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

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Thursday 17 June 2021

Notice of Meeting

Dear Member

Corporate Governance and Audit Committee

The **Corporate Governance and Audit Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **10.00 am** on **Friday 25 June 2021**.

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 Yusra Hussain (Chair)
Councillor Paola Antonia Davies
Councillor Steve Hall
Councillor Susan Lee-Richards
Councillor Kath Pinnock
Councillor Melanie Stephen
Councillor John Taylor

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
A Gregg
V Lees-Hamilton
R Smith
M Thompson
D Hall

Green

K Allison

Independent

C Greaves
T Lyons

Labour

M Akhtar
E Firth
M Kaushik
J Ramsay
M Sokhal
S Ullah

Liberal Democrat

J Lawson
A Marchington
A Munro
A Pinnock

Ex Officio Members

Councillor Paul Davies - Cabinet Member (Resources)
Councillor Erin Hill - Chair of Standards Committee
Councillor Elizabeth Smaje – Chair of Overview and Scrutiny Management Committee

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive any apologies for absence, or details of substitutions to the Committee membership.

2: Minutes of Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 22 April 2021.

3: Declarations of Interest

7 - 8

Committee Members will be asked to advise if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

4: Admission of the Public

Most agenda items will be considered in public session, however, it shall be advised whether Cabinet will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

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.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Proposed amendments to Council Procedure Rule 35

9 - 12

To consider proposed changes to the Council's constitution, namely CPR 35.

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

Contact Officer: Yolande Myers

KIRKLEES COUNCIL

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Thursday 22nd April 2021

Present: Councillor Will Simpson (Chair)
Councillor Steve Hall
Councillor John Taylor
Councillor Paola Antonia Davies

Observers: Councillor Eric Firth (Ex Officio) – Chair of Standards Committee
Councillor Elizabeth Smaje (Ex Officio) – Chair of Overview and Scrutiny Committee

Apologies: Councillor Susan Lee-Richards
Councillor Donald Firth

1 Membership of the Committee

Apologies for absence were received from Councillor Donald Firth.

2 Minutes of Previous Meeting

RESOLVED – That the minutes of the Meeting held on 9 March 2021 be approved as a correct record.

3 Declarations of Interest

There were no declarations of interest.

4 Admission of the Public

It was noted that Agenda Item 17 would be considered in private session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Proposed Revisions to Contract Procedure Rules (Reference to Annual Council)

The Committee received a report on the proposed changes to Contract Procedure Rules (CPR) for the municipal year 2021/22. The areas proposed for amendment related to; decision making, clarity around when bonds were required, a new appendix in relation to grants, considering and encouraging social value in procurement, encouraging local suppliers to bid for contracts, an updated section on use of presentations and interviews, demonstrating value for money when undertaking a direct award, and updated procurement thresholds.

Corporate Governance and Audit Committee - 22 April 2021

The report outlined that the main change to the CPR's was the amendment to reflect the changes to procurement following the UK's departure from the EU. The Committee noted that there would be a more fundamental review of the CPR's in line with legislative requirements arising from the Government Green Paper - Transforming Public Procurement.

The Committee were advised that there were several smaller changes and additions to simplify and improve clarity of existing arrangements. The other main change was the addition of a new section relating to the recording of decisions.

RESOLVED –

1. That the proposed amendments to Contract Procedure Rules, as summarised in Appendix 1, be endorsed and referred to the meeting of Annual Council on 19 May 2021 with a recommendation of approval.
2. That the Committee receive a further report to a future meeting to outline what constitutes a significant officer decision, and confirmation as to whether the standing lists were reviewed on a regular basis.

7 Proposed Revisions to Financial Procedure Rules (Reference to Annual Council)

The Committee received a report regarding proposed changes to Financial Procedure Rules (FPR) for the municipal year 2021/22. The areas proposed for amendment related principally to a consolidation of the currently separate parts (in the 2019 version of FPRs) that related to grants receivable and payable, into a new combined section, and other changes regarding capital budget management, internal audit, and debt collection.

The report advised the Committee that the Director of Finance and Head of Risk were reviewing the concepts of controls required and achieved through FPR 2 (Revenue Budget Preparation and Management) and FPR 3 (Capital Investment Plan Preparation and Management) and a further report would be provided to the Committee later in the next municipal year.

The Committee noted that there were some other wording changes to clarify responsibilities and requirements, in relation to matters such as internal audit, payments and debt collection.

RESOLVED – That the proposed changes to Financial Procedure Rules be endorsed and referred to the meeting of Council on 19 May 2021 with a recommendation of approval, subject to further clarification being included within the FPR's regarding 'financial betterment'.

8 Proposed revisions to the Terms of Reference for the Health & Wellbeing Board (Reference to Annual Council)

The Committee received a report to consider and agree a proposed revision to the Terms of Reference for 2021-22. The Committee noted that the changes to membership reflected the shift to a much more collaborative culture which was at the core of both the Kirklees Health and Wellbeing Plan and the NHS Long Term Plan. The recommended changes were:

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- Amending the membership of the Board to (i) reflect the creation of a single CCG for Kirklees. The 3 representatives in 2021/22 will be the Clinical Chair, Accountable Officer, and the Lay Member: Patient & Public Involvement (ii) include a nominated representative of the Kirklees Integrated Health and Care Leadership Board to replace the representative from the now defunct Integrated Provider Board
- Include representation of the Primary Care Networks in recognition of their role in establishing the new model of integrated care and as system and clinical leaders
- Reflecting the Board's role in providing oversight of the Children and Young People's Partnership and the Children and Young People's Plan and recognising the Director of Children's Services role as including representing the Children & Young Peoples Partnership.

The report highlighted that the Government had published the White Paper 'Working Together to Improve Health and Social Care for all' which would legislate to create a statutory basis for the Integrated Care System (ICS), including an ICS Health and Care Partnership and an ICS NHS Body. The Health and Wellbeing Board would remain in place and would continue to have an important responsibility at a local/place-based level to bring local partners together.

RESOLVED – That the revised Terms of Reference for Health and Wellbeing Board be endorsed and referred to the meeting of Annual Council on 19 May 2021 with a recommendation of approval.

9 Letter to and response from WYCA

The Committee received a letter sent to the West Yorkshire Combined Authority (WYCA) outlining the impact of the new Mayoral Combined Authority (MCA) arrangement on various governance matters, including scrutiny and the Concurrent Powers Protocol. A response to the letter was received on 31 March 2021.

The Committee acknowledged that WYCA would be able to provide clearer guidance on the arrangements once a Mayor had been appointed to the role and felt that engagement with them following the appointment would be more appropriate.

RESOLVED – That the Committee note the letter and response from WYCA, and that further dialogue should continue with the Mayor and other LA's within the combined authority area once the Mayor was appointed.

10 Changes to the Council's Constitution (Reference to Annual Council)

The Committee received a report setting out proposed changes to the Council's constitution as detailed in the Appendices. The report also provided a summary of changes to the Constitution made by the Monitoring Officer using delegated powers.

The Committee noted that it was essential the Council's Constitution be regularly reviewed and updated to ensure that it remained fit for purpose and enabled Council meetings to be conducted in a fair, business like and effective manner. It was also essential that the Constitution complied with current legislation. Failure to do so could lead to challenges, unnecessary procedural delays, and less transparency in the Council's democratic process.

Corporate Governance and Audit Committee - 22 April 2021

The report advised the Committee that there were several pieces of work ongoing which when concluded may impact upon parts of the Constitution. The outcome of those would be the subject of a further report(s) to this Committee and Council as appropriate.

RESOLVED –

1. That the Committee notes the changes made to the Constitution in 2019-2021 listed in Appendix 1.
2. That the Committee approve the proposed changes to the Councils constitution as set out in paragraphs 2.11, 2.12, 2.13, 2.14 and 2.16 and the accompanying relevant Appendices.
3. That the proposed changes, as considered at (1 and 2) above, be endorsed and referred to the meeting of Annual Council on 19 May 2021 with a recommendation of approval subject to further clarification being included regarding West Yorkshire Mayoral attendance at Council meetings.

11 Informing the Audit Risk Assessment for Kirklees Metropolitan Council

The Committee considered a report which updated members on the final accounts and audit processes for 202/21. The Council's external auditor, Grant Thornton, had asked that council officers complete 'Informing the Audit Risk Assessment for Kirklees Council 2020/21' which was attached to the report at Appendix A. Grant Thornton had also requested that officers complete the 'Accounting Estimate Management Summary Letter' (Appendix B). This covered the use of accounting estimates across key accounting areas.

The Committee noted that the external auditor External Audit would use the assurance letters to support their overall opinion on the Audited Statement of Accounts and Annual Governance Statement which would be presented to a later meeting of this Committee for approval.

RESOLVED – That the Committee received and noted the report and appendices, was satisfied the assertions to be true (or had no reason to believe they were untrue) and agree to submit the risk assessment document to the external auditors.

12 Quarterly Report of Internal Audit Q4 2020/21 January 2021 to March 2021

The Committee received a report which set out the activities of the Internal Audit in the final quarter of 2020/21. This included work in both Kirklees Council and its controlled subsidiary Kirklees Neighbourhood Housing Ltd.

The Committee noted that Internal Audit staff had continued to work throughout the pandemic, but much of the work undertaken had been unplanned rather than routine, planned work. In quarter 4 a large amount of time was spent in supporting the implementation of the statutory and local discretionary business grant schemes - which included an obligation to carry out additional checking prior to payment. The investigation of suspected fraud in respect of the original scheme continued. The Committee acknowledged that there had been no Regulation of Investigatory Powers Act activity during the period quarter 4 2020/21.

RESOLVED – That the Q4 Internal Audit Report 2019/20 be noted.

13 Annual Report of Internal Audit 2020/21 and Issues for 2021/22

The Committee received a report which provided information about Internal Audit activity and the effectiveness of the system of internal control, and conclusions on the control environment and assurance provided in 2020/21, and on matters that relate to Internal Audit activity in 2021/22. The panel noted that the extent of “routine” internal audit assurance work was significantly curtailed during the pandemic.

The Committee acknowledged that audit activity in 2021/22 would need to concentrate on major areas of risk and control, based on a prioritised risk assessment. Resources would remain available to investigate significant areas of concern on a reactive basis.

RESOLVED –

1. That the 2020/21 Internal Audit Strategy and Charter be approved.
2. That the Committee notes that it is content with (i) the effectiveness of the internal audit function and its conformance with Public Sector Internal Audit Standards and Code of Ethics (ii) the effectiveness of the Council’s overall system of internal control (iii) the effectiveness of the broader control environment, risk management and governance arrangements of the Council and (iv) proposed audit plans.
3. That the Committee give authority to the Head of Internal Audit to vary the proposed aid plan as considered necessary, subject to reporting back as part of the quarterly review process.

14 External Audit Letter 2019-20

The Committee received a report (Letter) which summarised the key findings which arose from the work that the external auditors carried out for the year ended 31 March 2020. The key responsibilities were to give an opinion on the Council and group's financial statements and assess the Council's arrangements for securing economy, efficiency, and effectiveness in its use of resources (the value for money conclusion).

The Committee noted that the external auditors were satisfied that the Council had put in place proper arrangements to ensure economy, efficiency, and effectiveness in its use of resources.

RESOLVED - That the External Audit Letter 2019-20 be noted.

15 External Progress Report - April 2021

The Committee received the Audit Progress report for Year ending 31 March 2021 from the External Auditors. The report included a summary of emerging national issues and developments that may be relevant to the council and included several ‘challenge questions’ in respect of these emerging issues.

The Committee noted that the detailed 2020/21 Audit plan, setting out the proposed approach to the audit of the Council 2020/21 financial statements would be brought to a further meeting of this Committee.

Corporate Governance and Audit Committee - 22 April 2021

RESOLVED – That the External Progress Report April 2021 be noted.

16 Exclusion of the Public

RESOLVED – That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of 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.

17 Quarterly Report of Internal Audit Q4 2020/21 January 2021 to March 2021

(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 Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Committee noted the exempt information, which was an appendix to Agenda Item 12 (Minute No 12 refers).

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: 25th June 2021

Title of report: Proposed amendments to Council Procedure Rule 35

Purpose of report:

To set out proposed changes to the Council's constitution, namely CPR 35, as described in paragraph 2 below, for consideration by the Committee.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	NO
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	NO
The Decision - Is it eligible for call in by Scrutiny?	NO
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer-Henshall – 17th June 2021
Is it also signed off by the Service Director for Finance?	Eamonn Croston – 17th June 2021
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 17th June 2021
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: NO

Public or private: Public

Has GDPR been considered? YES

1. Summary

1.1 At Annual Council an amendment to item 10 on the agenda was proposed by Cllr Hall and Cllr Bolt.

1.2 The effect of the amendment, if adopted, would be to exclude certain members from sitting on Strategic Planning Committee as well as any of the

Planning Sub-Committees.

- 1.3 The amendment as proposed was not considered, as the proposal had not been considered by the Corporate Governance and Audit Committee (CGA), before going on to Council.
- 1.4 The proposer of the amendment was advised that the proposed amendment needed to be referred to CGA before it could be put before Council and a subsequent proposal was agreed at Annual Council referring the amendment for consideration at CGA before being referred back to a meeting of Council.

2. Information required to take a decision

- 2.01 The full text of the proposed amendment is as follows:

Addendum to CPR35: rule2: section 3 (in italics)

(2) The Council subject to any statutory provision:-

(iii) shall not appoint the Leader, the Deputy Leader of the Council or any Members of the Cabinet as members of the Overview and Scrutiny Committee or its Panels *or the Strategic Planning Committee or Sub-Committee thereof.*

- 2.02 The amendment proposed is highlighted above and consists of extending the provisions of CPR 35, rule 2.
- 2.03 It was suggested when moving the amendment that Cabinet members, having an involvement in strategic decision making, ought not to then be involved in planning decisions through the Strategic Planning Committee or either of the Sub-Committees. It was further suggested that the planning process should be non-political.
- 2.04 Comparison with other local authorities in West Yorkshire and York (WYLAW members) shows that:
 - i. Leeds City Council places no restrictions in its CPRs
 - ii. City of Bradford Metropolitan District Council places no restrictions in its CPRs or Articles of the Constitution
 - iii. At Wakefield Council Cabinet members are not able to be members of the Planning & Highways Committee.
 - iv. Calderdale Council places no restrictions in its CPRs
 - v. York City Council places no restrictions in its CPRs
 - vi. Selby District Council places no restrictions in its CPRs
- 2.05 The Local Plan that was approved by Council does set out an overarching planning and development strategy which would act to minimize any political influence in the planning process that a Cabinet member or indeed any other member may have at Committee or Sub-Committee level.
- 2.06 There are also other checks and balances in place to ensure that decisions are taken properly:
 - i. All members who sit on the Strategic Planning Committee or any of the Planning Sub-Committees are required to undergo planning specific

training, which includes issues around predetermination and bias, and are required to be given an annual update on planning matters before they can sit on any of the committees as decision makers. As part of the training, it is made clear to members that decisions are to be taken by them as a Planning Authority and not taken along political lines.

- ii. The members Code of Conduct does deal with any interests that members may have and this would be applicable at any Strategic Planning Committee or Planning Sub-Committee meeting at which a member of the Cabinet was present in a decision making role. There are specific rules about declaring interests and participation / non-participation in meetings.
- iii. Part of the duties of the Legal Officer who is present at the Planning meetings is to ensure that only relevant planning issues are considered as part of the decision making process and that decisions are taken as a Planning Authority.

3. Implications for the Council

It is essential the Council's Constitution is regularly reviewed to ensure that it remains fit for purpose and that it enables Council meetings to be conducted in a fair, business like and effective manner.

3.1 Working with people

N/A

3.2 Working with Partners

N/A

3.3 Place Based Working

N/A

3.4 Climate Change and Air Quality

N/A

3.5 Improving Outcomes for Children

N/A

3.6 Other implications (eg Legal/Financial or Human Resources)

N/A

4. Consultees and their opinions

N/A.

5. Next steps and timelines

- 5.1 Any amendments recommended by Corporate Governance and Audit will be put before Council for consideration, with any amendments agreed upon resulting in an update being made to the Constitution.

6. Officer recommendations and reasons

That Committee:

- a. Consider the proposed amendment and either:
 - i. Recommend to Council that it be adopted;
 - ii. Reject the proposed amendment.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Julie Muscroft – Service Director – Legal, Governance and
Commissioning
01484 221 000
julie.muscroft@kirklees.gov.uk

9. Background Papers and History of Decisions

Report to Annual Council dated May 19th 2021.

10. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and
Commissioning
01484 221 000
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11. Appendices

N/A