Council has correctly applied the exemption provided by section 40(5). The Commissioner does not require any steps to be taken.

FOI 40: Not upheld

[View a PDF of Decision notice FS50623104](#)

Case Ref: FS50630073

13 December 2016, Local government (District council)

Summary: The complainant has requested information from Kirklees Metropolitan Council about any communications between the Council and the Crown Prosecution Service. The Council responded that no information was held. The complainant subsequently contested the Council's response. The Commissioner's decision is that the Council has failed to comply with section 1(1). The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: Issue a fresh response that complies with section 1(1) or issue a valid refusal notice under section 17.

FOI 1: Upheld

[View a PDF of Decision notice FS50630073](#)

Case Ref: FS50630261

13 December 2016, Local government (District council)

Summary: The complainant has requested information from Kirklees Metropolitan Council about the number of staff subject to disciplinary action over six years. The Council refused to

comply with the request under section 12(1) of the Freedom of Information Act. The complainant subsequently contested the Council's refusal. The Commissioner's decision is that the Council has correctly applied the exclusion provided by section 12(1), and has also complied with the requirement of section 16(1) to provide advice and assistance. The Commissioner does not require any steps to be taken.

FOI 12: Not upheld

FOI 16: Not upheld

[View a PDF of Decision notice FS50630261](#)

Case Ref: FS50645010

23 March 2017, Local government (District council)

Summary: The complainant has requested a variety of recorded information which relates to the Kirklees Metropolitan Council's relationship with Kirklees Active Leisure. The Council has provided the complainant with much of the information he seeks, including references to locations on the Council's website where relevant information can be readily accessed. Notwithstanding its disclosure of information, the Council has withheld two paragraphs of a report made to its Cabinet on 8 November 2011, entitled 'Kirklees Sport and Leisure Facility Management – Options Appraisal and Update on Renewal Process'. The Council has relied on section 42 of the FOIA to withhold these paragraphs, on the grounds that the information they contain attracts legal professional privilege. The Commissioner's decision is that Kirklees Metropolitan Council has properly applied section 42 to the withheld information.

FOI 42: Not upheld

[View a PDF of Decision notice FS50645010](#)

<https://search.ico.org.uk/ico/search/decisionnotice>

d) Tribunals

An appeal to the First Tier Tribunal (Information Rights) was lodged during 2016-17 in respect of ICO Decision Notice [FS50595397](#) issued in February 2016. The appeal was subsequently withdrawn by the Appellant before it was heard by the Tribunal. FTT Case EA/2016/0064 refers.

Appendix D – Local Government Transparency Code

Local Government Transparency Code

Progress Report

May 2017

Anna Bowtell





















Research & Intelligence Manager

SUMMARY

In 2015 & 2016, Kirklees Council published data & information, where available, to try to meet the requirements of the Local Government Transparency Code. Despite a recent consultation, the Transparency Code has not been updated since 2015 so we have been working with the same requirements as stipulated in the 2015 publication. The code has two elements; information which *must* be published and information that is *recommended* for publication. In 2016 & 2017, there has been additional local emphasis on requesting data that meets the *recommended* element of the code. This is in preparation for an anticipated request for all authorities to meet the recommended criteria in the near future.

The published data can be found here:

<http://www.kirklees.gov.uk/beta/information-and-data/open-data-sets.aspx>

	2015		2016		2017	
	MUST be published	Recommended for publication	MUST be published	Recommended for publication	MUST be published	Recommended for publication
Expenditure Exceeding £500						
	2 identifiers are not published: - Summary of purpose - Unrecoverable VAT		2 identifiers are not published: - Summary of purpose - Unrecoverable VAT		2 identifiers are not published: - Summary of purpose - Unrecoverable VAT	
Government Procurement Card Transactions					AWAITING DATA FROM SERVICE	
	3 categories are not published: - VAT - Summary of purpose - Merchant Category		3 categories are not published: - VAT - Summary of purpose - Merchant Category		Procurement Card Transactions have historically been published. However, a new report is being prepared to capture this data for publication in 2017.	
Procurement information						
	Publishing contracts on Yortender £5k & above is not prescribed by procurement and £20k still remains the limit. Now publishing on Contracts Finder [.gov.uk site] – publishing >£25k as this is what is stipulated to procurement for non central government. The code asks for >10k.					
Local Authority Land					AWAITING DATA FROM SERVICE	
	2 definite categories are not published: - Freehold or		1 definite category is not published: - Land or building			

	leasehold - Land or building asset Queries about data accuracy & whether all assets stipulated are included in the list.	asset Recommended involves more regular publication, publishing to the Electronic Property Information Mapping Service & more in-depth categories e.g. hectares/reasons.		
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Grants to voluntary, community & social enterprises and organisations						
	It is currently an annual publication due to the manual collation that is required so difficult to move to a dynamic or more frequent reporting schedule. Not possible to disaggregate by various sectors as currently not recorded.					







Organisation Chart					AWAITING DATA FROM SERVICE	
	Top three levels of the organisation published ONLY.		Salaries over £50,000 have been reported with bands included. A current vacancy link has been added nearby for easy user access.		Information currently being collected by Corporate HR. Delays due to senior management service re-design.	










Trade Union Facility Time		N/A	AWAITING DATA FROM SERVICE		AWAITING DATA FROM SERVICE To be published Mid May 2017	
	There are no 'Recommended' requirements.		Information currently being collected by Corporate HR with HOS within each service. New TU legislation [from April 2016] stipulates publication by July 2018 [different timeframe].			

Parking Account		N/A		N/A		N/A
	Does not include a breakdown of how the authority spends the parking account surplus. There are no 'Recommended' requirements.					

Controlled Parking Space						
	The information requested is available. Accessibility could be improved by offering aggregated figures [although this is not specified precisely in the guidance].					

Senior Salaries		N/A		N/A	AWAITING DATA FROM SERVICE	
	Only top 3 tiers were reported on. Job descriptions posted are out of date. There are no 'Recommended'		Salaries over £50,000 have been published. Job Descriptions & 'responsibilities' [including budget/services/ functions] requires work – currently		Information currently being collected by Corporate HR. Delays due to senior management service re-design.	

	requirements.		with HR to gather JDs for publication.			
Constitution		N/A		N/A		N/A
	Direct feed to web link – if content changes, link will update.					
Pay Multiple		N/A		N/A		N/A
	No comment to add.					

Fraud						
	Data received from service does not include the total £'s spent on investigation & fraud – 20% of the basic requirements for the code. Service is struggling with IT systems & change in officer ownership of the fraud section.				Data now includes the spend on investigation & fraud.	
Waste Contract	Not Applicable for Kirklees					
Social Housing Asset Value		N/A		N/A		N/A
	No comment to add.				Data routinely published in the month of September	

In terms of enforcement, the Information Commissioners Office will not monitor compliance with the Code; it will react to complaints from the public under existing frameworks - the Freedom of Information Act and the Environment Information Regulations. We are not aware that any enforcement has been taken as a result of requests being made through these routes.

PROGRESS AND NEXT STEPS

Much officer time has been spent collecting, compiling & publishing the above data requirements. There have been delays due to sickness and management re-structuring but we have made good steady progress. We will continue to ensure that, where data is absent for 2016 and 2017, it is updated and published in line with the code's recommendations.

Kirklees council need to continue to ensure the following steps are taken to enable all requirements to be satisfied as fully and accurately as possible.

1. **Continuity through group contacts** – having a single dedicated officer in a service is not enough. A lot of delays in data publication have been a result of officers leaving the council and capacity and knowledge being at a shortfall. We need to ensure a small group of officers have oversight of the governance of the data within the service to allow for continuity in provision & publication.
2. **Formats** – to be truly transparent we need to up our game with accessibility. One way is to provide data in multiple formats on the website. At the moment some documents are called a 'csv' file but in reality they are excel files when opened. We need to proactively translate files before publication.
3. **Time Series** – keeping the old files present on the website for users is paramount. This allows users to compare time series data to help with their interpretation & generalisation of the data.
4. **Moving to 'recommended'** – although progress is being made in this direction, it still needs to be the main driver as we expect any future obligation will be to adhere to these 'recommended' requirements.
5. **Connecting our business intelligence** – the data published under the code is a small jigsaw piece in the organisation's attempt to understand itself as a business. Progress in the internal Integrated Intelligence Programme and the Business Intelligence work [led by IT] must incorporate this element. Benefits may include automation of data compilation and richness of understanding across datasets.
6. **Keeping our eyes out** – The Transparency Code is a small part of the open data agenda. We need to ensure we know what our neighbouring authorities are doing to meet these requirements and the additional work they are doing to complement open data. Leeds has

seen the development of the Data Mill and are currently incorporating 'big data' ideas into their platform. The Local Government Association have also provided guidance material on data standards and related schema to enhance dataset standardisation for comparability purposes. This area continues to grow and we need to be prepared to respond.



Name of meeting: Corporate Governance & Audit Committee

Date: 15th September 2017

Title of report: Corporate Customer Standards Annual Report 2016-17

Purpose of report; To update Corporate Governance & Audit Committee on complaints performance and the Local Government Ombudsman letter to councils.

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, IT & Transactional Services? Is it also signed off by the Service Director for Legal Governance and Monitoring?	Not applicable
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public

1. Summary

- 1.1 The numbers of complaints received by the Ombudsman on behalf of Kirklees Council residents are below what might be anticipated
- 1.2 The numbers of third stage complaints received by the council are broadly consistent with numbers received over the past 6 years.
- 1.3 Kirklees Council received no formal Ombudsman Reports during 2016-17.
- 1.4 A slight revision of the Whistleblowing Procedure is required to reflect learning from an investigation undertaken in 2016-17.
- 1.5 Advice from the Committee in relation to the regularity of reporting of upheld complaints identified by the Ombudsman is required.
- 1.6 A review of the unreasonably persistent complainant procedure is taking place, with the policy being widened into an unacceptable behaviour policy.

2. Information required to take a decision

2.1 To discuss and approve the amendments to the Whistleblowing Policy

- 2.1.1 Learning from a Whistleblowing complaint identified that the Whistleblower wanted matters dealing with in a particular way. This ultimately led to delay and risked an unsatisfactory outcome.
- 2.1.2 It is proposed that the whistleblowing procedure is altered slightly to reflect that while officers will discuss and seek to agree how we intend to progress matters, there may be occasions where we feel we have a responsibility to progress matters in a particular way, and the ultimate decision to progress or investigate matters is for the council.
- 2.1.3 Minor changes to Job Titles will also be amended at the same time.

2.2 To discuss and approve amendments to the reporting mechanism for upheld Ombudsman complaints

- 2.2.1 The council has an obligation to let elected members know about cases where the Ombudsman has determined fault and maladministration.
- 2.2.2 Currently outcomes are considered on a case by case basis and other upheld investigations are reported as part of the Corporate Customer Standards Annual Report
- 2.2.3 The ombudsman suggests that an annual report is suitable for a “smaller council”
- 2.2.4 Consideration needs to be taken over whether these cases should be reported more regularly (6 monthly as the Monitoring Officer suggests?)

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 although good and timely complaint handling can reduce demand on officer time and double handling

4. Consultees and their opinions

- 4.1 Not applicable.

5. Next steps

- 5.1

6. Officer recommendations and reasons

- To consider the report and note its contents.
- To discuss and approve the amendments to the Whistleblowing Policy
- To discuss and approve amendments to the reporting mechanism for upheld Ombudsman complaints.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Chris Read Corporate Customer Standards Officer 01484 221000

9. Background Papers and History of Decisions

None

10. Director responsible

. Debbie Hogg 01484 221000 debbie.hogg@kirklees.gov.uk

Annual Report by Corporate Customer Standards Officer 2016-17

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1: Introduction

In my role as Corporate Customer Standards Officer, I produce an annual report each year to update Corporate Governance and Audit Committee on complaints handling within the council.

Documents informing the report include the Local Government Ombudsman's Annual Report (published each July), any formal Local Government Ombudsman Case Reports received by the council in-year, and learning from individual complaints. This report also includes a summary on Whistleblowing outcomes.

I would like to take this opportunity to thank all complaints link officers throughout the services, once again, for their hard work in maintaining a good and effective complaints service on behalf of the Council in the face of continued organisational change and reduction in resources.

It is a credit to all staff involved in complaints handling and front line customer service that despite a difficult climate, we can evidence that the complaints received by Kirklees Council are robustly and reasonably considered.

Achievements 2016-17

- No Ombudsman Formal Reports published against the Council again this year
- Kirklees below average number of Ombudsman investigations received than anticipated when compared against West Yorkshire
- Static number of third stage complaint investigations and proportion of investigations where complaints were upheld
- Work with services on anticipating complaints and formulating responses which explain the change in procedures and policies
- Some useful learning points and outcomes from both complaint and whistle-blowing investigations

Chris Read
Corporate Customer Standards Officer

2: Recap of the Council's Complaints Procedure

The council's complaint process for 2016-17 has three internal stages.

First stage – the complainant initially contacts the council to express dissatisfaction about the service they have received. Many of these complaints are resolved by front line staff immediately, as errors are spotted corrected and an apology offered, or an explanation is given to explain the situation to justify why the situation is accurate.

Second stage – this is where the complainant remains dissatisfied and the complaint is referred to a senior manager within the appropriate service to consider.

Third stage – the Corporate Customer Standards Officer will review the actions taken by the service on behalf of the Council and Chief Executive and consider whether anything further can be done to resolve the complaint. The Local Government Ombudsman requires the council to give the complaint a final review before they may become involved with it.

Some complaints do not progress through the council's complaints procedure; these are usually complaints where a formal review process applies such as complaints relating to Childrens and Adults Services and Housing Benefit assessment complaints. The Ombudsman will consider some complaints before third stage review if they are considered urgent (for example school admission appeals).

Complaint stages are sometimes merged depending on the type of complaint received so as to ensure matters are dealt with appropriately and to ensure the complainant can progress to the Ombudsman as quickly as possible if matters have been dealt with.

It is worth noting that one of the policies which assist the complaints procedure, the Unreasonably Persistent Complainant Procedure is currently being replaced by a new wider policy which offers guidance to cover unacceptable behaviour. This document will be discussed with Cabinet shortly, but it does not substantively alter our approach to unreasonable complainant contact.

3: Support for the complaints process

The Corporate Customer Standards Section comprises of one Officer and 1.5 FTE assistants. The section also manages the council's Advice Service. Each individual service area retains a dedicated complaints contact although most officers perform more roles than just a dedicated complaints function.

My role is to ensure services receive timely reminders about the timescales set by the Local Government Ombudsman for councils to return complaint information to them (28 days), although the Local Government Ombudsman no longer reports these figures.

Services delivered an average response time of approximately **25** days in 2016/17. Only 65% of cases were responded to in the strict 28 day deadline, although 90% of cases were responded to within 33 days – more complex cases accounted for those being responded to outside of deadline. The longest time for response on a case was **38** days. These response times have remained broadly consistent over recent years and demonstrate services' continued commitment to resolving complaints and an appreciation of the value of an independent review process.

I am satisfied with the overall standard of second stage responses provided by officers across the Council. The standards demonstrate that complaints are considered against the appropriate procedures and legislation in place, and customers are offered full explanations for the decisions that have been taken.

I upheld 21% of cases investigated at third stage in the complaints process; broadly consistent with results of previous years. This gives some indication that the complaints continue to be robustly and accurately considered by services.

4: Statistics and results: Local Government Ombudsman

While some conclusions can be drawn from the statistics and results collated, it is important to note in comparison with overall numbers of public contacts with the council, only a tiny proportion are being analysed here. A small variation in numbers can make a big difference to the figures although it is noteworthy there is some consistency with Kirklees' performance.

Overall numbers of Ombudsman referrals could be affected by various issues including the amount of publicity Councils give complainants to the services provided by the Ombudsman. All third stage responses I prepare advise the complainant of their right to progress their complaint to the Ombudsman if they wish.

Kirklees Council: Number of complaints received by the Local Government Ombudsman by service.

Service	Kirklees Numbers 2014-15	Kirklees Numbers 2015-16	Kirklees Numbers 2016-17	% of total 2016-17	National Average by Proportion	W Y Prop
Adults	16	19	23	24.5%	15.2%	16.5%
Benefits, C Tax & NNDR	9	13	6	6.3%	12.5%	9.2%
Corporate and others	10	13	2	2.1%	6%	4.5%
Children's and Education	26	18	22	23.4%	17.7%	22.8%
Environment & Public Protection	10	8	13	13.8%	10 %	12.3%
Highways and Transport	8	6	4	4.2%	11.9%	10.1%
Housing (including KNH)	7	3	6	6.4%	12.1%	6.7%
Planning	9	13	17	18.1%	13.9%	17.4%
TOTAL	95	93	93	99%*	100%	100%

* 1 complaint in 2016/17 was described as “other”

Overall, numbers of complaints referred to the Ombudsman by the public has remained consistent for the past three years.

Service Analysis: Distribution of specific service complaints

There appears to be some considerable differences in individual Kirklees Service results when compared against national average. However, just a few complaints can vary the results and we must be mindful that the results of a large Metropolitan Council may well differ against national averages, which will include very small rural councils with a very different set of local enquiries and issues. It is more notable that the West Yorkshire averages tally much more closely to the Kirklees experience.

The two areas that stand out from the West Yorkshire Average are Adults (8% higher than the West Yorkshire Average (or a third more than might be anticipated)), and Highways (5.9% lower than the West Yorkshire Average (or fewer than half the Ombudsman complaints than might be anticipated)).

This year we had two important areas emerge from findings from Local Government Ombudsman investigations.

- There was a minor administrative issue around how clerks recorded decisions from School Admission Appeals Panels. The issue did not result in any amended decisions, and it should be noted that the service had dealt with matters as they had in previous years without comment or criticism. However, following discussion with the ombudsman an improved and clearer template for reporting School Admissions Appeals Panels have emerged. Staff find the new template easier to use, and the Ombudsman has not (to date) criticised cases considered using this new recording mechanism.
- There were also some questions around the transparency of the council’s adult services charging mechanism, and during the year there has been a substantial review and a change in the charging policy which has simplified this process.

No Formal Ombudsman Report 2016-17

The ultimate sanction that the Local Government Ombudsman can apply is a formal report. This ensures that a council’s failings receive maximum publicity and gives additional pressure on the local authority to change its procedures and to demonstrate it has learnt from the investigated complaint.

The Local Government Ombudsman did not issue a formal report against Kirklees Council in 2016-17. In the past seven years, just one formal report has been issued against Kirklees Council.

Comparison of Numbers of Ombudsman Complaints received against West Yorkshire Councils

The Ombudsman has provided headline figures of complaints received by each Council and my analysis confirms that Kirklees numbers continue to be broadly consistent with that of previous years.

The figures used to calculate the proportion of Kirklees Complaints against West Yorkshire totals come from the mid 2015 estimates of population from the Office for National Statistics. This has a Kirklees population of 434,321 against 2,281,718 in West Yorkshire overall (Kirklees therefore has approximately 19% of the total West Yorkshire population):

Total formal ombudsman complaints received

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Kirklees	66	61	110	95	93	94
West Yorkshire	352	329	604	582	585	540
KC Proportion	19%	19%	18%	16%	16%	17.5%

* shaded area shows “old” Ombudsman numbers – no direct comparison between these numbers and later numbers can be made as the Ombudsman now collates its statistics in a different way, although the proportion of Kirklees cases against West Yorkshire can be obtained for these years.

Upheld complaints

Nationally, the Local Government Ombudsman upheld 54% of the complaints it received where it undertook a detailed investigation. Kirklees Council achieved a figure of 52%; slightly better than average. In terms of West Yorkshire, Kirklees came in the middle of the table with Bradford also at 52% while Wakefield was best at 45%, Leeds was at 59% and Calderdale 62%. So this indicates the standard of our decision making is consistent with our neighbouring authorities.

In total, the Ombudsman upheld just 16 Kirklees cases; a tiny proportion of the total number of contacts between the council and the public. .

Details of the 16 cases can be found in Appendix 1. Most of the complaints were not investigated at third stage because the type of complaints meant they were not reviewed via this method.

It is noteworthy that of the 16, 9 related to Adult Service cases. Of these 9 cases, 7 related to situations where the relationship between the family and the council had become strained and in a number of these, poor communication was cited as an issue.

There have been cases that Adult Services have identified as being at risk of complaint, and senior managers have taken more care to communicate the procedures, policy and the decisions undertaken so as to ensure the resident is

better informed about the situation. There may be a continuing value to the Adults Service to monitoring those cases where it appears relations have broken down or become strained, to check the service is providing accurate and appropriate information to the resident, and to check whether there is a way for communication between parties to be better monitored and maintained.

The complaints have also helped to inform the Adults Service's processes and procedures as steps have been taken to inform residents of any likely contributions or charges for service at an early stage, and for the charging process to be simplified.

Three of the 16 complaints relate to the School Admission Appeals process. Although the process had not altered, the Ombudsman this year found fault with the way school appeal panel hearings were being recorded (as highlighted above).

While there are a number of cases in the process of being investigated, at this stage in the 2017-18 year, there does appear to be a reduced number of upheld complaints overall, and particularly within the Adults service (2 upheld cases to date, one of which related to Adult Services).

Responding to the Ombudsman

The Ombudsman has again criticised the council for "poor record keeping" and "not always providing the information required". While services have a reasonable track record of providing information in time, there have been some complex cases where we could have performed better in presenting information in a timely way. There have been isolated cases where a turnover of staff led to new managers with little or no prior knowledge of the case having to consider the issue with the Ombudsman. This has taken time to pick up.

I therefore fully accept the Ombudsman's criticism here, although it should also be noted there have been other occasions where the resident has experienced delay and error in obtaining an assessment from the Local Government Ombudsman (including 2 cases with outcomes that were reviewed and republished some months later). Nevertheless, the council need to strive to avoid error and maximise our reputation with the Ombudsman.

Reporting Ombudsman Findings to Members

This year in its annual letter to councils, the Ombudsman has also shared its expectations on reporting of maladministration to Members – this has been shared with all councils. The Ombudsman comment is as follows:

The statutory duty to report Ombudsman findings and recommendations

As you will no doubt be aware, there is duty under section 5(2) of the Local Government and Housing Act 1989 for your Monitoring Officer to prepare a formal report to the council where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration or service failure, and where the LGO has conducted an investigation in relation to the matter.

This requirement applies to all Ombudsman complaint decisions, not just those that result in a public report. It is therefore a significant statutory duty that is triggered in most authorities every year following findings of fault by my office. I have received several enquiries from authorities to ask how I expect this duty to be discharged. I thought it would therefore be useful for me to take this opportunity to comment on this responsibility.

I am conscious that authorities have adopted different approaches to respond proportionately to the issues raised in different Ombudsman investigations in a way that best reflects their own local circumstances. I am comfortable with, and supportive of, a flexible approach to how this duty is discharged. I do not seek to impose a proscriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following an investigation, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, for example.

Where an investigation has wider implications for council policy or exposes a more significant finding of maladministration, perhaps because of the scale of the fault or injustice, or the number of people affected, I would expect the Monitoring Officer to consider whether the implications of that investigation should be individually reported to members.

In the unlikely event that an authority is minded not to comply with my recommendations following a finding of maladministration, I would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

The duties set out above in relation to the Local Government and Housing Act 1989 are in addition to, not instead of, the pre-existing duties placed on all authorities in relation to Ombudsman reports under The Local Government Act 1974. Under those provisions, whenever my office issues a formal, public report to your authority you are obliged to lay that report before the council for consideration and respond within three months setting out the action that you have taken, or propose to take, in response to the report.

I know that most local authorities are familiar with these arrangements, but I happy to discuss this further with you or your Monitoring Officer if there is any doubt about how to discharge these duties in future.

Traditionally details of cases where complaints have been upheld by the Local Government Ombudsman are shared with Corporate Governance and Audit Committee on an annual basis (as part of the annual report). A decision is taken with regard to more serious matters on a case by case basis (and as an example, a complaint against the closure of the Whitcliffe Mount Sports Centre led to a review of matters by the Council's Cabinet during 2015-16).

The Ombudsman's annual letter suggests the Monitoring Officer should report to members regularly (and suggests annually is appropriate for a smaller council). It also suggests cases with learning which prompt policy change may need to be reported separately.

The Monitoring Officer has suggested it may be appropriate for Corporate Governance and Audit committee to receive a half yearly report on upheld complaints, and for the existing process whereby individual cases may be escalated for consideration as and when required to be retained. The opinion of Corporate Governance and Audit Committee would be welcomed.

Statistics and Results: Third Stage Complaints

Service	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Adults	2	0	3	2	3	1
Benefits, Council Tax, Business Rates	12	13	19	16	16	16
Corporate	7	12	4	5	12	8
Childrens & Education	0	1	5	5	4	5
Environment & Public Protection	12	21	11	10	15	-
Highways & Transport	13	6	12	12	6	11
Housing + KNH	9	4	8	5	5	2
Investment & Regeneration	-	-	-	-	-	4
Other	4	8	14	16	7	4
Planning	16	17	17	15	18	15
Resources & Procurement	-	-	-	-	-	3
Streetscene & Housing	-	-	-	-	-	16
Total	75	82	93	86	86	82
% upheld and Part Upheld	26.67%	20.7%	17.2%	20.9%	20.9%	21%

Overall numbers of third stage complaints have been broadly consistent over the past 6 years.

Given that the proportions of upheld complaints remain (once again) within the range of between one sixth and one quarter, performance appears consistent and services are reviewing complaints appropriately.

Third Stage Response Times

Once again as we recognise there is a correlation between customer satisfaction and response times, these have been recorded and the results are as follows:

Average number of days to respond: 19 days (2015-16 - 18 days)

Proportion of cases responded to in 20 days: 64% (2015-16 - 70%)

There has been a slight deterioration in service at third stage, and more effort is needed to try to respond to more complaints within the 20 day deadline.

Second Stage Complaints

Over recent years, I have become more engaged in second stage complaints handling through offering advice to services, and also in offering advice in relation to unreasonable behaviour of residents. There is a new general policy on unreasonable behaviour being introduced, so I anticipate this area of work taking up more of my time in future years.

In 2016-17 I was consulted on over 650 cases in total where I offered advice and input into complaint management, or where a situation was brought to my attention during the year. This is a similar number to last year.

5: Whistleblowing

The Head of Risk and the Corporate Customer Standards Officer investigate those cases directly reported to the Whistleblowing telephone line and email address. Other Whistleblowing investigations may take place through issues reported to the HR section or direct to the Audit section (which are recorded outside of this process).

It is worth noting that many of the cases received fall outside of the technical definition of a Whistleblowing complaint (the legislation seeks to protect internal staff if they “whistle-blow”) and many concerns arrive from members of the public.

Most Whistleblowing complaints received relate to an abuse of power, be they accusations of bullying and harassment, timesheet or annual leave irregularities or accusation of financial fraud. Some Whistleblowing complaints may be comparatively easy to resolve or prove (for example, checking whether a tracked Council vehicle was being used to transport children to school), others are much more general in nature and may straddle across the Council and other organisations responsibilities (for example, a general comment of corruption against a group given part Council funding for a specific project).

The Whistleblowing procedures require the Head of Risk and I (as Corporate Customer Standards Officer) to assess the issue raised and agree a course of investigative action.

Given the nature of the complaint, many reviews are undertaken substantively by Internal Audit and/or HR. Outcomes can include disciplinary or even criminal action against employees and a review of procedures to ensure that they minimise the risk of undetected wrongdoing.

Services are reminded that employee whistle-blowers are legally protected from persecution and that they should play their part to ensure that reviews are impartial and that concerns are reasonably considered.

Whistleblowing issues may be referred to the Corporate Governance and Audit Committee or to Scrutiny for their consideration. Those investigated by internal audit are reported as a part of other reporting mechanisms to Corporate Governance and Audit Committee.

Whistleblowing contact details remain confidential at all times.

During the year 2016-17, 21 Whistleblowing referrals were received via either the Whistleblowing e-mail address (www.whistleblowing@kirklees.gov.uk) or telephone (01484 225030). This is a considerable increase on previous years (which are traditionally in the low teens)

An issue arising from one of the whistleblowing cases was around managing the whistleblower's expectation of how their concerns might be considered, and an expectation that some issues raised might be considered through the whistleblowing process while others would not.

It also became apparent that colleagues in a number of services believed the information they were receiving was "for information" rather than a direct request from the whistleblowing co-ordinators for action to be taken. This could have been due to a number of staff changes in those service areas. This led to some avoidable delay in considering matters.

A review of matters determined that the Whistleblower co-ordinators should be more explicit about what action they are expecting from services, and for a short revision of the policy to set out that if the whistleblower raises something of concern then the council is obliged to deal with it in the way they feel appropriate.

Appendix 2 offers a suggested revised version of the whistleblowing policy to fulfil this requirement.

Children Service Concerns

Issues with our Childrens Service (well documented elsewhere) had an impact upon the number of Whistleblowing complaints received in-year. The change in service management and a change in direction and focus prompted a number of concerns about perceived bullying and staff recruitment. In total six Whistleblowing concerns were raised in relation to this area, and it prompted a number of actions including a review of the use of recruitment agencies, investigations into the history of individual staff members, a review of office accommodation, and a communications project to better explain the objectives for the service.

Breach of Data Protection Accusations

We also received an accusation that a staff member had accessed council records for their own gain. This was unsubstantiated as the information alleged to have been accessed was available to the public through the land registry and the individual officer did not hold individual access to the records.

Another complaint related to a member of the housing benefit team who was alleged to have shared personal data about a neighbour. This was not proven after records were checked, but it led to a reminder being issued to staff about data protection.

A further accusation was received that a staff member had accessed sensitive child protection data, but this was unproven after it was found the alleged record did not exist on the council records.

On each occasion the concern was reported to the data protection team and the way forward agreed so as to ensure openness and transparency.

Councillor Abuse of Power Allegation

We received a claim that a councillor was blocking the sale of land because of a personality clash with the purchaser. However, an audit review determined that the body involved was correct to seek maximum capital from the asset, and that a better offer had been received for the site.

Personal gains

We received allegations that an individual was gaining from the purchase of goods because of a nectar point offer which was thought to be going into a private account. It was determined that no points were being issued for the goods and a discount had been secured for the council instead.

An allegation that an estate caretaker was improving their home with goods ordered by building services was discounted because of the process used to purchase these items.

An allegation that a small donation provided by a grateful member of the public had not been used and shared appropriately was received. This led to a review of processes into the recording of hospitality although no inappropriate misappropriation of the donation was found.

An allegation was received that an employee was working for a different business while he was claiming to be off work through sickness. The matter was investigated and the employee dismissed.

Concerns about the costs and control for works for a building that the council has an interest in was raised. It was determined there was sufficient controls within the process to ensure the situation was being properly and reasonably monitored.

School complaints

A formal investigation took place into a number of claims against the activities and management style of a Head Teacher in a council maintained school, and safeguarding allegations. A report was prepared for the Chair of Governors and the Governing Body took a decision on the appropriate action and way forward for the

school (the Governing Body controls the activity of the school). A separate safeguarding investigation took place.

A complaint about inappropriate behaviour at a party involving school staff was passed to the Governing Body to consider.

A safeguarding complaint about the behaviour of a teacher at a school was received and was considered by the LADO and a safeguarding audit took place.

Adult Service Care Provider

A complaint was received about unsafe practices and lack of training for staff at a private care provider. Adult Services monitored the Care Provider and found the concerns could not be substantiated.

6: Learning from complaints

One key component of complaints handling is around learning from complaints to ensure services are delivered more effectively in future.

In terms of complaints handling, our standard convention of clearly setting out the reasons for any decision and where appropriate explaining why the service cannot uphold the residents position is well established.

Learning from individual cases

Many of the complaints received will identify some areas where the council could have done something differently to improve the eventual outcome. Many of these improvements are around general communication to ensure the complainant fully understands the reason for the decision that was made and in some cases a delay has created additional frustration.

Examples through the year include the following areas:

A resident was late for an appointment to register the birth of his son because of works to the town hall restricting parking places, and the changes to the traffic flow because of the introduction of bus gates. Staff were asked to remind residents of the parking situation and of the new bus gates when they called for appointments.

A resident complained about a condition of a council vehicle borrowed through the Camoodle scheme. Advice was offered to Camoodle about ensuring expectations were set about the vehicle being one used during the day, rather than necessarily being cleaned like a van hire vehicle might be.

A complaint about how matters about a sale of land were considered by a council committee was received. This led to consideration and discussion about what matters may be discussed in public and those that must be considered in private. The complaint offered further opportunity for learning and consideration.

A complaint from a taxi driver who was seeking to use his Kirklees license for another council area led to a review of the advice provided to taxi drivers about how they may use their registration.

A resident had an argument with tip operatives which resulted in their access to the tip being restricted. Unfortunately the resident did not receive clear notification of this, and the complaint resulted in a new process being agreed between the council and the site operator to ensure such matters were co-ordinated.

A complaint about a care home led to a formal review of practice at the home convened by the council. The family wanted to show a short video of the home. The Chair of the meeting did not allow footage to be shown arguing it was not relevant. As a result of this, and a somewhat hurried approach to the meeting, the resident's family felt the council was disinterested in their complaint. While there was some merit to the Chair's comments, it was felt the family should have some influence on the information it wanted to share with the meeting, particularly given the footage was not long.

A complaint was received and it was clear from the offset that it would take some time to review and to go through. Rather than explain and negotiate the timescales with the resident, the service used standard letters which implied a much shorter timescale. This set an unrealistic expectation although the investigation itself was detailed. It was agreed that a more realistic timescale would have helped in this instance.

Appendix 1: Upheld Ombudsman Complaints

Service Area	Situation	Third Stage	Omb Additional offer
<p>Adults 15005184</p>	<p>Mum complained on behalf of adult daughter with learning disabilities.</p> <p>Mum felt the council did not assess her daughter's needs properly or provide adequate care because the Council wrongly placed emphasis on maintaining her daughter's independence, when she is not independent. It also made decisions for her daughter based on questions that she does not have the capacity to understand.</p> <p>Mum says there were delays assessing her daughter's needs and she has had difficulty contacting officers. The Council also refused to offer mum support as a carer or pay her for the support she provides</p>	<p>Not investigated</p>	<p>The Ombudsman did not consider there was fault in the way the Council assessed the daughter's care needs.</p> <p>While the Ombudsman did not outline any specific fault, it identified that Mum had provided additional support to her daughter when a second personal assistant left and they recommended the council make a payment of £2000 to cover this work from the direct payment allocated over March 2015 – Feb 2016.</p>
<p>Adults 15008844</p>	<p>Father of a severely disabled adult son complained about the delay in providing specialist equipment to</p>	<p>The difficult historic relationship between parties was explored, and advice was offered to father</p>	<p>The Council paid a total financial remedy of £500 to acknowledge the distress and time and trouble.</p>

	<p>meet his needs, and in relation to emails sent by the council about the family to contractors.</p> <p>Supply issues were around flooring, hoist, specialist chair, exercise bike and bed.</p>	<p>around his communication, which made it difficult for the service to handle the enquiries effectively, and to lead officers to conclude he was likely to complain.</p> <p>A detailed explanation for delays was provided along with an apology for the difficulties with communicating information to him.</p>	<p>Fault was found in relation to communicating a delay with the supply of the chair (manufacturing issue) and with a delay with supplying the bed.</p> <p>The Council also apologised for any upset caused by the content of emails sent to a contractor</p>
<p>Adults 15011576</p>	<p>Mr X complains that the Council may have overcharged his mother for home care services and for respite care. The total bill was for £1500.</p>	<p>Not investigated at third stage.</p> <p>The service identified that an overcharge for a planned home care charge for £13.16 when mum was in respite care had been incorrectly charged.</p> <p>It did not contact Mr X with this information because he had asked not to be contacted.</p>	<p>The Ombudsman found there was fault by the Council because it wrongly included a charge for a home care service in the invoice it sent to Mr X. This was for the amount of £13.16.</p> <p>The matter was settled with an apology.</p>
<p>Adults 15011660</p>	<p>The complainant, Mr B, complained the Council:</p> <ul style="list-style-type: none"> • reduced his son's care package when his needs had not changed and delayed recognising that; and 	<p>Not investigated at third stage.</p> <p>The service apologised for not identifying the issue with the family using direct payment for food and drink at an earlier stage, but felt it had clarified the</p>	<p>The Ombudsman felt there was a lack of clarity in the assessment of the care package, but agreed it seemed likely the budget had been reduced as a result of the families discussion around the need for a</p>

	<ul style="list-style-type: none"> • Unreasonably refused to allow his son to use part of his direct payment to cover food and drink despite being allowed to do so in previous years. 	<p>position. It also identified that the family had agreed to help lift their son, meaning no payment for a second carer was due.</p>	<p>second carer. They also identified the council had not undertaken a moving and handling assessment.</p> <p>They agreed the family will have been confused and upset with a change in the use of direct payment for food and drink.</p> <p>Compensation of £500 was recommended and paid together with an apology to the family.</p>
<p>Adults 15013357</p>	<p>The complainant, Mr Y complains in his own right and on behalf of Mr S who he supports as a carer through the “Shared Lives” (SL) programme. Mr Y complains that the Council failed to :-</p> <ul style="list-style-type: none"> a) properly transfer Mr S’s care from a fostering arrangement to a SL programme; b) provide Mr S with a support plan; c) advise Mr S about how the SL would affect his weekly income; d) advise Mr S about charges for day 	<p>Not investigated at 3rd stage</p>	<p>The Ombudsman upheld the complaints that there was delay in the Council telling Mr Y about actions it was taking about day services and charges.</p> <p>The Ombudsman did not uphold the complaint that the Council was at fault for expecting Mr S to contribute toward his day support and more generally his social care.</p> <p>Compensation for £200 and an apology was issued, and a range of recommended actions to provide a current support plan, a reminder to complete risk</p>

	<p>support;</p> <p>e) properly take into account Mr S's "Disability Related Expenditure" (DRE).</p>		<p>assessments, document when people agree to privately fund services, and to provide residents information about potential social care charges.</p>
<p>Adults – 15016510</p>	<p>The complainants, Mr and Mrs B, are complaining about the care and treatment provided to their son, Mr G, by the Council and North Kirklees Clinical Commissioning Group (the CCG).</p>	<p>Not investigated at third stage</p>	<p>No errors found in relation to the care and treatment provided. However, the Ombudsman found 2 errors within the 9 independent reviews that had taken place, and advised the council apologise for these. No compensation required.</p>
<p>Adults – 15017848</p>	<p>The complainant, Mrs S complains about the assessments the Council completed for her and her husband, Mr S. She complains that there was delay in the completion of the assessments, they were incomplete, officers failed to provide her with information; and to complete a checklist for NHS continuing health care properly.</p> <p>2. During the complaint investigation Mrs S's advocate has made the decision to only visit Mrs S in twos on the advice of the Council. Mrs S is</p>	<p>Not investigated at third stage</p>	<p>The Ombudsman found there were inadequacies in the original assessment the Council completed and in the information the Council has provided to Mr and Mrs S throughout its involvement.</p> <p>Remedies included an apology to the family about the failure to complete the first assessment properly, delay, failing to provide enough information; and failing to complete a carer's assessment, and to address the situation and to backdate any assessed direct</p>

	unhappy with this decision.		payment to the date where it might reasonably be paid, and to remind colleagues of the processes.
Adults 15018447	An advice centre on behalf of the complainant (Mrs B) complains that the Council did not properly inform Mrs B of the charges payable for a period of residential care. As a result Mrs B was charged more than she expected.	Not investigated at third stage This case was complicated by the fact that Mrs B had a hospital stay at a hospital out of area.	The Ombudsman found no recorded evidence of the conversation the staff nurse had with Mrs B on the ward. On the basis the duty social worker was waiting on the phone, it must have been a brief conversation which could not have explained properly to Mrs B the implications of her decision. However, the Ombudsman concluded the charges were properly made. The council agreed to pay £500 compensation in recognition of distress caused by its failure to communicate properly, and the uncertainty about the length of stay in the care home.
Adults 16009362	Mr Y, complained: a) The Council failed to clearly explain care charges for his mother, Mrs X, dating back to 2011. It double-	Not investigated at third stage.	The Council was at fault in how it calculated Mrs X's care charges, and how it communicated the charges to Mr and Ms Y. The Council was also at fault when it

	<p>charged for some services and has continued to charge following Mrs X becoming eligible for Continuing Healthcare (CHC) funding. In addition, assessments and billing have been inconsistent and billing has not been timely;</p> <p>b) The Council did not complete a Carer's Assessment in a timely way for Mr Y's partner, Ms Y, despite requests.</p>		<p>did not carry out a carer's assessment for Ms Y.</p> <p>The Council has agreed to arrange an independent audit of Mrs X's account and to investigate the reasons for miscalculations.</p> <p>It agreed to reduce Ms X's arrears by £500 and to pay £250 to Mr and Ms Y to acknowledge the uncertainty and time and trouble caused to them and to issue a written apology.</p>
<p>Planning 15018505</p>	<p>Mr D complains the Council failed to follow the correct procedures when it granted planning permission to a neighbour's application for a rear kitchen extension and decking; as a result, the development affects his amenities.</p>	<p>Third Stage complaint investigation determined that the planning process appeared regular, and quoted the policy which states the service is not required to re-publicise any changes to the proposed development.</p> <p>The complainants also felt it inappropriate for planning officers to discuss variation to the plans which might be more acceptable. The review found this to be</p>	<p>The Ombudsman was satisfied the Council did not ignore national and local planning policies.</p> <p>However, the Ombudsman found fault that the council's policy not to re-advertise changes to planning application fettered their discretion – the change could be large or small. In this instance the resident was aware of the change and was not disadvantaged as they made representation against it.</p> <p>The service was also criticised for</p>

		regular.	not recording details of pre-planning advice given.
Planning 15019470	<p>Mr X, says the Council is at fault in its consideration of a planning application for a development near their homes.</p> <p>Mr X says the Council was unaware the garage of Mr and Mrs Y's home was used as a habitable room until the application was discussed at a Planning Committee meeting.</p>	<p>The review determined an error had been made in that the statement the garage was converted to a habitable room had been missed. An apology was offered.</p> <p>However, it was not felt that this error altered the eventual outcome of the planning application.</p>	<p>The Ombudsman concluded the status of Mr and Mrs Y's garage as a habitable room was not clarified in the case officer's report. This is fault as a case officer's report on a planning application should accurately set out the objections received.</p> <p>This meant that Planning Committee members were not aware of the status of Mr and Mrs Y garage prior to the Committee meeting. However this matter was brought to its attention at the meeting by both the spokesperson for the objectors and a councillor.</p> <p>Committee members were aware of the use of the garage when making its decision.</p>
Special Educational Needs 15019178	<p>Mrs X complains the Council:</p> <p>a) did not finalise her son's Statement of Special Educational Needs (Statement) until 12 months</p>	<p>Not dealt with at third stage – there is an appeals process in place for elements of the complaint.</p>	<p>The Ombudsman determined there was fault when the Council did not finalise Y's Statement within the statutory deadline and did not identify a suitable school</p>

	<p>after the statutory deadline;</p> <p>b) took too long to find a suitable school for Y; and</p> <p>c) did not carry out the agreed educational provision in Y's Statement relating to speech and language and occupational therapy.</p>		<p>for him to transfer to in September 2015.</p> <p>They recommended the council apologise, pay the family £1500 compensation and take steps to ensure the government guidance is adhered to.</p>
<p>School Admissions Panel</p> <p>16002456</p>	<p>Ms X complains about the way a school admissions appeals panel considered her appeal for her preferred primary school for her child.</p>	<p>Not dealt with as a third stage complaint as a separate review panel in place.</p>	<p>The Ombudsman determined neither the clerk's notes of Ms X's appeal hearing nor the clerk's decision letter specifically record a decision by the panel that admitting another child would breach the infant class size limit. That calls into question whether the panel consciously made that decision.</p> <p>The Council agreed to review the way appeal panel decisions are recorded.</p> <p>To review the information it puts into individual schools' cases in infant class size appeals, to ensure the information explains fully why the school cannot take</p>

			<p>measures to admit more children;</p> <p>panel and clerk training, to ensure panels question properly school cases where infant class size limits apply and clerks ensure decisions on the breach of class size limits are both made and recorded clearly.</p>
<p>School Admissions Panel</p> <p>16007645</p>	<p>Mrs X complained:</p> <p>a) the Admissions Appeal Panel failed to properly consider her appeal against the refusal of a place for her son to attend School A.</p> <p>b) the Council refused her a second appeal.</p> <p>c) The Council has not applied the “excepted child” criteria to allow her child to attend School A.</p>	<p>Not dealt with as a third stage complaint as a separate review panel in place.</p>	<p>There was no fault in the way the Appeal Panel dealt with Mrs X’s appeal or in the Council’s consideration of excepted pupil status.</p> <p>The Council failed to respond appropriately to Mrs X’s material change in circumstances (a change of address). To remedy this it has agreed to offer Mrs X a fresh appeal.</p>
<p>School Admissions Panel</p> <p>16007762</p>	<p>Mrs X complains about the way a school admissions appeals panel handled her appeal for a place at her preferred middle school for her child.</p>	<p>Not dealt with as a third stage complaint as a separate review panel in place.</p>	<p>The Council has agreed to arrange a fresh appeal for Mrs X. The notes of the meeting could not definitively show that the panel correctly considered information about the availability of transport given the family had moved</p>

			<p>address.</p> <p>The Council has already agreed to review the way appeal panel decisions are recorded. The review is to ensure future recording of decisions on the lawfulness of the Council's admission arrangements and their application to the child in question.</p>
<p>Children's Service</p> <p>16006360</p>	<p>Miss X complains about the Council's involvement with her family since 2013. In particular she says the Council:</p> <ul style="list-style-type: none"> • Carried out an inaccurate children's services assessment. • Did not take her disability into account when dealing with her. • Revealed her address to her ex partner. • Failed to act on the recommendations of a stage two investigation into her complaint. 	<p>Not investigated at third stage – part of the statutory complaints process.</p>	<p>The Ombudsman concluded that while the Council acted on the stage two findings it failed to follow the statutory complaints process.</p> <p>The Council has agreed to apologise to Miss X, pay her £150 for her time and trouble and review how it responds to children's services complaints.</p>

Appendix 2: Proposed revised Whistleblowing Policy

Whistleblowing: Independent Reporting of Concerns at Work (October 2016)

1. Introduction

Our employees will often be the first to notice if there is something seriously wrong within their workplace. Sometimes it may seem difficult to speak up because of feelings of disloyalty, or because of a fear of harassment or victimisation. We expect the highest standards of behaviour and all employees have a responsibility to voice any concerns they have, normally with their manager or assistant director.

This Whistleblowing procedure is independent and confidential. It can be anonymous if you wish. We will make sure that you will not be victimised or suffer disadvantage if you report your genuine concerns.

It allows employees to bring to the attention of those who can make a difference any practice which they believe or suspect:

- is unlawful
- is a serious breach of the council's policies, procedures and rules (for example, the Contract Procedure Rules)
- falls substantially below established standards of practice
- amounts to improper conduct

It is difficult to come up with a complete list of issues which might cause concern, but you should report known or strongly suspected fraud, corruption, bribery, theft or financial irregularities; the physical, mental or sexual abuse of clients; unfair discrimination; abuse of power; dangerous practices; criminal conduct; serious damage to the environment; negligence; unprofessional behaviour ; evasion of statutory responsibilities or where you believe that an activity is taking place which involves gross waste or mismanagement of funds.

The malpractice might be carried out by council employees, contractors, consultants, or councillors.

This procedure is not to be used if you are generally dissatisfied at work or as a replacement to your existing employment rights with the council. If you make any allegations maliciously or for personal gain, disciplinary action against you may be considered.

This policy is endorsed by all the trade unions representing council employees.

2. How to raise a concern

a) Through your manager

Normally you should first speak to your immediate manager. If you feel that you cannot do this – for example if you believe that they are involved – then you should speak to your Service Director. If you feel that you cannot discuss this with anyone within your Service area, you can contact the Service Director who has overall responsibility for Whistleblowing – who is Julie Muscroft, Service Director of Legal, Governance and Community (who can be contacted by way of the council main switchboard 01484 221000 or julie.muscroft@kirklees.gov.uk.)

b) Through the Whistleblowing route

If you do not feel able to contact any of these people you should call the council's Whistleblowing answerphone – ring 860 5030 or 01484 225030 or email whistleblowing@kirklees.gov.uk

You should give as much information as you can, including names, dates, places, history and why you are concerned. You are encouraged, but not required, to leave your name and contact details – it is much easier to investigate a concern if we can speak to you directly and confidentially.

All messages on the answerphone and email will be heard and seen only by the council's Corporate Customer Standards team. They will then review all messages confidentially, and contact either the Head of Risk or the Head of HR.

Involving your Trade Union

You may want to raise your concerns through your Union, and discuss with them the options available, or seek their help in taking your concerns forward.

3. How your concerns will be dealt with

All allegations will be investigated: how and by who depends on how serious they are and who they involve. The investigation may be handled internally, or referred to an external agency such as the council's external auditor or the police. Internal investigations will be undertaken by an appropriate department, such as Internal Audit or HR, or in some instances by senior management within the service. The Corporate Customer Standards Officer retains overall responsibility for ensuring that all concerns are properly considered and dealt with appropriately.

If you raise your concerns under this policy then we will write to you within 10 working days saying:

- what we intend to do
- how long we think this will take
- whether any more information is required from you

We will let you know the outcome of the investigation, so that you can see that the matter has been properly addressed.

Please note we will discuss and seek to agree how we intend to progress matters you have raised. However there may be occasions where we feel we have a responsibility to progress matters in a particular way, and the ultimate decision to progress or investigate matters is for the council.

The council's Corporate Governance and Audit Committee will receive regular reports summarising all concerns raised under this policy.

If you make a Whistleblowing complaint, you have a right not to be bullied, harassed or mistreated as a consequence of this. If you believe that you are suffering detriment as result of your complaint you should report this to the Corporate Customer Standards Officer.

Any person who treats a whistle blower in a detrimental way as a result of their whistleblowing will be liable to disciplinary action.

4. Raising your concerns elsewhere

This Whistleblowing policy has been drawn up so that you can have your concerns dealt with properly, independently and confidentially by the Council. But if you have no faith in this process, then you may consider contacting:

- A councillor
- The council's external auditor – KPMG, 1 Sovereign Square, Leeds LS1 4DW or phone 0113 231 3148
- The police – phone 101 from any phone
- Public Concern at Work – an independent authority on whistleblowing at www.pcaaw.co.uk or phone 020 7404 6609
- An appropriate regulatory body, that the government believes may be appropriate to receive whistleblowing concerns as set out in; Department of Business Innovation & Skills 15/298; Blowing the Whistle to a Prescribed Person; List of Prescribed Persons & Bodies
Web address:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf

5. Things to check

We welcome you raising your concerns, but do think about the need to be reasonably discreet;

- If you do decide to report your concerns outside the council, you must not disclose confidential information
- It's unlikely to be helpful to send mass emails

Provided that your behaviour is appropriate you will retain the statutory protection offered to Whistle-blowers.

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If you want more information about Whistleblowing, you might want to look at the government website

<https://www.gov.uk/whistleblowing/what-is-a-whistleblower>

If you are thinking about whistleblowing, but are a bit unsure about anything in this process, you can speak to the Corporate Customer Standards Team.

Revised at Corporate Governance & Audit Committee on 15 September 2017

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Name of meeting: Corporate Governance & Audit Committee

Date: 15 September 2017

Title of report: Changes to the Procedures for the Dismissal of Statutory Officers

Purpose of report

To recommend changes to the Council's Constitution to reflect changes to legislation relating to the dismissal of statutory officers

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?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	N/A
The Decision - Is it eligible for "call in" by Scrutiny?	N/A
Date signed off by Director & name	
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	
Is it also signed off by the Service Director - Legal Governance and Commissioning?	
Cabinet member portfolio	Graham Turner

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

1.1 This committee previously received a report about the potential changes to the legislation relating to the dismissal of statutory officers in June 2015. The regulations amend the Local Authority's (Standing Orders) (England) Regulations 2001 in relation to the disciplinary process for statutory officers, namely the Chief Executive (the Authority's Head of Paid Service), the Service Director for Finance, IT and Transactional Services (as the Authority's Chief Section 151 Finance Officer) and the Service Director for Legal, Governance and Commissioning (as Monitoring Officer).

1.2 The regulations provide for new arrangements in the disciplinary process, in particular reference to a panel including Independent Persons before a decision is made.

1.3 The regulations will require changes to some of the following: -

- a) Changes to Personnel Committee terms of reference; or
- b) Establishing a new committee

- c) Changes to the Officer Employment Procedure Rules; and
- d) the possible establishment of a panel of independent persons.

1.4 The changes will provide clarity on the dismissal process for the relevant senior officers.

2. Information required to take a decision

2.1 It is a statutory duty of the Local Authority to designate officers to hold the statutory post of Head of Paid Service, Chief Finance Officer and Monitoring Officer. In this Council the Chief Executive is designated as Head of Paid Service, the Service Director for Finance, IT and Transactional Services is Chief Finance Officer, and the Service Director for Legal, Governance and Commissioning is Monitoring Officer. The three officers all discharge their statutory duties and responsibilities in a political environment.

2.2 Previously the statutory protection in 2001 legislation required an appointment of a designated independent person (DIP) to investigate any allegation of misconduct against the statutory post holders. Those regulations provided that no disciplinary action in respect of these statutory post holders could be taken other than in accordance with the recommendation in a report made by a DIP.

2.3 The 2015 regulations remove the mandatory requirements that a DIP should be appointed. In place of the DIP procedure the decision will be taken by full Council, which must consider any advice, views or recommendations from a panel, comprising independent persons, the conclusions of any investigation into the proposed dismissal and the representations from the officer concerned.

2.4 The regulations and their impact has been set out in an earlier report before Corporate, Governance and Audit in June 2015. As there was little information in the regulation as to how this would work in practice there were a number of questions raised by the LGA but there has not been any further information provided.

2.5 In the case of potential disciplinary action under the new regulations the Council is now required to form a panel comprising Independent Persons. The membership of the panel is formed if two or more independent persons accept invitation to serve on the panel.

2.6 Establishing the panel is only necessary in the event that disciplinary action is envisaged, but if this does happen, a panel has to be formed twenty days in advance of the relevant disciplinary meeting. Due to this it is proposed that full Council establish an independent panel and amend the constitution now so that it is always available should the need arise. The suggested terms of reference for this panel are set out in Appendix D.

Options with regard to the Composition of the Panel

2.7 It is not clear whether the Panel is required to be made up of only Independent persons or whether the panel is required to also include elected members.

There are two possible options:-

- A. Council appoint a new committee named the Statutory Officer Disciplinary Committee. The Committee would include two independent persons when considering whether to recommend dismissal to full Council.
- B. Council extend the composition of the Personnel Committee and widen its functions to address the changes made by the 2015 Regulations. In support and to reflect the requirements of the regulations the Council would appoint a Panel made up of Independent persons only, which is to be convened when Personnel Committee is considering whether to recommend dismissal to full Council.

Option A

- 2.8 In summary it is proposed the Statutory Officer Dismissal Committee will hear all disciplinary matters relating to 'disciplinary action' as defined in the 2015 regulations in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer . It will comprise of five members of the Council, with the quorum being three members where at least one of whom must be a member of Cabinet.
- 2.9 Where the Committee is considering whether to recommend to Council the dismissal of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer the committee will comprise 5 members of Council, at least one of whom must be a member of the Cabinet and two independent persons appointed in accordance with the 2015 regulations. This would enable the Independent person to be involved from a slightly earlier stage.
- 2.10 The advantage of this approach is that it is simple and the Independent persons are involved from an early stage. However, the disadvantage is that it does not build in a further opportunity for the officer to address or appeal the decision made which is contrary to employment practice. Investigations of misconduct at a senior level are often complex and involve an outside investigator. Although, having the Independent Panel involved from the beginning allows for transparency it leaves little in the way of appeal or to address any areas of concern from the officer point of view.

Option B

- 2.11 Kirklees already has a Personnel Committee and has within its current terms of reference the ability to consider and deal with disciplinary procedures in the case of officers above the level of Service Director as described, "*..1...Appointment of staff and determination of their terms and conditions of appointment, including disciplinary procedures and including negotiations and consultation with trade unions over issues relating to terms and conditions..*"
- 2.12 The committee could make a referral to full Council for a decision if dismissal is recommended. It is proposed that the role of Personnel

Committee be slightly expanded to include the terms of reference as set out at Appendix B in line with the regulations to include investigation and consideration of appropriate issues relating to the other two senior posts referred to, the Chief Finance Officer and Monitoring Officer.

- 2.13 This means that there would be referrals by the Personnel Committee to the Independent panel, who would review the recommendation and have full access to the written evidence and recommendations of Personnel Committee. The Independent Panel would conduct a full review following the recommendation from Personnel Committee and would have a further opportunity to hear from the relevant officers, investigator and employee and make recommendations to full Council for a decision where appropriate. The Independent Panel would require appropriate support in place to ensure they were properly independent. The Independent panel would be made up of three independent persons and they would be appointed in accordance with the 2015 regulations. The Regulations state how and in what order of priority independent persons are approached to form the membership of the panel. It is as follows:
- a. A relevant independent person who has been appointed by the authority and who is a local government elector;
 - b. Any other relevant independent person who has been appointed by the authority
 - c. A relevant independent person who has been appointed by another authority or authorities

Kirklees currently has one independent person; which may increase in the future if further recruitment is undertaken. If it has not increased then we are able to ask other Local Authorities to use theirs rather than appoint another one specifically to fulfil the role

- 2.14 In practice the referral to the Independent panel would take place before Council so their views can be taken into account by full Council before reaching a decision. This would also provide a mechanism for the statutory officer to appeal or challenge the investigation process so far and provide a second opportunity for the officer to have their views heard by the independent panel.
- 2.15 Once full Council has approved the dismissal following the decision to dismiss from the Personnel Committee and the Independent Panel, the regulations do not suggest there is a higher decision making body. It is for this reason that the decision to dismiss could be taken at the first stage by the Personnel Committee and the Independent Panel can in effect become the appeal stage. The officer will have had a further opportunity to state their case before any proposal to dismiss is made and then to address the authority before any decision to approve the dismissal is made.

Impact on Senior Officers

- 2.16 The changes in the legislation have been discussed with the relevant officers. They have been informed that the new procedure will be an implied term within their current contract and will take precedence over

the previous DIP procedure which may be referred to in their current terms and conditions. Once the changes are made it will become an express term and HR will confirm the amendment to their terms and conditions subject to approval of the changes by Council.

3. Implications for the Council

The regulations require that the Council changes its procedures.

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

3.5 Legal and Financial Implications

The regulations require the council to change its procedures.

4. Consultees and their opinions

Consultations have been carried out with the relevant officers involved who understand the requirements and have no objections to the proposed procedures.

HR and Head of Legal Services.

5. Next steps

Members are asked to consider each of the options and approve either Option A or B as a recommendation for Council to adopt.

If Committee approve Option A and the establishing of a new committee the suggested terms of reference, composition and functions of the committee are set out at Appendix A

If Committee approve Option B the extension of the role of Personnel Committee is agreed, it is necessary to amend the Personnel Committee terms of reference to reflect the changes as set out in Appendix B and to amend the Officer Employment Procedure Rules as set out in Appendix C.

A report will be taken to full Council on 11 October 2017 recommending one of the options with any feedback, comments or recommendations from this meeting will be included in that report. Following Council the necessary changes will be made to the Constitution to reflect the new process

6. Officer recommendations and reasons

- 6.1 Members are asked to recommend to full Council approval of **Option B** for the reasons already set out in this report at paragraph 2.14 and 2.15:

The reason for preferring Option B having considered a number of other Local Authorities procedures is because most have built in a three layer approach similar to Option B. This adds a further layer in terms of an appeal, as there is no reference to this in the regulations and provides a further opportunity for the Independent Panel to consider the decision from Personnel Committee with 'fresh eyes' in accordance with the regulations. It offers a simple and clear process in line with the intention of the Regulations and provides an opportunity for the officer to be heard before an Independent Panel prior to the recommendation to Council. This also places it in line with good practice in employment terms which requires an appeal process.

- 6.2 If **Option B is approved by members** amendments will be required to the Personnel Committees' terms of reference as set out at Appendix B to this report
- 6.3 Amendments to the Officer Employment Procedure as set out at Appendix C to this report.
- 6.4 That a panel be established to comprise a minimum of two Independent persons with terms of reference as set out in Appendix D
- 6.5 This Committee considers the requirements of the regulations as set out in the report and makes any comments/observations before the changes to the constitution are considered by Council.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Samantha Lawton, Senior Legal Officer - Legal, Governance and Commissioning – 01484 221000
Samantha.lawton@kirklees.gov.uk

9. Background Papers and History of Decisions

Changes to Statutory Process for Dismissal Procedures for Senior Officer dated 24 June 2015

Appendices:

Appendix A – Statutory Officer Dismissal Committee Terms of Reference

Appendix B - Personnel Committee Terms of Reference

Appendix C – Officer Employment Procedure Rules

10. Service Director responsible

Julie Muscroft, Service Director – Legal, Governance and Monitoring,
First Floor (Executive Suite), Civic Centre 3, Huddersfield.
Telephone: 01484 221000 Email: julie.muscroft@kirklees.gov.uk

The Service Director recognises that she has a conflict of interest in relation to this report but responsibility primarily lies in her service.

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APPENDIX A

Statutory Officer Dismissal Committee

Membership

5 Members of the council

Terms of Reference

Delegated responsibility for:-

- 1.To take disciplinary action¹ short of dismissal against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer
- 2.To make recommendations to Council as to the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief of Finance Officer
- 3.To suspend and keep under review the suspension of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer
- 4.To dismiss or take disciplinary action short of dismissal against the Head of Paid Service, the Monitoring Officer or the Chief Finance officer

¹ 'Disciplinary Action' has the meaning set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

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APPENDIX B

Personnel Committee

Membership

9 Members of the council

Terms of Reference

Delegated responsibility for:-

1. Appointment of staff and determination of their terms and conditions of appointment, including disciplinary procedures and including negotiations and consultation with trade unions over issues relating to terms and conditions [N.B. all appointments below Service Director level are required to be delegated to officers];
2. To establish at the appropriate time sub-committees of members to act as appointment panels for the appointments of the Chief Executive, Chief Officers, and designated Deputy Chief Officers (as defined in Section 2(8) of the Local Government and Housing Act 1989).
3. To determine which Deputy Chief Officer posts should be designated to be appointed by a sub-committee of members.
4. To determine the mode of appointment to the post of Chief Executive, Deputy Chief Executives and Strategic Directors.
5. To make recommendations to Council as to the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief of Finance Officer
6. To take disciplinary action¹ short of dismissal against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer
7. To suspend and keep under review the suspension of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer
8. To dismiss or take disciplinary action short of dismissal against the Head of Paid Service, the Monitoring Officer or the Chief Finance officer

¹ 'Disciplinary Action' has the meaning set out in the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

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

APPENDIX C

OFFICER EMPLOYMENT PROCEDURE RULES

OFFICER EMPLOYMENT PROCEDURE RULES

N.B. Reference should be made to the relevant sections of Part 3 of the Constitution for details of responsibilities delegated to Personnel Committee, Appointment Panels and Officers in accordance with these Procedure Rules.

1. Definition of Chief Officer for the purposes of these Rules

In these rules the expression “Chief Officer” means any Deputy Chief Executive, Strategic Director, Head of Service or Service Director. This definition fulfils the relevant requirements of the 1993 and 2001 Standing Orders Regulations (as amended)

2. Recruitment and Appointment

(a) Declarations

- (i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or senior officer of the council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or senior officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her

(b) Seeking support for appointment

- (i) Subject to paragraph (iii), the council will disqualify any applicant who directly or indirectly canvasses the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will canvass support for any person for any appointment with the council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

3. Recruitment of Head of Paid Service and Chief Officers

- (a) Where the council proposes to appoint the Head of Paid Service or a chief officer (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing

- officers, the council or its Personnel Committee will establish a committee or sub-committee to act as the appointment panel.
- (b) The appointment panel will:
- (i) draw up a statement specifying the duties of the post concerned; and an employee specification which describes the experience, education, training, knowledge, skills and other factors to be sought in the person to be appointed.
 - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (iii) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.
- (c) Where a post has been advertised, the appointment panel shall:-
- (i) Select a short list of qualified applicants and interview those included on the short list.
 - (ii) At all times act in accordance with the council's equal opportunities policy and code of practice on recruitment and selection.
 - (iii) When no person is appointed, make further arrangements for advertisement.
- (d) Where the council propose to appoint the Head of the Paid Service or a chief officer (other than on an acting basis) exclusively from amongst their existing officers, the council or its Personnel Committee will establish a committee or sub-committee which will make arrangements in connection with the appointment.
- (e) Where the duties of a chief officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972 -
- (i) The steps taken under this Rule may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned;
 - (ii) Any chief officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those authorities.

4. Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a

committee or sub-committee of the council. That committee or sub-committee must include at least one member of the Cabinet.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 of these Rules has been completed.

5. Appointment of Chief Officers

- (a) A committee or sub-committee of the council will appoint chief officers. That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

6. Other Appointments

(a) Officers below chief officer

Appointment of officers below chief officer (as defined in Rule 1) (other than assistants to political groups) is the responsibility of the Head of the Paid Service or officers nominated by him/her and may not be made by councillors.

(b) Assistants to political groups

- (i) The council may appoint up to three posts to provide assistance to the members of any political group to which members of the council belong to discharge any of their functions as members of the council.
- (ii) Each such post shall first be allocated to a political group in accordance with Section 9 of the Local Government & Housing Act 1989 and will then fall to be filled from time to time in accordance with the wishes of that group. No post shall be allocated to a political group which does not qualify for one.
- (iii) No appointment shall be made to any such post until the council has allocated a post to each political group that qualifies for one. No more than one post shall be allocated to any one political group.

7. Disciplinary Action

(a) Suspension

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged

misconduct. That suspension will be on full pay and will last no longer than two months.

(b) **Independent Panel**

Subject to (a) above, no disciplinary action (as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2015 may be taken in respect of any of those officers except in accordance with the Local Authorities (Standing Orders) (England) Regulations 2015 (investigation of alleged misconduct).

(c) **Involvement of Councillors**

Councillors will not be involved in the disciplinary process in respect of any officer below chief officer (as defined in Rule 1), except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

8. Dismissal

- (a) Councillors will not be involved in the dismissal of any officer below chief officer (as defined in Rule 1), except where such involvement is necessary for any investigation or inquiry into alleged misconduct. { See comment above]

9. The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer

- (b) Subject to paragraph 9(g) the Personnel Committee may take disciplinary action short of dismissal or recommend to full Council that the Head of Paid Service, Chief Finance Officer or Monitoring Officer be dismissed. Only full council can approve the dismissal
- (c) Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of the dismissal of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or a chief officer that committee or sub-committee must include at least one member of the Cabinet.
- (d) Where a committee or sub-committee is discharging the function of the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer, the full Council must approve the dismissal
- (e) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-

- (i) any advice, views or recommendations of an independent panel¹
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iii) any representations from the relevant officer
- (f) The independent panel referred to must be appointed by the authority at least 20 days before the relevant meeting and should comprise a minimum of two independent panel members
- (g) Notice of dismissal of the Head of Paid Service, the Monitoring Officer, Chief Finance Officer or a chief officer must not be given until the procedure set out in Annex 2 has been completed.

¹ Appointed under s.102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority in accordance with the Local Authorities (Standing Orders)(England) Regulations 2001 (as amended)

ANNEX 1

APPOINTMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

1. This procedure applies to the appointment of the Head of Paid Service and chief officers as defined in Rule 1 of these rules (“relevant officers”). It has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, “appointor” means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the council.
3. An offer of an appointment as a relevant officer must not be made by the appointor until -
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person to whom the appointor wishes to make the offer
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) Either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointor that neither s/he nor any member of the Cabinet has any objection to the making of the offer;
 - (ii) no objection has been received by the proper officer within that period from the Leader; or
 - (iii) the appointor is satisfied that any objection received is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be either of a Strategic Director responsible for human resources or the Head of the Human Resource

Strategy Unit, and the above function may be exercised on their behalf by the Human Resource officer dealing with the particular appointment.

ANNEX 2

DISMISSAL OF HEAD OF PAID SERVICE, MONITORING OFFICER, CHIEF FINANCE OFFICER AND CHIEF OFFICERS

1. This procedure applies to the dismissal of the Head of Paid Service, Monitoring Officer, Chief Finance and chief officers as defined in Rule 1 of these Rules (“relevant officers”). It has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)
2. In this procedure, “dismissor” means, in relation to the dismissal of a relevant officer, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer must not be given by the dismissor until:
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) Either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) no objection has been received by the proper officer within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be either of the member of the Executive Management Group responsible for human resources or the Head of Human Resources.

APPENDIX D

Independent Panel

Terms of Reference

The Independent Panel is authorised to discharge the following functions:-

1. To advise the authority on matters relating to the dismissal of relevant officers of the authority¹

¹ In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

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Name of meeting: Corporate Governance and Audit Committee

Date: 15 September 2017

Title of report: Code of Corporate Governance

Purpose of report

To approve the Councils Code of Corporate Governance

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?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	N/A
The Decision - Is it eligible for "call in" by Scrutiny?	N/A
Date signed off by Director & name	
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	
Is it also signed off by the Service Director - Legal Governance and Commissioning?	
Cabinet member portfolio	N/A

Electoral wards affected: All

Ward councillors consulted: N/A

Public or private: Public

1. Summary

1.1 There is a requirement on Councils to agree an 'Annual Statement of Corporate Governance'. This Committee has approved a draft annual statement of corporate governance in June 2017, and an action plan has been produced, the implementation of which is being monitored by internal audit and will be reported as a part of their next quarterly report; The final annual statement of corporate governance will be approved alongside the accounts in due course.

2. Information required to take a decision

2.1 To assess the quality and health of corporate governance it is good practice to adopt a 'Code of Corporate Governance' to set up the principles and standards of governance to which the Council aspires and against which the Council can benchmark the quality of its governance arrangements. The previous Code was reviewed in 2015.

2.2 Governance is defined as being 'about how local government bodies ensure that they do the right things, in the right way, for the right people in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, and the culture and values, by which local government bodies are directed and controlled and through

which they account to, engage with and, where appropriate, lead their communities.

- 2.3 The key changes since the previous report are the addition of the new seven key principles and sub-principles of corporate governance which are set out clearly in the attached code and reflect the components as set out in the CIPFA/SOLACE Delivering Good Governance Framework 2016.

3. Implications for the Council

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

3.5 Legal and Financial Implications

The Code of Corporate Governance will assist the Council in assessing its governance arrangements when next considered in 2018.

4. Consultees and their opinions

The draft code has been developed with the involvement of the Service Director – Legal Governance and Commissioning, Internal Audit, and Governance & Democratic Services.

5. Next steps

The Code will be used as a tool in considering the Annual Statement of Corporate Governance for 2018/19 in the summer of 2018.

6. Officer recommendations and reasons

To adopt the Code of Corporate Governance as set out in the attached document

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Samantha Lawton – 01484 221000
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Carl Whistlecraft – 01484 221000
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Martin Dearnley – 01484 221000
martin.dearnley@kirklees.gov.uk

9. Background Papers and History of Decisions

CIPFA/SOLACE Delivering Good Governance Framework 2016

10. Service Director responsible

Julie Muscroft – 01484 221000
Service Director – Legal, Governance and Commissioning
julie.muscroft@kirklees.gov.uk

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KIRKLEES COUNCIL

CODE OF CORPORATE GOVERNANCE

Local Code of Corporate Governance

Good corporate governance is based on openness, inclusiveness, integrity and accountability and is demonstrated through the systems by which a local authority directs and controls its functions and relates to its communities.

It is about the leadership of communities and developing confidence, through the way that councillors and officers establish strategies, objectives and policies measure their achievement and operate the business of the council.

This involves:

- Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area;
- Taking informed, transparent and accountable decisions which are subject to effective scrutiny, monitoring of achievement of performance and the management of risk
- Engaging with local people and other stakeholders to ensure robust public accountability;
- Councillors and officers working together;
- To achieve a common purpose with clearly defined functions and roles;
- To develop the capacity and capabilities to provide effective leadership;
- To promote the values for the Authority and demonstrating good governance
- Upholding high standards of conduct and behaviour, ethical standards and legal compliance;

Delivering these objectives involves both community focus and service provision, in the context of establishing standards of conduct for those involved, business structures and processes and internal control and risk management. These standards are dealt with in more detail in the sections below.

This Code is underpinned by the seven key principles as set out in the revised framework 'Delivering Good Governance in Local Government Guidance notes for English Authorities 2016'.

The table below summarises how the various principles for good governance in the public sector relate to each other. Principles A and B permeate implementation of principles C to G as they provide the overarching requirements for acting in the public interest. Principles C to G focus on the implementation of governance and achievement of outcomes. The table also illustrates that good governance is dynamic and that an entity as a whole should be committed to improving governance on a continuing basis through a process of evaluation and review.

Principles	Sub principles
<i>Acting in the public interest require requires a commitment to and effective arrangements for:</i>	
A. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	Behaving with integrity
	Demonstrating strong commitment to ethical values
	Respecting the rule of law
B. Ensuring openness and comprehensive stakeholder engagement	Openness
	Engaging comprehensively with institutional stakeholders
	Engaging with individual citizens and service users effectively
<i>In addition to the overarching requirements for acting in the public interest in principles A and B, achieving good governance also requires a commitment to and effective arrangements for:</i>	
C. Defining outcomes in terms of sustainable economic, social and environmental benefits	Defining outcomes
	Sustainable economic, social and environmental benefits
D. Determining the interventions necessary to optimise the achievement of the intended outcomes	Determining interventions
	Planning interventions
	Optimising achievement of intended outcomes
E. Developing the entity's capacity, including the capability of its leadership and the individuals within it	Developing the entity's capacity
	Developing the capability of the entity's leadership and other individuals
F. Managing risks and performance through robust internal control and strong public financial management	Managing risk
	Managing Performance
	Robust Internal control
	Managing Data
	Strong Public Financial Management
G. Implementing good practices in transparency, reporting and audit to deliver effective accountability	Implementing good practice in transparency
	Implementing good practices in reporting
	Assurance and effective accountability

Community Focus

In carrying out its duties and responsibilities, Kirklees Council will promote wellbeing by:

- Working for and with the Kirklees community.
- Exercising leadership, where appropriate, developing its approach to working in local areas.
- Working collaboratively through the City Region and the West Yorkshire Combined Authority.
- Maintaining effective arrangements for:
 - accountability to stakeholders for its performance and the effectiveness in delivering its services and the sustainable use of resources.
 - demonstrating integrity in its dealings with other public agencies, the private and voluntary sectors to build effective relationships and partnerships.
 - demonstrating openness in all its dealings.
 - demonstrating inclusiveness through effective communication and engagement with the local community.
 - development of a clear vision and corporate strategy in response to corporate needs.

Service Delivery Arrangements

Kirklees Council will monitor the implementation of its agreed policies and decisions and aim to achieve continuous improvement in the procurement and delivery of services by maintaining arrangements which:

- Demonstrate accountability for service delivery.
- Ensure effectiveness through measurement of performance.
- Prioritise the use of resources.
- Demonstrate integrity in its dealings with service users and partnerships to ensure the "right" provision of services locally.
- Work with partners to specify, and monitor delivery of services which are effective.
- Demonstrate openness and inclusiveness through its consultation with key stakeholders, including service users.

- Are flexible and can be kept up to date, and adapted to accommodate change and meet user wishes.
- Investigate any complaints fairly, and openly, and address any shortcomings.

Structures and Processes

The Council will put into place effective political and managerial structures and processes to govern its decision-making and the exercise of its authority, through:

- Defining roles and responsibilities of Councillors and officers to ensure accountability, clarity and ordering of its business.
- Ensuring there is proper scrutiny and review of all aspects of performance and effectiveness , including formal Scrutiny, and call in powers.
- Demonstrating integrity by securing a balance of power and authority.
- Documenting its structures and procedures and ensuring they are communicated and understood to demonstrate openness and are inclusive.
- Ensuring these structures and processes are kept up to date and adapted to meet change.

Risk Management and Internal Control

Kirklees Council will establish and maintain effective business control systems and an effective strategy, framework and processes for managing risk which:

- Establish mechanisms to monitor and review effectiveness against agreed standards and targets and the operation of controls in practice through internal control and internal audit.
- Include public statements on its risk management strategy, framework and processes to demonstrate accountability.
- Demonstrate integrity by being based on robust systems for identifying, profiling, controlling and monitoring all significant strategic and operational risks.
- Include mechanisms to ensure the risk management and control process is monitored for compliance and that changes are accommodated.
- Display openness and inclusiveness through the involvement of those associated with the planning and delivering of services, including partners.

Standards of Conduct

Kirklees Council will:

- Exercise leadership by conducting itself as a role model for others to follow.
- Define standards of personal behaviour to be expected of Councillors and staff and those involved in service delivery.
- Require equal standards from partners, contractors and agents
- Put in place arrangements that ensure:
 - effectiveness, through monitoring compliance
 - integrity, by ensuring objectivity and impartiality are maintained in all relationships
 - accountability, through establishing clear and open processes and systems for investigating breaches and disciplinary problems, and taking action where appropriate (including arrangements for redress)
 - openness and inclusiveness, through the documentation of standards, and their regular review
 - Avoidance or mitigation of prejudice, bias or conflict of interest

Kirklees Council will deliver these outcomes through:

- Annually defining a series of local procedures and practices which together create the framework for good corporate governance.
- Nominating a lead officer for each area of activity who will be responsible for assessing effectiveness in practice.

The Service Director of Legal, Governance and Commissioning, working with the Corporate Governance and Audit Committee, has overall responsibility for Corporate Governance and will assess operational practice and behaviour, and prepare the overall Annual Governance Statement.

The key policies and procedures that will comprise the core of this process are listed below:

- The Council Constitution (including the Members and Officers Code of Conduct, Financial Procedure Rules and Contract Procedure Rules)
- Internal Audit Charter
- Human Resource policies
- Anti-Fraud, Anti-Corruption and Anti-Bribery Strategy
- Whistleblowing Policy
- Corporate Performance Management System
- Health and Safety policies
- Information Governance Framework

- Procurement Strategy.
- Corporate Plan
- Officer/Councillor Protocol
- Partnership policies

Note – The Code takes account of the principles of the current framework containing in CIPFA/SOLACE ‘Delivering Good Governance Framework 2016’



Name of meeting: Corporate Governance & Audit Committee

Date: 14th September 2017

Title of report: ARRANGEMENTS FOR SELECTING AN EXTERNAL AUDITOR FOR THE YEAR 2018/19 AND ONWARDS

Purpose of report; To update Corporate Governance & Audit Committee on the current position regarding the appointment of new auditors

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, IT & Transactional Services? Is it also signed off by the Service Director for Legal Governance and Monitoring?	Not applicable
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public

1. Summary

- 1.1 At its meeting on 27th January 2017 this Committee agreed that the Council be recommended to ask Public Sector Audit Appointments Ltd to carry out Auditor Panel duties on behalf of the Council and nominate a proposed External Auditor to the Council in due course. The council agreed with this action at its meeting on 15th February 2017.
- 1.2 Public Sector Audit Appointments Ltd (PSSA) have now carried out their tendering exercise, and have notified the Council that they wish to formally consult on their proposal to appoint Grant Thornton (UK) LLP to audit the accounts of Kirklees Metropolitan Council for five years from 2018/19. The appointment will start on 1 April 2018.

2. Information required to take a decision

- 2.1 In 2013 the Government announced the abolition of the Audit Commission. They then carried out a national tendering exercise to outsource the detailed audit work previously delivered directly by Audit Commission staff, and nominated Public Sector Audit Appointments Ltd, an arm of the LGA, to manage the outsourced contracts, which were then extended, but cease from the completion of the accounts for this year (2017/18). KPMG were the successful tenderer for most former Audit Commission work in Yorkshire.
- 2.2 The Local Audit and Accountability Act 2014, requires each authority to appoint its own external auditors for the financial year 2018/19 (and beyond). However, (as explained in the report considered in January 2017) the rules that control this freedom are so substantial that the vast majority of authorities have chosen to ask PSAA to procure audit services on their behalf.
- 2.3 PSAA has carried out a tendering exercise, the consequence of which is that only some of the current providers have secured work.
- 2.4 PSAA has now advised that they wish to formally consult the Council on their proposal to appoint Grant Thornton (UK) LLP to audit the accounts of Kirklees Metropolitan Council for five years from 2018/19. The appointment will start on 1 April 2018. The council has previously advised PSAA which suppliers might be considered to be conflicted.
- 2.5 If the Council is content with the proposal it simply needs to confirm this. If it wishes to object, or make observations it would need to provide reasons. Reasons for objecting to the proposal would be; independence issues, need for a shared auditor with another authority for operational reasons or concerns about quality of work previously provided to the council.
- 2.6 Officers have considered if there is any reason why Grant Thornton might be considered unsuitable to carry out the work for the Council.
- 2.7 Grant Thornton has had no involvement with the Council as advisers or consultants, and there are no reasons to believe that they are unsuitable.

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 Although each of the sub categorisations above suggests no direct implications, the work of the external auditor covers all aspects of the councils operations, including elements of the above, indirectly.
- 3.6 Given that the work of the external auditor has been specified nationally based on national and international accounting standards and the expectations of the National Audit Office, there should be no particular difference between any suppliers. There will be initial learning by both parties as each gets used to the processes and expectations of the other.

4. Consultees and their opinions

- 4.1 Not applicable.

5. Next steps

- 5.1 The consultation period runs until Friday 22 September 2017. The PSAA Board will consider all proposed auditor appointments at its meeting scheduled for 14 December 2017 and will contact all opted-in bodies after this Board meeting to confirm auditor appointments.(Unless the Council raises objections, or other councils raise issues which cause PSAA to need to reassign work)

6. Officer recommendations and reasons

- 6.1 The Committee authorises officers to confirm to PSAA that they have no objection to the proposed appointment of Grant Thornton LLP.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Martin Dearnley, Head of Risk 01484 221000 (73672)

9. Background Papers and History of Decisions

Correspondence from Public Sector Audit Appointments Ltd
Report to this committee 27th January 2017

10. Director responsible

Not applicable.

