

# Public Document Pack



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

**Julie Muscroft**

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Thursday 1 March 2018

## 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 9 March 2018**.

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', on a light-colored background.

**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  
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 Andrew Marchington (Chair of Standards Committee)  
Councillor Graham Turner (Cabinet Member - Resources)  
Councillor Musarrat Khan (Cabinet Member - Resources)

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of Previous Meeting**

1 - 4

To receive the Minutes of the previous meeting held on 30 January 2018.

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**3: Interests**

5 - 6

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.

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**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.

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**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.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

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**6: Public Question Time**

The Committee will hear any questions from the general public.

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**7: Report of Members Allowances Independent Review Panel** 7 - 22

To consider the report.

Contact: Carl Whistlecraft, Head of Democracy

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**8: Amendment Options for the Scrutiny Call in Process** 23 - 34

To consider the report.

Contact: Penny Bunker, Governance and Democratic Engagement Manager.

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**9: Procurement Update** 35 - 38

To receive the report.

Contact: Jane Lockwood, Head of Procurement.

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**10: Amendment to Officer Scheme of Delegation** 39 - 42

To consider the report.

Contact: Julie Muscroft, Head of Legal, Governance and Commissioning

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Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

### CORPORATE GOVERNANCE AND AUDIT COMMITTEE

**Tuesday 30th January 2018**

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

Apologies: Councillor Kath Pinnock

**1 Membership of the Committee**

Apologies for absence were received on behalf of Councillor K Pinnock.

**2 Minutes of Previous Meeting**

**RESOLVED** - That the Minutes of the meeting held on 17 November 2017 be approved as a correct record.

**3 Declaration of Interests**

No interests were declared.

**4 Admission of the Public**

It was noted that Agenda Item 15 would be considered in private session (Minute No. 15 refers).

**5 Deputations/Petitions**

None received.

**6 Public Question Time**

No questions were asked.

**7 Corporate Customer Standards - Interim Update Report**

The Committee received the Corporate Customer Standards Officer Interim Report 2017/2018, which provided an update on complaints performance between the period April to October 2017 and set out details of complaints in which fault had been identified by the Local Government Ombudsman. The report also highlighted examples of learning that had arisen from complaints and provided an update on the whistleblowing procedure.

The Committee noted that, during the six month period, a total of 18 Ombudsman complaints had been considered, of which 4 had been upheld. An overview of the upheld cases was set out at Paragraph 2 of the considered report.

Discussion took place regarding the information in the report relating to concerns with the timeliness and accuracy of responses submitted to the Ombudsman and the action that was being taken to address the standard and timeliness of responses.

**RESOLVED** - That the Corporate Customer Standards Officer Interim Report (2017-2018) be received and noted.

**8 Constitution Amendment - Proposed Changes to Terms of Reference (Corporate Governance and Audit Committee)**

The Committee received a report which set out proposed changes to the Council's constitution to amend the terms of reference of Corporate Governance and Audit Committee, following a decision by Cabinet in December 2017 for this Committee to receive regular updates on RIPA compliance. Consequently, the terms of reference of the Committee required amendment in order to incorporate a reference that the Committee will 'receive updates and monitor compliance of the Council's Regulation of Investigatory Powers Act (RIPA) Policy.'

It was noted that the matter would be submitted to Council on 21 March 2018.

**RESOLVED** - That the report be submitted to the meeting of Council on 21 March 2018 with the recommendation that;

- (i) the Terms of Reference of Corporate Governance and Audit Committee be amended in order to provide the Committee with authority to monitor the Council's use of RIPA Policy through the process of the submission of update reports to the Committee and;
- (ii) pursuant to (i), authority being delegated to the Service Director (Legal, Governance and Commissioning) to make the appropriate, and any consequential, amendments to the Constitution.

**9 Treasury Management Strategy 2018/2019**

The Committee received the Treasury Management Strategy 2018/2019. It was noted that the strategy had been prepared based upon current CIPFA Codes and DCLG guidance and that, in preparation for the 2019/20 financial year, the Council's Treasury Management Strategy would formally adopt the 2017 CIPFA Code revisions and any relevant updated DCLG guidance on local authority investments.

The report set out (i) an outline of interest rates and credit risk, and recommend an investment strategy for Council in 2018/2019 (ii) an outline of the current and estimated future levels of Council borrowing and a recommended borrowing strategy for 2018/2019 (iii) a review of the methodologies adopted for providing for the repayment of debt and a recommended policy for calculating the minimum revenue provision for 2017/18 onwards and (iv) a review of other treasury management matters, including the policy on the use of financial derivatives, prudential indicators, use of consultants and the policy for charging interest to the Housing Revenue Account.

**RESOLVED** - That the report be submitted to the meeting of Council on 14 February 2018 for decision, with a recommendation that consideration be given to;

- (i) the borrowing strategy as outlined in paragraphs 2.12 to 2.18
- (ii) the investment strategy as outlined in paragraphs 2.19-2.33 and appendix A
- (iii) the policy for provision of repayment of debt (MPR) as outlined in appendix C, which reflects the changes in policy outlined in paragraphs 2.34-2.66), effective from 2017-2018
- (iv) the treasury management indicators as set out at appendix C
- (v) noting officer proposals to re-fresh the treasury management strategy for financial year 2019-2020 to reflect revised 2017 CIPFA Treasury Management and Prudential Codes, and updated DCLG Investment Strategy and MRP guidance to Local Authorities (guidance pending)

**10 External Audit Plan 2017/2018**

The Committee received the KPMG External Audit Plan 2017/2018. The report set out an update on financial statements and planning, value for money arrangements work, key elements of financial statements audit planning, including pension liabilities, and independence and objectivity requirements.

With regard to 'value for money arrangements' work, discussion took place with replace with regards to the Council's current Children's Services arrangements and it was noted that the issue had impacted upon the VFM conclusion, whereby a qualified 'except for' conclusion had been issued in 2016/2017. It was advised that consideration would be given to the extent to which changes had been made in the Council's arrangements to impact upon the VFM conclusion for 2017/2018.

**RESOLVED** - That the External Audit Plan 2017/2018 be received and noted.

**11 External Audit Progress Report - Technical Update (Draft)**

The Committee received and noted the KPMG External Audit Progress report which set out an overview on progress and an update on deliverables, along with a breakdown of technical developments.

**RESOLVED** - That the External Audit Progress report – Technical Update (draft) be received and noted.

**12 Annual Report - Grants and Returns 2016/2017**

The Committee received the Annual Report of Grants and Returns, submitted by KPMG, which summarised the work that had been undertaken on the Council's grant claims and returns during the 2016/2017 period. The work undertaken included that completed under the Public Sector Audit Appointment certification arrangements, as well as other grants/returns under separate engagement terms.

## **Corporate Governance and Audit Committee - 30 January 2018**

The report advised that completed work included certification of the Council's 2016/2017 Housing Benefit Subsidy claim, Teachers' Pensions return, Pooling of Capital Receipts return, NCTL Initial Teacher Training return and Skills Funding Agency sub-contracting arrangements, and provided a summary of observations.

**RESOLVED** - That the External Audit Annual Report on Grants and Returns 2016/2017 be received and noted.

### **13 Appointment of External Auditor**

The Committee received a report which advised of the appointment of Grant Thornton (UK) LLP as the Council's auditors, following a tendering exercise carried out by Public Sector Audit Appointments Ltd (PSAA). The report advised that, at its board meeting on 14 December 2017, PSAA had confirmed the appointment of Grant Thornton (UK) LLP to audit the Council's accounts for a five year period from 2018/2019 to 2022/23, under regulation 13 of the Local Audit (Appointing Person) Regulations 2015.

The Committee noted that the appointment would be effective from 1 April 2018 and that the current auditors, KPMG, would continue for the current financial year, with expected completion during summer 2018.

**RESOLVED** - That the appointment of Grant Thornton (UK) LLP to audit the accounts of Kirklees Metropolitan Council, for a period of five financial years, from 2018/2019 to 2022/2023, be received and noted.

### **14 Exclusion of the Public**

**RESOLVED** – That acting under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds 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.

### **15 Quarterly Report of Internal Audit 2017/2018 (Quarter 3)**

(Exempt information within Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, 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, which would protect the interests of the Council and the company concerned, outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.)

The Committee received the Internal Audit Quarterly Report, Quarter 3, which set out an overview of internal audit activity in the third quarter of 2017/2018, including the Annual Governance Statement 2016/2017 Action Plan.

**RESOLVED** - That the Internal Audit Quarterly Report (Quarter 2) be received and noted.



| <b>KIRKLEES COUNCIL</b>                       |   |   |                                    |  |
|---|---|---|------------------------------------|--|
| <b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b> |   |   |                                    |  |
| <b>DECLARATION OF INTERESTS</b>               |   |   |                                    |  |
| 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.

# Agenda Item 7

**Name of meeting:** Corporate Governance and Audit Committee

**Date:** Friday 9 March 2018

**Title of report:** Report of the Members Allowances Independent Review Panel 2018/19

|   |   |
|---|---|
| <b>Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>  | Not applicable  |
| <b>Is it in the <a href="#">Council's Forward Plan</a>?</b>   | No  |
| <b>Is it eligible for "call in" by <a href="#">Scrutiny</a>?</b>  | No  |
| <b>Date signed off by <u>Director</u> &amp; name</b><br><br><b>Is it also signed off by the Service Director for Financial Management, IT, Risk and Performance?</b><br><br><b>Is it also signed off by the Service Director for Legal, Governance and Commissioning?</b> | Yes - 6 February 2018<br><br>Yes – 2 February 2018                                      |
| <b>Cabinet member <a href="#">portfolio</a></b>   | Cabinet Member responsible for the Corporate Portfolio, namely Councillor Graham Turner |

**Electoral [wards](#) affected:** All

**Ward councillors consulted:** Not Applicable

**Public or private:** Public

## **1. Purpose of report**

To recommend Council to approve the Members' Allowances Scheme for 2018/19, that takes account of recommendations proposed by the Members' Allowances Independent Review Panel regarding certain allowances.

## **2. Key points**

A meeting of the Members' Allowances Independent Review Panel has taken place to consider the Members' Allowances Scheme and make recommendations to the Council on certain allowances within the Scheme. The report of the Panel is attached at Appendix A and puts forward recommendations that:-

- (i) The current basic allowance be increased in line with the amount awarded to Kirklees Council officers with effect from 1 April 2018. To be backdated if negotiations are still underway on 1 April 2018.
- (ii) All special responsibility allowances (SRAs) be retained at their current rate and banding for 2018/19 unless otherwise referred to below
  - (a) That the SRA for a Foster Panel Member is changed to the day rate of £114 per day currently paid to Education Appeals Panel Members;
  - (b) That Group Business Managers determine the size of the pool of Councillors from which the Foster Panel should draw;

The draft Members Allowances Scheme for 2018/19, which takes account of the recommendations of the Panel, is attached at Appendix B.

The proposed increase to the rate of basic allowance, in line with the pay rise for officers, (if confirmed at 2%) will cost an additional £18,009. This can be contained within budgeted resources for 2018/19. Should the rise exceed 2% there will be a funding shortfall.

## **3. Implications for the Council**

This Members' Allowances Scheme is made under the Local Authorities (Members' Allowances) (England) Regulations 2003, and the Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003.

In making this scheme the Council has regard to the recommendations of its Members' Allowances Independent Review Panel which met on 10 November 2017.

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

The Allowances Panel have been consulted on the contents of the attached report and agree it as a correct record of their deliberations and recommendations. The following have also been consulted with regards to the contents and proposals contained therein:

The Leaders of the political groups on the council  
Jacqui Gedman, Chief Executive  
Debbie Hogg, Service Director for Financial Management, IT, Risk and Performance  
Julie Muscroft, Service Director for Legal, Governance and Commissioning

#### **5. Next steps**

Following consideration by the Corporate Governance and Audit Committee, this report will be referred for consideration by Full Council at its meeting on 21 March 2018

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

That Corporate Governance and Audit Committee:

- (i) Notes the recommendations of the Members' Allowances Independent Review Panel (as set out at Appendix A);
- (ii) Recommends that Council approves and adopts the Members' Allowances Scheme for 2018/19 (as set out at Appendix B) with effect from 1 April 2018.

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

That Corporate Governance and Audit Committee recommends that Council approves and adopt the Members' Allowances Scheme for 2018/19 (as set out at Appendix B) with effect from 1 April 2018.

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

Contact Officer:

Carl Whistlecraft  
Head of Democracy  
[Carl.whistlecraft@kirklees.gov.uk](mailto:Carl.whistlecraft@kirklees.gov.uk)  
Tel: 01484 221000

Background Papers:

Report of Members of Allowances Independent Review Panel

#### **9. Assistant director responsible**

Julie Muscroft, Service Director for Legal, Governance and Commissioning

Report of The

**Kirklees Council  
Members' Allowances  
Independent Review  
Panel**

10 November 2017

Carl Whistlecraft  
Head of Democracy  
Civic Centre 3,  
Huddersfield, HD1 2TG  
01484 221000

## **1 Panel Membership**

The Members of the Independent Review Panel are as follows:

Andrew Taylor (Chair)  
Ian Brown  
Chris West  
Lynn Knowles  
Stephen  
Thornton  
Fiona Weston

The meeting of the Independent Review Panel took place on 10 November 2017.

The following officers attended the Panel meeting:

Carl Whistlecraft, Head of Democracy  
Deborah Nicholson, Interim Councillor Support & Development Manager

## **2 Terms of Reference**

The Panel's Terms of Reference are:

- (a) To advise Council on what would be the appropriate level of Remuneration for Councillors having regard to the:
  - Roles Councillors are expected to fulfil
  - Varying roles of different Councillors
  - Practice elsewhere and other Local Authorities.
- (b) To consider schemes of Members Allowances for Town and Parish Councils as and when required.
- (c) To make recommendations and provide advice to the Council on any other issues referred to the Panel by regulation or by the Council.
- (d) Council retains its power to remove a discredited Panel Member.
- (e) The Panel can appoint its Chair from amongst its Members.

## **3 Constitutional Issues**

### **(a) Term of Office**

It was agreed that the current Panel membership be retained and that all relevant terms of office be renewed until December 2018.

### **(b) Election of Chair of Independent Review Panel**

Andrew Taylor was re-elected Chair of the Independent Review Panel.

#### **4 The Kirklees Democracy Commission**

The Head of Democracy delivered a presentation to the Panel on the work and recommendations of the Kirklees Democracy Commission, with a particular focus on the findings that may have implications for the Panel's future deliberations. The Panel acknowledged that a number of the Commission's recommendations, should they be agreed, would require more detailed consideration in the context of the wider Members Allowances Scheme. These include:

- Changing councillor roles;
- The rate of allowances and the mechanisms for determining such rates;
- The wider legislation covering Members Allowances;
- The support provided to councillors in carrying out their varying roles.

In conclusion, the Panel agreed that they would wish to make a positive impact in contributing to the Panel's future work and would welcome the opportunity to facilitate and support the development of the Scheme. This would be dependent on the outcome of the discussion planned to take place at Council on 15 November 2017.

#### **5 Members Allowances Scheme 2018-19**

The Panel considered changes to the Members allowance scheme for 2018/19.

In particular the Panel considered the following:

- (a) The Basic Allowance;
- (b) Special Responsibility Allowances (SRAs);
- (c) Arrangements and SRA for the Fostering Panel;

Having regards to some of the issues raised in the Democracy Commission report in respect of Overview and Scrutiny the Panel explicitly requested that a number of issues were placed on record. The Panel expressed disappointment that the Commission's report made reference to perceptions that "Scrutiny is not performing its role effectively". The Panel wishes to emphasise the important role played by Overview and Scrutiny, a factor that is reflected in the status placed on scrutiny roles in the Allowances Scheme.

The Panel considered evidence from Cllr Viv Kendrick, Foster Panel Member, regarding the current arrangements for the Fostering Panel. In considering current arrangements and consequential issues the Panel had regard to the following:

- The growing importance of the Fostering Panel;
- The increase in volumes of works and the expectations placed on Foster Panel members;
- The extent to which the current number of councillors involved is sufficient to meet demand and expectations;
- The ways in which the above mentioned issues are best addressed from an Allowances perspective.



Having weighed up a range of considerations the Panel felt that the most effective approach would be to replace the current SRA with a daily rate and widen the current pool of councillors to between 4 and 6 councillors. This would be based on an expectation that no more than 4 councillors serve in any one month. The Panel acknowledged that the final decision in terms of the size of the pool should be one for Group Business Managers.

**The Panel recommends:**

- (i) The current basic allowance be increased in line with the amount awarded to Kirklees Council officers with effect from 1 April 2018. To be backdated, if negotiations are still underway on 1 April 2018.
- (ii) The maintenance of all special responsibility allowances (SRAs) at their current level for 2018/19.
  - (c) That the SRA for a Foster Panel Member is changed to the day rate of £114 per day currently paid to Education Appeals Panel Members;
  - (d) That Group Business Managers determine the size of the pool of Councillors from which the Foster Panel should draw;

## **6 Consequential Changes to the Scheme**

The Panel noted recommended changes to the Scheme relating to maternity/paternity leave and pay which they had been previously consulted on and supported.

### **Maternity and Adoption Leave/Pay**

Councillors would be entitled to:

#### Leave

- 52 weeks leave.

#### Pay

- 6 weeks at 90% of the Basic Allowance and any Special Responsibility Allowance payable.
- 33 weeks at half pay plus the equivalent weekly amount paid to staff in receipt of Statutory Maternity/Adoption Pay.

A replacement to cover the period of absence shall be appointed, by Council, Committee or the Leader (dependent of the role being vacated) and the replacement will be paid the appropriate Special Responsibility Allowance subject to any applicable abatement.

### **Paternity Leave**

#### Leave

- Councillors can take up to two weeks' Paternity Leave.

If an election is held during the Councillor's Maternity, Adoption or Paternity leave and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and SRA (if appropriate) will cease from the Monday after the election date when they would technically leave office and payments under this agreement would cease at that point. If they otherwise stand down from the post or otherwise lose the position, their Basic Allowance and SRA (if appropriate) will cease from the date which would be the position if the member stepped down or otherwise lost their position.

Report produced on behalf of the Members Allowances Independent Review Panel by Carl Whistlecraft, Head of Democracy, November 2017

## Appendix B

### Kirklees Council Members' Allowances Scheme 2018-2019

This Members' Allowances Scheme is made under the Local Authorities (Members' Allowances) (England) Regulations 2003, and the Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003. In making this scheme the Council had regard to the recommendations of its Members' Allowances Independent Review Panel, which met on 10 November 2017.

1. The Members' Allowances Scheme will apply from 1 April 2018 to 31 March 2019.

#### 2. Basic allowances for ward duties

- 2.1 The amount allocated per annum to each elected councillor for ward duties is £13,360.(If 2% staff increase is applied).
- 2.2 The role of councillor is dynamic and the expectations and responsibilities associated with the role are constantly changing. This is an ongoing consideration in determining the basic allowance which recognises the level of responsibility, time devoted and expenses incurred in dealing with their constituents, political group and cross party discussions on a ward basis.

No additional payment will therefore be made for travel and subsistence costs for duties within the Kirklees district.

- 2.3 Basic allowances will be paid calendar monthly in arrears to each elected councillor in equal monthly instalments.
- 2.4 Where the term of office of a councillor begins or ends otherwise than on the 1 April 2018 or 31 March 2019 his/her entitlement to the allowance will be pro-rata.

#### 3. Special responsibility allowances

- 3.1 The amounts allocated per annum to councillors of specific duties, which are additional to the basic allowance are:-

|                                | £ per year |
|--------------------------------|------------|
| Leader                         | 25,155     |
| Deputy leader                  | 18,866     |
| <b>Band A</b>                  |            |
| Cabinet member                 | 12,274     |
| <b>Band A1</b>                 |            |
| Chair of Overview and Scrutiny | 11,047     |
| Group Leader (30+ councillors) | 11,047     |

|   |       |
|---|-------|
| <b>Band B</b>                                     |       |
| Group Leader (7-29 councillors)                   | 9,820 |
| Business Manager (30+ councillors)                | 9,820 |
| <b>Band B1</b>                                    | 8,592 |
| <b>Band C</b>                                     |       |
| Business Manager (20-29 councillors)              | 7,365 |
| <b>Band C1</b>                                    |       |
| Chairs of Planning Committees                     | 6,138 |
| Lead Members of Scrutiny Panels                   | 6,138 |
| <b>Band C2</b>                                    |       |
| Police and Crime Panel Members                    | 6,000 |
| <b>Band D</b>                                     |       |
| Business Manager (7-19 councillors)               | 4,911 |
| Chair of Licensing and Safety Committee           | 4,911 |
| <b>Band D1</b>                                    |       |
| Group Leader (2-6 councillors)                    | 3,684 |
| Deputy Group Leader (12+ councillors)             | 3,684 |
| Chair of Appeals panel                            | 3,684 |
| <b>Band E</b>                                     |       |
| Chair of Corporate Governance and Audit committee | 2,454 |
| <b>Band E1</b>                                    |       |
| Adoption Panel member                             | 1,227 |
| <b>Day Rate</b>                                   |       |
| Fostering Panel member                            | 114   |

Chairs of Overview and Scrutiny Ad-Hoc Panels will receive £38.37 day split into half day sessions (2 x 4 hours) to commence at the start of formal meetings to their conclusion. The Overview and Scrutiny Management Committee will place a time allocation on the work of the ad-hoc panel.

- 3.2 The special responsibility allowance recognises the additional time and expenses incurred by those councillors effectively performing additional special responsibilities.
- 3.3 Special responsibility allowances will be paid calendar monthly in arrears to the appropriate councillor in equal monthly instalments.
- 3.4 Where the term of office entitling a councillor to a special responsibility allowance begins or ends otherwise than on the 1 April 2018 or 31 March 2019 his/her entitlement to the allowance will be pro-rata.
- 3.5 No councillor shall receive more than one special responsibility allowance.

#### **4. Renunciation of allowances**

- 4.1 A councillor may, by giving notice in writing to the Service Director – Legal, Governance and Commissioning, elect to forego any part of his/her entitlement to an allowance payable under this scheme.

#### **5. Travel and subsistence outside the district**

- 5.1 Travel and subsistence allowances for approved duties outside the district can be paid only:
- \* approved duty are those as described in paragraph 8 of the Local Authorities (Members' Allowances) (England) Regulations 2003.
  - \* any other duty approved by the body, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the body, or of any of its committees or sub-committees
  - \* for approved duties previously authorised by the appropriate body (Cabinet or Overview and Scrutiny Management Committee) and Service Director – Legal, Governance and Commissioning. The approval must precede the performance of the duty and not be given retrospectively.

Claims for expenses must be made and received by the Service Director – Legal, Governance and Commissioning within two months of the expense being incurred.

- 5.2 Attendance at conferences: The Head of Democracy has delegated powers to determine councillor attendance at conferences etc.
- 5.3 Attendance at training and development events: The council will reimburse a councillor for travel and subsistence costs, at the approved rates, for training and development events. The appropriate Business Manager will approve councillor attendance.
- 5.4 The council will book accommodation on behalf of councillors to a maximum of the rates given in Appendix 1, subject to availability. Councillors requiring overnight accommodation may claim daytime meal allowance(s) in the usual way.
- 5.5 The authority will pay car mileage at HMRC rates and daytime subsistence allowances at the same rates determined for officers by the National Joint Council for Local Government Officers. The allowance rates are given at Appendix 1.
- 5.6 The rate of travel by public transport shall not exceed the amount of an ordinary fare or any available cheap fare and wherever possible should be arranged through Councillor Support to maximise available discounts and concessions.

Tickets or receipts must always accompany travel and subsistence claims for over £8.

- 5.7 Councillors' use of private motor vehicles should demonstrate either a substantial saving of the councillors' time, or being in the best interests of the council.
- 5.8 The rate of travel by taxicab will not normally exceed the fare for travel by appropriate public transport. In cases of urgency or where no public transport is reasonably available, the council will reimburse the amount of the actual fare and any reasonable gratuity. Taxi receipts more than £8 must support the claim.
- 5.9 Travel by any other hired vehicle is limited to the rate applicable had the vehicle belonged to the member who hired it unless prior approval to the actual cost of hiring.
- 5.10 The rate for travel by air should not exceed the rate applicable to travel by any appropriate alternative means of transport together with the equivalent saving in subsistence allowance.

Where the saving in time is so substantial as to justify payment of the fare for air travel the amount paid will not exceed:-

- (i) the ordinary fare or any cheap fare, or
- (ii) where no such service is available or in case of urgency the fare actually paid by the councillor.

## **6. Pensions**

With effect from 1 April 2014, any Councillor who is not an active member of the Councillors pension scheme will no longer have access to the pension scheme. Councillors who are currently contributing to the pension scheme will only be allowed to remain in it, until the end of their current term in office.

Councillors elected after April 2014 will not be entitled to access the pension scheme.

## **7. Maternity/Adoption/Paternity**

### Maternity and Adoption

Councillors are entitled to:

#### Leave

- 52 weeks leave.

## Pay

- 6 weeks at 90% of the Basic Allowance and any Special Responsibility Allowance payable.
- 33 weeks at half pay plus the equivalent weekly amount paid to staff in receipt of Statutory Maternity/Adoption Pay.

A replacement to cover the period of absence shall be appointed, by Council, Committee or the Leader (dependent of the role being vacated) and the replacement will be paid the appropriate Special Responsibility Allowance subject to any applicable abatement.

## Paternity

- Councillors can take up to two weeks' Paternity Leave.

If an election is held during the Councillor's Maternity, Adoption or Paternity leave and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and SRA (if appropriate) will cease from the Monday after the election date when they would technically leave office and payments under this agreement would cease at that point. If they otherwise stand down from the post or otherwise lose the position, their Basic Allowance and SRA (if appropriate) will cease from the date which would be the position if the member stepped down or otherwise lost their position.

### **8. Dependants' carers' allowance**

Councillors who need to engage carers to look after dependants whilst undertaking duties specified in regulation 7 of the Local Authorities (Members Allowances) (England) Regulations 2003 may receive a carers' allowance. The criteria are given at Appendix 2.

### **9. Support for a councillor with a disability**

Even though local councillors are not explicitly covered by the Disability Discrimination Act Part II (employment provisions), it is an expectation on councils that they will make every reasonable effort to meet the individual needs of disabled councillors. The council will provide support for disabled councillors, where appropriate, by actively discussing an individual's needs and putting in place the necessary support mechanisms wherever practicable.

### **10. Information technology**

Each councillor is offered a PC or laptop to be used in their homes through a broadband link and/or a smart device to assist them in the discharge of their functions as a councillor. Use of a smart device abroad is restricted to Council business only and councillors are encouraged to connect to wifi wherever possible.

## **11. Publicity**

- 11.1 The regulations place certain duties on local authorities in connection with publicising the recommendations made by their independent remuneration panel, their scheme of allowances and the actual allowances paid to councillors in any given year:

The regulations require, as soon as reasonably practicable after the end of a year to which the scheme relates, that local authorities must make arrangements for the publication in their area of the total sum paid by it to each recipient, in respect of each of the following:

- Basic allowance
- Special responsibility allowance
- Dependants' carers' allowance
- Travelling and subsistence allowance

## **12. Sickness and holiday**

The scheme recognises the right of councillors to holiday and entitlement to sickness absence.

An entitlement is made for 28 days of holiday. During periods of sickness a councillor is not expected to make up any hours lost as a result of that illness.

## **13. Suspension of Allowance**

Where a Member, since election has been convicted of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, the Council shall suspend any part of any allowance payable from the date of sentence. Such suspension shall remain in force until such time as section 80 of the Local Government Act 1972 (disqualification for election and holding office as member of a local authority) takes effect.

## **14. Education appeals panel members**

Members of Education Appeals Panels (who are not elected councillors of Kirklees Council), will receive an allowance of £114 for a full day meeting and £65 for meetings less than four hours. Periods of adjournment will not be included in the allowance payment.



## 1

Travel and subsistence rates from 1 April 2018 **(for approved duties performed outside Kirklees only)**

1. **Motor mileage rates****Car**

First 10,000 business miles in the tax year: 45p per mile  
 Each business mile over 10,000 in the tax year: 25p per mile

**Bicycle or other non-motorised forms of transport:** 20p per mile

**Motor cycle (for journeys less than 10,000 miles per year):** 24p per mile

**Passenger supplements:** The supplement remains unchanged; an increase in the above rates by 5p per person per mile not exceeding four passengers.

(Subject to change by HMRC)

Members of the council shall be entitled to an official parking permit for use when undertaking official council duties and otherwise used in accordance with the rules relating to their use, and specifically to take account of the contribution to parking permits in line with any residents charge as agreed by Council on 19 February 2014.

2. **Day subsistence**

**Breakfast allowance** £6.06  
 (more than 3 hours away from normal place of residence before 11.00 a.m.)

**Lunch allowance** £8.37  
 (more than 3 hours away from normal place of residence to include the period 12.00 noon - 2.00 p.m.)

**Tea allowance** £3.29  
 (more than 3 hours away from normal place of residence to include the period 3.00 p.m. - 6.00 p.m.)

**Evening meal allowance** £10.35  
 (more than 3 hours away from normal place of residence ending after 7.00 p.m.)

3. **Overnight accommodation costs up to:**

London/LGA annual conference £105.00  
 Outside London £90.00  
 (maximum room/bed-breakfast rates per person per night, but subject to availability)

4. **Meals on trains**

Where **main meals (i.e. breakfast, lunch or dinner) are taken on trains** during a period for which there is an entitlement for a day subsistence allowance, the reasonable cost of meals (including VAT) may be reimbursed in full. This reimbursement would replace the entitlement to the day subsistence allowance for the appropriate meal period. Councillors are asked to submit receipts for meals when claiming.

Kirklees Council

COUNCILLORS' ALLOWANCES

Criteria for dependants' carers' allowance

1. Councillors who care for children or dependants can claim a carer's allowance paid at the rate of the national minimum wage for age 21 and above (currently £7.38 per hour), subject to paragraph 3 below.
2. Payment is claimable in respect of children aged 14 years or under. In respect of dependant relatives, payment is claimable subject to written medical or social work evidence.
3. The Corporate Governance and Audit Committee will determine any application by a councillor on the grounds of special circumstances for payment of dependants' carers' allowance at a higher rate than that of the national minimum wage for age 21 and above.
4. The carer must not be a member of the same household.
5. Councillors should submit their claims, using a claim form and supported by receipts and, if applicable, declare any other care payment received from another agency, to the Councillors' Allowances section each calendar month in arrears.
6. Councillors can only claim for the carers' allowance in respect of expenses of arranging for care of their children or dependants necessarily incurred for attendance at meetings and performance of duties specified in the regulations, and any other duties approved by the Council including training sessions held within the induction period following an election. **Approved duties do not include meetings with officers and constituents and attendance at political group meetings.**
7. Any allegations of abuse of the scheme will be investigated through the Council's Standards process.
8. The dependants' carers' allowance is subject to annual review.

**Name of meeting: Corporate Governance and Audit Committee**

**Date: 9 March 2018**

**Title of report: Amendment Options for the Scrutiny Call in Process**

**Purpose of report:**

Following previous discussions at the Committee to consider the findings of more detailed work into options for the call in process in Kirklees.

|   |                    |
|---|--------------------|
| <b>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?</b> | Not applicable     |
| <b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>                                    | Not applicable     |
| <b>The Decision - Is it eligible for call in by Scrutiny?</b>   | Not applicable     |
| <b>Date signed off by <u>Strategic Director</u> &amp; name</b>  |                    |
| <b>Is it also signed off by the Service Director for Finance IT and Transactional Services?</b>   | No – n/a           |
| <b>Is it also signed off by the Service Director for Legal Governance and Commissioning Support?</b>  | Yes 1 March 2018   |
| <b>Cabinet member <a href="#">portfolio</a></b>   | Cllr Graham Turner |

**Electoral wards affected:** All

**Ward councillors consulted:** Not applicable

**Public or private:** Public

## 1. Summary

- 1.1 In 2015, following a number of call in hearings, the Corporate Governance and Audit Committee (CGA) requested that a piece of work be undertaken to examine the approach to Call-in in Kirklees to determine whether any changes or clarification of current arrangements were required.

An initial report to CGA set out a number of recommendations to refine the approach to call in which aimed to address learning from the recent call in meetings whilst ensuring a transparent process going forward. The amendments fell within the remit of the Overview and Scrutiny Management Committee to implement and did not require any amendments to the Constitution.

Whilst officers were working on implementing the decision of CGA there were a number

of changes in relation to the structure of Scrutiny. As a result of these changes there is now a greater emphasis on pre-decision scrutiny. The CGA asked for further detailed work to look at call in practice elsewhere and the development of potential options which linked to the approach to Scrutiny in Kirklees.

This report sets out the findings of benchmarking work and potential options as to how the call in process might be amended in line with the principles that underpin Scrutiny practice in Kirklees.

## **2. Information required to take a decision**

### **Principles of Scrutiny**

2.1 Since its formal establishment in 2000, Overview and Scrutiny in Kirklees has always operated under a number of key principles which include:

- Leave the party politics at the door
- Wherever possible influence the decision before it is made
- Scrutiny findings and recommendations are evidence based

National Government guidance emphasises that the power of call in should be exercised infrequently and only as a last resort when there is a clear and demonstrable breach of the decision making principles. Like any other process, Call in requires Scrutiny to look at the evidence; to look at how a decision has breached the decision making principles; rather than providing a platform to air differing points of view on a decision.

## **3. Current Position**

- 3.1 Officers have considered the approach to call in in light of the above principles. Benchmarking has been undertaken to look at practice elsewhere. Officers have also reviewed the decision making principles to bring them in line with current best practice and provide a clear explanation of the meaning of each.
- 3.2 Research has indicated that in most local authorities in the region there is a more robust approach to determining whether a call in request is valid. A summary is attached at appendix 1. In Kirklees validation has been limited to meeting current process requirements, i.e. number of signatories, submission within the deadline etc. From the research sample it can be seen that the majority have additional considerations as part of the initial call in request. There are also a number of steps required prior to holding a call in meeting, to evidence that there have been efforts to try and resolve concerns before moving to a call in hearing e.g. having discussions with Cabinet portfolio holder(s) and lead Directors.
- 3.3 In an economic climate where delaying an executive decision due to call in can also have financial implications for achieving budgetary savings within necessary timescales, then a process that tries to resolve concerns before the decision is made, is prudent.
- 3.4 In the same way that Scrutiny already has the opportunity to consider the information that Cabinet used to reach its decision, so in a balanced process Scrutiny should also be able to see any evidence that the call in is based on. If a reason for call in refers to specific information, outside of the Cabinet papers, then the Scrutiny Panel / Committee should be able to see that evidence.

- 3.5 It is suggested that one of the measures of validity is that the call in pro forma includes reasons why the signatories to the call in believe the decision making principle (s) have been breached. If reference is made to evidence to support the signatories views then that should be made available for Scrutiny to consider.
- 3.6 Previous call ins illustrated that some of the decision making principles had been open to individual interpretation which led to confusion. It is suggested that it is timely to update the decision making principles in line with good practice and provide a narrative to clarify the legal interpretation. A copy of the revised decision making principles is attached at appendix 2.
- 3.7 The other Scrutiny principle which might form part of the approach to call in, is the principle of trying to influence the decision before it is made. Most call in requests in Kirklees are not generated by the scrutiny panels. All consultees recognised that discussion to try to resolve an issue without the need for call in is desirable. The initial discussion paper suggested that councillors who were considering calling in a Cabinet decision should try to resolve concerns before submitting a call in request by talking to the portfolio holder and the Strategic / Service Director. This could also include speaking at the Cabinet meeting before the decision has been taken and responding to ward member consultation on the proposals. The call in proforma would include a space to summarise actions taken to address concerns prior to call in.

Feedback on this option was mixed, with particular concern that this should not be a barrier to calling in a decision. Some felt it should be a recommended course of action rather than a requirement. It should be noted that previous optional steps in the call in process have not usually been followed.

- 3.8 It is proposed that the decision about the validity of a call in request will be determined by the Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny.

### **3. Implications for the Council**

- 3.1 **Early Intervention and Prevention (EIP)**  
None specific
- 3.2 **Economic Resilience (ER)**  
None specific
- 3.3 **Improving Outcomes for Children**  
None specific
- 3.4 **Reducing demand of services**  
None specific
- 3.5 **Other (eg Legal/Financial or Human Resources)**  
None specific

## 4. Consultees and their opinions

In preparing this report, the views of the Overview and Scrutiny Management Committee, the Leadership Management Team and political groups have been sought. A summary of views is set out below:

i. LMT was supportive of a discussion prior to call in to try to resolve the concerns. The clarification of the decision making principles was welcomed to try and ensure consistent interpretation by all parties.

ii The Scrutiny Committee was supportive of a balanced process based on Scrutiny principles. Whilst agreeing that trying to avoid call in by resolving concerns through discussion was desirable, the OSMC had reservations about making it a formal requirement. It was suggested that if there were to be a requirement to try to resolve concerns then consideration should be given to the length of timescale in which to carry out this requirement. The OSMC was keen to ensure that there are no obstructive barriers to legitimate call ins. The OSMC also welcomed the clarification and updating of the decision making principles.

iii The Independent Group: Fine with the proposals

iv The views of the Conservative Group are:

- As there have been no call-ins in the last year, we don't feel the need to change the system for call-in as there is no evidence that it is being used inappropriately. The proposals seem to be geared towards discouraging and disallowing call-in requests, and this is not helpful to the openness or reputation of the scrutiny process.
- We would agree that conversations before the decision are helpful, and that this is one of the purposes of Scrutiny, but that most Cabinet papers are released with only one week's notice. This gives little time to be able to affect the decision, apart from coming to the cabinet meeting to speak. So demonstrating how one has tried to influence a decision will not be useful in most cases.
- We do not agree that call-in lead signatories should have to put their arguments in the call-in papers. That is the purpose of holding a call-in meeting.
- There would be more pressure on the OSMC Chair and Head of Governance to allow/disallow a call-in request.
- We have no problem with up-dating decision-making principles

v. Cllr Andrew Cooper responded:

My own personal view is that we need to stress the 'Critical Friend' role of Scrutiny explicitly so people pursuing a Call in are very clear about the spirit in which they are submitting it.

Perhaps stressing what the overtly party political alternatives are to a Call in might also be of value so members are directed towards more appropriate routes if needed.

## 5. Next steps

Following discussions at the CGA Committee, any consequential changes to the Council's Constitution will be prepared for consideration at the Annual Council meeting. Any update in practice, including supporting guidance notes, will be implemented from the beginning of the new municipal year.

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

That consideration be given to the options set out in the report and pending the outcomes of the discussion, any consequent changes to the constitution be presented to Council for consideration. In summary the options are:

- a. In line with trying to influence the decision before it is made, introduce a requirement for the Lead Councillor (signatory) to the call in to demonstrate the steps taken to raise / resolve concerns prior to the Cabinet decision being called in. This would require a change to the Constitution.
- b. To amend the constitution to clarify that supporting evidence and reasons to illustrate which decision making principle(s) has been breached is included in the call in request.
- c. If a and b above are agreed then the Call in proforma would be amended to introduce a requirement for signatories to provide this information. This would be an administrative change as the proforma is not part to the constitution.
- d. To update the decision making principles in Article 13 of the constitution as set out in appendix 2, to simplify in line with current good practice and ensure clarity of interpretation.
- e. That the decision about the validity of a call in request will be determined by the Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny.

Following discussion any options agreed which require amendments to the Council's constitution will be considered at Annual Council with other changes to the constitution.

## 7. **Cabinet portfolio holder's recommendations**

Not applicable

## 8. **Contact officer**

Penny Bunker - Governance and Democratic Engagement Manager  
Samantha Lawton - Senior Legal Officer

## 9. **Background Papers and History of Decisions**

Briefing note "Proposals to Amend the Call In Process"

## 10. **Service Director responsible**

Julie Muscroft – Service Director for Legal, Governance and Commissioning

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**Call in – Benchmarking - 2018**

|                                      | <b><i>Bradford</i></b>                                 | <b><i>Leeds</i></b>  | <b><i>Calderdale</i></b>   | <b><i>Wakefield</i></b>   | <b><i>York</i></b>                  | <b><i>Barnsley</i></b>   |
|--------------------------------------|--|--|--|---|-------------------------------------|--|
| <b><i>No of Call ins</i></b>         | Average 3 or 4 per year                                | None since May 15  | 3-5 per year   | *None   | 10 -15 per year in previous 2 years | *None  |
| <b><i>Pro forma Used</i></b>         | No – accepted on email                                 | Yes  | Yes  | No – accepted on email  | No                                  | Yes  |
| <b><i>Who instigates call in</i></b> | Chair of OSC must call in when requested by one member | 2 non exec Mbrs (not from same political group) Or 5 non exec Mbrs (one should be nominated signatory) | Any 3 members but one must be member of scrutiny panel within whose remit the decision falls | Chair or any 3 members of committee within whose remit the decision falls | Any 3 members                       | Any Elected member (not cabinet) supported by 4 other members                          |
| <b><i>Timescales</i></b>             | 3 working days   | 5 working days   | 7 working days   | 5 working days  | 2 working days                      | 4 working days   |
| <b><i>Who is Notice given to</i></b> | City Solicitor   | Scrutiny Officer (Head of Scrutiny and Member Development)   | Head of Democratic and Partnership Services (in consult with Ch call meeting)                | Chief Exec ( in consultation with Chair)                                  | Assistant Director of Governance    | Chief Exec – who will then copy to relevant Exec Dir and always to Head of Leg and Gov |

|                                    |   |   |              |                    |                                  |   |
|------------------------------------|---|---|--------------|--------------------|----------------------------------|---|
| <b>Method of notifying call in</b> | - | <p>Pro forma must contain original signatures of those calling in decision</p> <p>** Prior to call in nom sig must contact relevant officer or exec member to discuss concerns and reasons for wanting to call in decision - nom sig must ascertain financial conseq to authority for Call in and must be detailed on pro forma</p> | No reference | Refers to validity | Written notice signed by members | Form – Must have Reasons why wish to review the decision and propose alternative solution – can email |
|------------------------------------|---|---|--------------|--------------------|----------------------------------|---|

\*- Barnsley and Wakefield both have one party with a strong majority

# ARTICLE 13 – DECISION MAKING

## 13.1 Responsibility for decision making

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

## 13.2 Principles of decision making

The following principles apply to decision-making:-

- a. **Relevant Considerations** – due regard to all relevant considerations and and disregard of all irrelevant factors;
- b. **Proportionality** (i.e. the action must be proportionate to the desired outcome);
- c. **Lawfulness and financial propriety**- Decisions should be consistent with relevant legislation, common law and within the powers of the Council.
- d. **Due Consultation** – There will be appropriate consultation and professional advice obtained from officers
- e.
- f. **Human rights** - All decisions should reflect respect for human rights-
- g. **Openness** – Be open about the decisions and actions the council takes
- h. **Clarity** - Be clear in our aims and what the Council wants to achieve
- i. ~~the ability to explain the~~**Options** – An explanation of the options considered and the reasons for decisions.

## 13.3 Types of decision

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

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

The meaning for the purposes of this Council's functions is set out in rule 12 of the Access to Information Rules in Part 4 of this constitution.

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

### **13.4 Decision making by the full Council**

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

### **13.5 Decision making by the Executive**

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

### **13.6 Decision making by officers**

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

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

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

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

Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this constitution which apply to them

### **13.9 Decision making by Council bodies acting as tribunals**

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

### **13.10 Decision making by boards of council officers**

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

### **13.11 Access to Information**

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



**Name of meeting:** Corporate Governance & Audit Committee  
**Date:** 9 March 2018  
**Title of report:** Procurement Update

## Purpose of the report

To report on procurement compliance activity in 2017/18

The report is for information and comment

|  |                    |
|--|--------------------|
| 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 <a href="#">Council's Forward Plan (key decisions and private reports?)</a>                                    | Not applicable     |
| The Decision - Is it eligible for call in by Scrutiny?   | Not applicable     |
| Date signed off by <u>Strategic Director</u> & name  | Julie Muscroft     |
| Is it also signed off by the Service Director for Finance IT and Transactional Services?   | N/A                |
| Is it also signed off by the Service Director for Governance and Commissioning Support?  | Yes                |
| Cabinet member <a href="#">portfolio</a>   | Cllr Graham Turner |

**Electoral wards affected:** N/A  
**Ward councillors consulted:** N/A  
**Public or private:** Public

## 1. Summary

The Contract Procedure Rules cover the procurement of all supplies (goods, works and services) and Income Contracts. The Contract Procedure Rules aim to promote the highest standard of probity, integrity and impartiality in making a clear, understandable and fair selection of suppliers and supplies to the Council.

EU Procurement Rules also apply to the procurement of all works, goods and services exceeding the EU Threshold.

The Annual Governance Statement for 2016/17 noted that procurement rule compliance needs strengthening to protect the Council from legal challenge and ensure value for money.

## 2. Key Points

This report seeks to give an overview of headline activities undertaken to strengthen procurement rule compliance over this financial year, actions include;

## **Training and Guidance**

- Guidance and reminders about the Contract Procedure Rules have been sent to all managers
- Bespoke training sessions on procurement compliance and on evaluation of bids have been provided to teams upon request
- Training on procurement compliance has been delivered to Council Management Group on two separate occasions
- An initial review and refresh of the content on the procurement intranet page has been undertaken

## **Procurement Transformation Project**

- The procurement transformation project focus has been on three key strands of work; improving data visibility, developing future ways of working and delivering procurement savings in specific categories of spend
- Procurement at Kirklees is currently devolved across the organisation, with a high level of procurement resource and effort sitting outside out the corporate procurement team
- A new, more joined-up model for Procurement, supported by sufficient resource, remit, training and enabling tools, is essential for effectively managing risk and realising ongoing efficiencies in third party spend
- As part of the procurement transformation project, the team have considered a range of options and ultimately selected a model that is believed will deliver the greatest positive lasting impact
- The proposed model has been tested with internal stakeholders, assessed against an indicative high level mapping, and benchmarked with a range of other authorities.
- Key stakeholder feedback highlighted the following themes;
  - recognition that the current arrangement is not satisfactory
  - the need to have a balance of technical procurement expertise versus specialist service and/or market-based knowledge
  - visibility and control over contracts, supplier relationships, requisitioning and third party spend, access to reliable contracts and spend data
  - better visibility and management of risk
  - clarity on roles and responsibilities between commissioning, procurement, transactions and contract management
  - ability to be proactive and to develop procurement forward plans
- A change in operating model for procurement has now been approved by the Transformation Portfolio Board
- Work is now commencing on the detailed design and implementation plan to move the council to a category led procurement model
- The model seeks to create procurement expertise and excellence focused on core strategic categories, working hand in hand with service-based commissioners and operational contract managers

## **Strengthening procurement rule compliance**

Implementing and embedding the new category led approach to procurement offers a number of wider benefits;

- Consistent approach and standard for procurement activity across the Council
- Clarity of roles and responsibilities, with defined areas of accountability
- Procurement experts dedicated to key categories – with access to wider pool of expertise and experience
- A less reactive and more strategic and proactive approach to procurement
- Greater collaboration; internally, regionally and with the supply market
- Early engagement by procurement in the commissioning process



- Will provide a council view of contracts, suppliers and procurement activity
- Opportunity to focus on key priorities such as social value and management of risk through procurement activity

**3. Implications for the Council**

EU Regulations and an increasingly litigious commercial culture present financial and reputational risks for the council of failing to comply with due process in its major procurements.

**4. Consultees and their opinions**

**5. Next steps**

A key priority will now be to progress the design and implementation of the new procurement operating model to strengthen compliance and value for money.

**6. Officer recommendations and reasons**

That Corporate Governance and Audit Committee note the actions taken and progress made

**7. Cabinet portfolio holder's recommendations**

Not applicable

**8. Contact officer**

Jane Lockwood, Head of Procurement and Commissioning Support – Legal, Governance and Commissioning  
Telephone: 01484 221000 Email: [janea.lockwood@kirklees.gov.uk](mailto:janea.lockwood@kirklees.gov.uk)

**9. Service Director responsible**

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

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**Name of meeting: Corporate Governance & Audit Committee**

**Date: 9<sup>th</sup> March 2018**

**Title of report: Update in relation to Senior Management Change and amendment to the officer scheme of delegation relating to non-executive risk and performance functions.**

**Purpose of report: To update Members in relation to a change to the Section 151 officer and the constitutional changes to the officer non-executive delegated decision making required as a result of that.**

|   |                                   |
|---|-----------------------------------|
| <b>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?</b> | N/A                               |
| <b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>                                    | N/A                               |
| <b>The Decision - Is it eligible for call in by Scrutiny?</b>   | N/A                               |
| <b>Date signed off by <u>Chief Executive</u></b>  | N/A Chief Executive Jacqui Gedman |
| <b>Signed off by Strategic Director – corporate services</b>  | Rachel Spencer-Henshall           |
| <b>signed off by the Service Director for Legal Governance and Commissioning</b>  | Yes<br>28 February 2018           |
| <b>Cabinet member <a href="#">portfolio</a></b>   | N/A                               |

**Electoral wards affected: N/A**

**Ward councillors consulted: N/A**

**Public or private: Public**

## 1. Summary

1.1 To update Members in relation to a change to the Section 151 officer and the constitutional changes to the officer non-executive delegated decision making required as a result of that.

## 2. Information required to take a decision

2.1 The Service Director - Finance, IT and Transactional Services is the designated Chief Officer responsible for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and is responsible for the strategic direction and overall management and delivery of that function.

2.2 The current postholder leaves the Council on 18 March 2018. Personnel Committee on 13 February asked the Chief Executive to appoint an internal candidate to the post on an Acting basis to fulfil the Section 151 responsibilities. Eamonn Croston has been appointed to do this. This arrangement will continue for up to 6 months or until a

permanent replacement is recruited. The Council is carrying out an executive search as part of this process.

2.3 The scheme of delegation to officers is set out in Section F of Part 3 of the Constitution. This contains a number of delegations of executive and non-executive functions to officers including to the Service Director Finance, IT and Transactional Services. Those delegations include responsibility for Risk and Performance matters.

2.4 It is proposed that the responsibility for the non-executive functions under these headings be changed and responsibility for Risk be delegated to the Service Director Legal, Governance & Commissioning and Performance be delegated to the Service Director Policy, Intelligence and Public Health (who is currently carrying out this role as well as that of the Acting Strategic Director for Corporate Services).

2.5 The relevant part of Section F is as follows:

#### D. Risk and Performance

##### Non-Executive Functions

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

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

##### Executive Functions

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

Matters are referred to the Executive in the following cases:

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

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

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

2.6 Members are asked to approve the non-executive delegations proposed as set out above to the Service Directors and recommend the changes to Council. Any changes to the Executive Functions are made by the Council Leader.

### 3. Implications for the Council

3.1 The Council is responsible for ensuring that the appropriate delegations and responsibilities are in place, in particular those designated by statute as in this case, are properly delegated so we can ensure robust, sound and lawful decision making.

4. **Consultees and their opinions**

- 4.1 The proposed amendments have been discussed with the Chief Executive and Service Director Policy, Intelligence & Public Health and Acting Strategic Director Corporate Services and Service Director Legal, Governance & Commissioning.

5. **Next steps**

- 5.1 The Monitoring Officer makes the necessary constitutional amendments.

6. **Officer recommendations and reasons**

- 6.1 Note the appointment of the Acting Service Director - Finance, IT and Transactional Services as the Section 151 statutory officer;
- 6.2 The proposed changes to the responsibility for non-executive functions, as set out in within this report be agreed in principle and recommended to Council for agreement; and
- 6.3 The report be referred to Council to note the change in personnel.

7. **Cabinet portfolio holder's recommendations**

Not applicable.

8. **Contact officer**

Julie Muscroft Service Director Legal, Governance & Commissioning  
Samantha Lawton Senior Legal Officer

9. **Background Papers and History of Decisions**

10. **Service Director responsible**

Julie Muscroft Service Director Legal, Governance & Commissioning

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