

# Public Document Pack



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

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Thursday 5 May 2022

## Notice of Meeting

Dear Member

### **Corporate Governance and Audit Committee**

The **Corporate Governance and Audit Committee** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **2.00 pm** on **Friday 13 May 2022**.

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 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  
M Kaushik  
J Ramsay  
M Sokhal  
C Scott E Firth

#### **Liberal Democrat**

J Lawson  
A Marchington  
A Munro  
A Pinnock

### **Ex Officio Members**

Councillor Paul Davies  
Councillor Erin Hill  
Councillor Elizabeth Smaje

# Agenda

## Reports or Explanatory Notes Attached

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### Pages

**1: Membership of the Committee**

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

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**2: Minutes of Previous Meeting**

1 - 6

To approve the Minutes of the meeting of the Committee held on 22 April 2022.

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**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.

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**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.

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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 the Members' Allowances Independent Review Panel (MAIRP) (Reference to Annual Council)** 9 - 18

To consider the Members' Allowances Scheme for 2022/23.

Contact: Samantha Lawton, Head of Governance.

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**8: Changes to the Council's Constitution (Reference to Annual Council)** 19 - 74

To consider proposed changes to the Council's constitution and receive a summary of changes made by the Monitoring Officer using delegated powers.

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

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**9: Corporate Customer Standards Interim Report 2021-22** 75 - 82

To consider a report detailing complaint issues and performance during 2021-22.

Contact: Chris Read – Corporate Customer Standards Officer

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Contact Officer: Yolande Myers

## KIRKLEES COUNCIL

### CORPORATE GOVERNANCE AND AUDIT COMMITTEE

**Friday 22nd April 2022**

Present: Councillor Yusra Hussain (Chair)  
Councillor Paola Antonia Davies  
Councillor Susan Lee-Richards  
Councillor Kath Pinnock  
Councillor John Taylor

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

Apologies: Councillor Steve Hall  
Councillor Melanie Stephen  
Councillor Paul Davies (ex-Officio)

**1 Membership of the Committee**

Apologies for absence were received on behalf of Councillor Paul Davies, Councillor Steve Hall and Councillor Mel Stephens.

**2 Minutes of Previous Meeting**

That the Minutes of the previous meeting, held on 11 March 2022 be approved as a correct record.

**3 Declarations of Interest**

No interests were declared.

**4 Admission of the Public**

It was noted that Agenda Item 16 would be considered in private session.

**5 Deputations/Petitions**

There were no deputations or petitions received.

**6 Committee System Proposal - Democracy Commission Update**

The Committee received an update on behalf of the Chair of the Democracy Commission. The Commission had identified several local authorities they wished to hear from and had looked to achieve a balance between those Council's operating under a Leader and Cabinet Model and those operating under a Committee System model. Approaches had been made to; (i) Brighton and Hove, (ii) Wirral and Cambridgeshire (iii) Nottinghamshire County Council, (iv) Newark in Sherwood and (v) Plymouth and Basildon.

The Democracy Commission had recognised that exploring and considering the terms of reference in an arena of considering different avenues of governance was

an extremely large piece of work in a complex area and had concluded that it was not realistic to complete this work in advance of the 2022 Annual Meeting.

The Committee considered the indicative timeline as set out at Appendix 2 of the report which had been developed to allow for scheduling of a large number of witnesses as set out at Appendix 3. A final report back to the Committee was planned for the late Autumn/Winter.

**RESOLVED** – That the update and indicative timeline and witness list be noted.

**7 Changes to the Council's Constitution (Reference to Annual Council)**

Item withdrawn.

**8 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 2022/23. The areas proposed for amendment related to; some restructuring to make it easier to follow and locate appropriate rules in relation to preparation and process; an updated table on procurement process to reflect UK procurement thresholds and highlighting the requirement to engage with other corporate services as appropriate, a refreshed section on tender receipt following a review of the tender opening process, an addition to include novation of contracts and updated procurement thresholds.

The Committee noted that a more fundamental review of the CPRs would be undertaken at the appropriate time in line with any legislative changes relating to the outcome of Green Paper; Transforming Public Procurement. A report back to the Committee was planned following this further review.

**RESOLVED** - That the proposed amendments to Contract Procedure Rules, as summarised in Appendix 1, be endorsed and referred to the meeting of Annual Council on 25 May 2022 with a recommendation of approval.

**9 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 2022/23.

The Committee was advised that as the Council Corporate Plan now determined the strategic outcomes, and individual budgets no longer included linked Service Plans as a part of the budget in the way referred to in the FPRs, the reference to them had been deleted, with emphasis on activity (which was typically a service area). There were some other revised definitions (with commensurate revision to words in the rest of the text) and minor changes to wording in relation to internal audit, purchasing cards and grants.

The wording of rights to execute virement by strategic directors and cabinet was unclear, and the threshold sum of 10% of the gross budget or £1m (Strategic directors) or £2m (Cabinet) (whichever was the smaller), meant that in practice the

sum of £1m/£2m applied in all cases. It was recommended that strategic directors (in consultation with executive members) should be granted authority to carry out within a strategic directorates virements of up to £1m cumulatively, and Cabinet cross strategic directorate Virements, but subject to a limit of £2m per strategic directorate.

The Committee noted that the FPR report in 2021 suggested that there may be a further report on revenue and capital budgeting rules. Further analysis identified that there was no current need for fundamental changes, although there were a small number of changes recommended as a part of the 2022/23 update.

**RESOLVED** – That the proposed changes to Financial Procedure Rules be endorsed and referred to the meeting of Council on 25 May 2022 with a recommendation of approval.

**10 Gaining Assurance**

The Committee considered a report which set out information about the theory of assurance, the ways in which it could be obtained, the current arrangements for gaining that assurance, and requested the Committee to consider if these should be enhanced.

The Committee raised a number of areas of consideration for future assurance being (i) the rising costs in the current climate, and where discussions around this would take place (ii) how Homes and Neighbourhood Boards could have more direct involvement from Councillors (iii) whether items on the Cabinet Assurance Board would be considered by Scrutiny (iv) whether the Democracy Commission should be the mechanism to consider accountability and assurance.

**RESOLVED –**

1. That the report be noted.
2. That officers would consider the areas identified with a report back to the Committee.

**11 Informing the Audit Risk Assessment**

The Committee received a report, requested by the External Auditors, Grant Thornton asked that council officers complete 'Informing the Audit Risk Assessment for Kirklees Council 2021/22' 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 receive and note 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 Audit Progress Report and Sector Update**

The Committee received the Audit Progress report for Year ending 31 March 2022 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 2021/22 Audit plan, setting out the proposed approach to the audit of the Council 2021/22 financial statements would be brought to a further meeting of this Committee.

**RESOLVED** – That the External Progress Report April 2022 be noted.

**13 Annual Report of Internal Audit 2021/22 & Issues for 2022/23**

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 2021/22, and on matters that relate to Internal Audit activity in 2022/23. The Committee noted that following the substantial disruptions in 2020/21, the year 2021/22 saw a return to a more routine distribution of planned and reactive work. There continued to be a use of audit resource to support organisational initiatives, particularly related to business grants (and the investigations related thereto).

The Head of Internal Audit advised the Committee that he concluded, on the basis of work carried out on the Council's framework of governance, risk management and control, that overall, the Council had sound arrangements to operate its business effectively.

The Committee acknowledged that audit activity in 2022/23 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 Committee is content with the (i) effectiveness of its Internal Audit function, noting its conformance with Public Sector Internal Audit Standards and Code of Ethics (ii) effectiveness of the Council's overall system of internal control (iii) effectiveness of the broader control environment, risk management and governance arrangements of the Council (subject to the observations contained within the report). (iv) the 2022/23 Internal Audit Strategy and Charter (v) the proposed Audit Plans for 2022/23;
2. That authority be given for the Head of Internal Audit to vary the proposed audit plan as is considered necessary, subject to reporting back as a part of the quarterly review process

**14 Quarterly Report of Internal Audit Q4 2021/22 January 2022 to March 2022**

The Committee received a report which set out the activities of the Internal Audit in the final quarter of 2021/22.



The report provided information about two investigations regarding the cumulation of a significant business rate grant fraud investigation, and allegations about a contractor. There were 17 formal completed pieces of work, which included 6 schools (all substantial assurance) and 5 follow ups (intro areas such as community grants, bank reconciliation) all with positive assurance outcomes. Of the new work there were positive outcomes in most areas (including residential placements, climate change actions, and It networks), but a need for improvement in relation to aspects of adult's emergency duty services and school transport.

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 2010/21 be noted.

**15 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.

**16 Quarterly Report of Internal Audit Q4 2021/22 January 2022 to March 2022**

(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 14.

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<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.



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

**Date:** Friday 13 May 2022

**Title of report:** Report of the Members' Allowances Independent Review Panel (MAIRP)

**Purpose of report:**

To recommend Council to approve the Special Responsibility Allowance for the new Lead Councillor: Primary Care Networks and Local Health Improvement. The new role of Lead Councillor – Primary Care Networks and Local Health Improvement is the evolution of the Place Partnership Lead Members role and replaces this role within the Members' Allowances Scheme. It is proposed to create 9 roles to mirror the number of Primary Care Networks.

<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>	<b>Not Applicable</b>
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?</b>	<b>No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>No</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Rachel Spencer-Henshall</b>
<b>Is it also signed off by the Service Director for Finance?</b>	<b>Eamon Croston</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Julie Muscroft</b>
<b>Cabinet member portfolio</b>	<b>Councillor Paul Davies (Corporate)</b>

**Electoral wards affected:** All

**Ward Councillors consulted:** Not applicable

**Public or private:** Public

**Has GDPR been considered?** Yes, there is no personal data within the report.

## **1. Summary**

The Members' Allowances Independent Review Panel (MAIRP) met on 9<sup>th</sup> March 2022 to consider the new Role Profile for the Lead Councillor: Primary Care Networks and Local Health Improvement and to consider and recommend the Special Responsibility Allowance (SRA).

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

The MAIRP consider the Members' Allowances Scheme and make recommendations to the Council on certain allowances within the Scheme.

The MAIRP were asked to consider a new Role Profile for the Lead Councillor: Primary Care Networks and Local Health Improvement and to consider and recommend the SRA.

The Strategic Director for Adults and Health presented the new role profile at the meeting and the MAIRP heard evidence from him regarding the development of the new role.

The new role of Lead Councillor – Primary Care Networks and Local Health Improvement is the evolution of the Place Partnership Lead Members role and replaces this role within the Members' Allowances Scheme. It has developed from the experience of the Place Lead role over the previous two years and provides an opportunity for Councillors to play a role in the new health arrangements within Kirklees.

The additional cost (excluding any abatements) to the overall Scheme should the above-mentioned recommendation be agreed and implemented is £10,294 per annum. This is because it is proposed to create 9 Lead Councillor roles to mirror the number of Primary Care Networks in Kirklees

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

- **Working with People**  
Not applicable.
- **Working with Partners**  
Not applicable.
- **Place Based Working**  
Not applicable.
- **Climate Change and Air Quality**  
Not applicable.
- **Improving outcomes for children**  
Not applicable.
- **Other (eg Legal/Financial or Human Resources)**  
None in addition to those detailed above.

**Do you need an Integrated Impact Assessment (IIA)?**

Not required.

**4. Consultees and their opinions**

The Allowances panel have been consulted on the contents of this report and agree that it accurately reflects the outcomes of their discussion.

**5. Next steps and timelines**

Following consideration by Corporate Governance and Audit Committee, this report will be referred for consideration and approval by Council at its meeting on 25 May 2022.

**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 recommendation with effect from 25 May 2022.

**7. Cabinet Portfolio Holder's recommendations**

Not applicable.

**8. Contact officer**

Samantha Lawton  
Head of Governance  
samantha.lawton@kirklees.gov.uk  
Tel: 01484 221000

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

Report of Members' Allowances Independent Review Panel, 9 March 2022 – attached at Appendix A  
Role Profile for the Lead Councillor: Primary Care Networks and Local Health Improvement – Attached at Appendix B

**10. Service Director responsible**

Julie Muscroft  
Service Director, Legal Governance and Commissioning

Report of The

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

9 March 2022

Samantha Lawton  
Head of Governance  
Civic Centre 3,  
Huddersfield, HD1 2TG  
01484 221000



## **1 Panel Membership**

The Members of the Independent Review Panel who attended are as follows:

Andrew Taylor (Chair)  
Ian Brown  
Lynn Knowles

## **2 Terms of Reference**

The Panel's Terms of Reference are:

- (a) To advise the 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) The 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 2022.

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

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

#### 4 Lead Councillor: Primary Care Networks and Local Health Improvement

Richard Parry, Strategic Director for Adults and Health set out the following:

Nationally, Primary Care has been required to form collaborative Primary Care Networks (PCNs) that cover populations of 30-50000, based on existing GP practice lists. Whilst they have general practices at the heart, they include a wider range of organisations. The approach can be seen as comparable to the Place Based Working approach that has developed in the Council.

Across Kirklees, 9 PCNs have been established, each with a Clinical Director. These cover populations that range between 35000 and 60000).

Adult social care, public health resources, Community Plus, Locala, Community Anchor organisations etc are increasingly working to the footprints of the 9 PCNs to create the local operational building block of the Kirklees health and care system.

They have worked closely with the Council during the pandemic response to develop local approaches to testing, vaccination and shielding as well as investing in the local community anchor organisations. This learning can be applied, longer term, to tackling other local health and care issues.

It is widely recognised that improving health in local communities will require a joined up approach between health care organisations and the activity that can address the wider determinants of health (such as housing, air quality, good employment, physical activity etc).

It will also require a collaborative approach between and with leaders in local communities who can bring to bear local knowledge and influence.

The MAIRP were asked to consider a Role Profile for a new role of Lead Councillor – Primary Care Networks and Local Health Improvement and to consider its place in the existing Members' Allowances Scheme. This Role Profile is attached at **Appendix B**.

The Panel reviewed the reasons for the new Role Profile based on experience derived from the COVID-19 pandemic, changes in the structure and organisation of the NHS, and existing (and continuing) changes in Kirklees derived from the growth of Place Based Working (PBW) over the last few years.

The new role of Lead Councillor – Primary Care Networks and Local Health Improvement is the latest iteration of the Place Partnership Lead Members role and replaces it within the Members' Allowances Scheme.

The MAIRP have made the following recommendations:

- a) The MAIRP support and recommend the substitution of the role of Place Partnership Lead Member with the new role of Lead Councillor – Primary Care Networks and Local Health Improvement;
- b) The MAIRP notes that the new role of Lead Councillor – Primary Care Networks and Local Health Improvement recognises the centrality of Place Based Working to governance but adds specificity and provides a clear idea of the expected role of the Lead Councillor;
- c) The MAIRP notes that the role profile is written in such a way that permits its further evolution into other policy areas relevant to Health and Well-Being, such as Planning and Education. The Panel believe that the role profile reflects the centrality of networking, policy making, and strategic functions of a Lead Councillor;

- d) The MAIRP recognises the need for 9 Lead Councillors as the new role is based on the new Primary Care Networks (PCNs) and maps onto the new NHS delivery system and provision throughout West Yorkshire;
- e) The MAIRP recommends retaining the existing Place Partnership Lead Member SRA of £5,147 for the new role of Lead Councillor – Primary Care Networks and Local Health Improvement. This does not, of course, mean that the SRA, and indeed the role profile, cannot be reconsidered in the light of experience at a future date.

Report produced on behalf of the Members Allowances Independent Review Panel by:

Samantha Lawton  
Head of Governance

March 2022.

## **Lead Councillor – Primary Care Networks and Local Health Improvement**

### **The role will:**

- Utilise local public health intelligence to ensure that there is a data led approach to understanding issues in a local community;
- Bring knowledge of local communities and community connections to support the building of place based public health intelligence;
- Facilitate relationships between local health and care professionals, VCSE organisations, community champions and communities that can improve health in a local area (for example, targeted activity to increase the uptake of diabetes screening in individuals and communities where this is disproportionately low);
- Enable connection between the healthcare system and the work of the council that can impact on the wider determinants of health;
- Inform the development of and then support the local implementation of council policies that impact on the health of local communities (e.g. Supplementary Planning Documents, local investment decisions, development of dementia friendly places etc);
- Make recommendations to the Health and Wellbeing board in relation to the local impact of policies and work to the strategic priorities set out by the Health and Wellbeing Board in the Joint Health and Wellbeing Strategy;

- Take responsibility for and provide a lead on the development of the place based working approach with each PCN and the organisations within it;
- Work proactively and constructively with all ward councillors that relate to the Primary Care Network area;
- Ensure that there is appropriate reporting of the work being undertaken in each PCN area and attend relevant committees as required;
- Take account of professional advice from a range of sources, recognising that each organisation involved will have a range of perspectives and constraints.

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**Name of meeting:** Corporate Governance and Audit Committee (Reference to Annual Council)

**Date:** 13<sup>th</sup> May 2022

**Title of report:** Changes to the Council's Constitution

**Purpose of report:**

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

To also provide a summary of changes to the Constitution made by the Monitoring Officer using delegated powers.

<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>	NO
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u></b>	NO
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	NO
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	Yes – Rachel Spencer-Henshall 04.05.22
<b>Is it also signed off by the Service Director for Finance?</b>	Yes – Eamonn Croston 04.05.22
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	Yes – Julie Muscroft 04.05.22
<b>Cabinet member <a href="#">portfolio</a></b>	Cllr Paul Davies

**Electoral wards affected:** All

**Ward councillors consulted:** NO

**Public or private:** Public

**Has GDPR been considered?** YES

## **1. Summary**

- 1.1 This report will cover any changes proposed as well as any amendments made since 2021, both on the authority of Council and by the Monitoring Officer using delegated powers.
- 1.2 The report will set out, in section 2, the proposed changes in relation to the different parts of the Constitution and to seek approval by members of those proposed changes. Each section of the Constitution is set out below with information setting out details of the proposed change for which approval and/or comment is sought.
- 1.3 There have been some changes using delegated authority granted to the Monitoring Officer by Council on 20<sup>th</sup> May 2015 to reflect changes to officer's titles, typing or grammatical errors, old references and new legislation. The list of changes made using the Monitoring Officer's delegation are set out in the attached Appendix 1 for information and members are asked to note those changes.

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

### **PART 1 – SUMMARY AND EXPLANATION**

- 2.01 This provides a summary and explanation of what is included in the constitution. This has been reviewed and there are no current proposed changes.

### **PART 2 – ARTICLES**

- 2.02 There are 16 articles that set out how the council operates.
- 2.03 There is a planned review of the references to legislation and any updates will be made using Monitoring Officer powers of delegation.
- 2.04 Members are asked to note that Cabinet approved the Cross Council Corporate Safeguarding Policy on the 8<sup>th</sup> of March, with the recommendation that this be added to the Policy Framework in Article 4 and that Council consider this. [2022-03-08 Cabinet Report Corporate Safeguarding Policy.pdf \(kirklees.gov.uk\)](#). Members are asked to agree that in the event that the Policy is adopted by Council that Article 4 be amended to add the Policy into the Policy Framework.

### **PART 3 - RESPONSIBILITY FOR FUNCTIONS**

- 2.05 This part details the council's cabinet's, committees' and other groups' responsibilities. This section also contains each individual Cabinet Member's specific responsibilities.
- 2.06 There are a number of references to Kirklees Neighbourhood Housing in Part 4 of Section C as well as elsewhere in the constitution which need to be tidied up. These are drafting amendments which the Monitoring Officer



will continue to pick up using delegated authority.

- 2.07 There have been three amendments made by the Monitoring Officer and by Council to address changes required. These are detailed in Appendix 1 and include an amendment to the scheme of delegation (Section F) to reflect the changes following the appointment of two new strategic directors replacing the former Strategic Director – Economy and Infrastructure.
- 2.08 It is proposed that the wording of Section F be clarified to remove any ambiguities about references within it to 'Section A'. This can be done by way of note in the introduction that links to 'Section A'.
- 2.09 The proposed wording would add an extra paragraph in the 'Introduction' to Section F as follows:

*13. For the purposes of this Scheme of Delegation, any reference to 'Section A' are references to Part 3.2 of the Constitution – Responsibility for Functions [Constitution Section A \(kirklees.gov.uk\)](http://kirklees.gov.uk)*

## **PART 4 – RULES OF PROCEDURE**

- 2.10 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters. There have been four amendments made during the year to address changes required, and these are detailed in Appendix 1.

### **Council Procedure Rules**

- 2.11 It is proposed that **CPR 13(2)(v)** be removed and replaced with the following:

*The Cabinet Portfolios will be listed on the agenda. This item will provide the opportunity for questions to be asked of the Cabinet Members listed.*

This is to simplify the current CPR, which is impractical to apply. The current CPR does not provide an opportunity to ask questions to portfolio holders.

- 2.12 As with paragraph 2.06 above it is proposed that **CPR 13(4)** be amended to remove the reference to Kirklees Neighbourhood Housing at (ii)(a).

This is to reflect the fact that Kirklees Neighbourhood Housing is no longer in existence.

- 2.13 It is proposed that **CPR 13(4)(iii)** be amended to remove the words '*in alphabetical order*'.

This is to remove any presumption that questions will be dealt with in alphabetical order. This agenda item is very often only considered late in Council meetings and as a result is not always allowed the full time allowed for questions. This will give Councillors the ability to ask questions of all Chairs without being tied to alphabetical order in what may be a short period of time allowed for questions.

- 2.14 It is proposed to divide **CPR 14(1)** into two paragraphs and to then renumber the remaining ones.

The proposed amendment is as follows:

*Submission of Motions*

- (1) *Every notice of motion (with the exception of those proposed in accordance with Rules 15, 18(16) and (19) shall be submitted in writing and delivered to the Service Director - Legal, Governance and Commissioning by 9.00 a.m. on the sixth working day before the date of the Council meeting. Each motion must be signed by not less than two Members of the Council. Motions (including re-submitted Motions pursuant to CPR 16(5)) will only be accepted for the next scheduled Council meeting (except Annual and Budget Councils) from 10.00am onwards following the day of the previous Council meeting.*
- (2) *Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) motions will be listed after re-submitted Motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.*

This is to make the CPR easier to follow.

- 2.15 It is proposed that **CPR 16(5)** be moved to CPR 14, as 14(3).

This CPR fits better in rule 14. CPR 16(5) says :

- (5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director – Legal, Governance and Commissioning receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.

- 2.16 It is proposed that **CPR 35(7)** be amended to clarify that substitute members need to be from the same political group.

The proposed amendment would add the wording in bold to the existing CPR:

- (7) *At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members **of the same political group** on Committees, and Sub-Committees, (except the Health and Well-being Board, the Overview and Scrutiny Management Committee, the Overview and Scrutiny Panels, District Committees, Employee Relations Sub Committee, the Standards Committee and the Standards Sub-Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.*

This is to provide clarity on the substitution process, to make it clear that a substitute must be from the same political group.

- 2.17 **CPR 51** was previously added to permit the Council to hold meetings remotely, following the implementation of *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*.
- 2.18 The new Protocol is referred to in CPR 51 and was included as a new part of the Constitution at the same time as the new CPR 51.
- 2.19 It is proposed that, although the Regulations that permitted remote meetings are no longer in force, this CPR be retained, as some meetings are still held remotely, such as Licensing Panel meetings. There is also an on-going debate about Local Authorities and others having the ability to hold meetings remotely.
- 2.20 The proposed amendments to the Council Procedure Rules are shown in track change in Appendix 2.

#### Access to Information Procedure Rules

- 2.21 There has been a minor amendment to the Rules, under the delegated powers of the Monitoring Officer, and this is detailed in Appendix 1.
- 2.22 It is proposed that the wording at 26.1(c) is amended from:

(c) the member has a prejudicial interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

to:

(c) the member has an interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

2.23 Budget and Policy Framework Rules

There are no proposed amendments to these rules.

2.24 Executive Procedure Rules

There are no proposed amendments to these rules.

2.25 Financial Procedure Rules

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

2.26 Contract Procedure Rules

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

2.27 Overview and Scrutiny Procedure Rules

There are no proposed amendments to these rules.

2.28 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

**PART 5 – CODES and PROTOCOLS**

2.29 This section sets out the Council's Codes and Protocols in relation to a number of areas.

2.30 Three amendments have been made to Part 5 which are set out in Appendix 1.

2.31 The members of Code of Conduct was updated and approved by Council.

2.32 A protocol for the Exercise of Concurrent Functions was introduced in June 2021 and was later amended by the Monitoring Officer using delegated powers.

2.33 Members Code of Conduct

There are presently no proposed amendments to the Code of Conduct, but there is some ongoing work resulting from the consultation survey and the subsequent workshops that were held.

Should this result in any proposed amendments, these will be considered by Standards Committee, before being considered at Corporate Governance and Audit. One current proposal to introduce a 'fast track' route into the standards process is currently being considered, with a view to reporting to the Standards Committee initially on any proposals for change.

2.34 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.35 Protocol for Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

2.36 Decision Making On Ward Issues – Procedural Advice to Cabinet Members

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.38 Officers Code of Conduct

There are no proposed amendments to this protocol.

2.39 Protocol for Public Speaking at Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

2.40 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

2.41 Councillors and Officers in Kirklees – A Protocol for Working Effectively

There are no proposed amendments to this protocol.

However, the working relationship between members and officers was a significant theme that came up in the Standards consultation survey and was explored in more detail at the recent workshops.

It is proposed that this protocol is reviewed and any proposed amendments will be considered by Standards Committee, before being considered at Corporate Governance and Audit.

2.42 Safeguarding Protocol

There are no proposed amendments to this protocol.

#### 2.43 Protocol for Online Meetings

This Protocol was added to the Constitution as a result of the legislative changes on remote meetings made in response to the Covid 19 lockdown, so that Council business could still be transacted.

Whilst the protocol is no longer applicable to many meetings, some are still held remotely, such as Licensing Panel meetings (which are held using different legislation), and it is proposed to retain this, rather than remove it.

#### 2.44 Concurrent Functions Protocol

There are no proposed amendments to this protocol.

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

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

It is also essential that the Constitution complies with current legislation. Failure to do so could lead to challenges, unnecessary procedural delays and less transparency in the Council's democratic process.

#### 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**

Various officers have been consulted.

### 5. **Next steps and timelines**

- 5.1 This will be considered by Annual Council on May 25<sup>th</sup> May 2022. Any feedback, comments or recommendations from this committee will be included in the report to Annual Council.
- 5.2 Any amendments agreed by Council will be made to the Constitution.

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

That it be recommended that CGA:-

- a. Notes the changes made to the Constitution in 2021-2022 listed in Appendix 1 and notes the Cabinet approval of the Safeguarding Policy, set out in paragraph 2.04.
- b. Approves the amendment to the Policy Framework at paragraph 2.04 in the event that Council considers and adopts the Council Corporate Safeguarding Policy referred to in that paragraph.
- c. Approves the proposed changes to the Councils constitution as set out in paragraphs 2.08, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, and 2.22 and the accompanying relevant Appendices.
- d. Notes the further work proposed to keep the Council's Constitution under review.
- e. Notes the proposed further work in respect of standards.
- f. Recommends to Council that they note and approve (as applicable) the above recommendations and delegate authority to the Service Director – Legal, Governance and Commissioning to make appropriate amendments to the constitution which may be agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed.

## **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](mailto:julie.muscroft@kirklees.gov.uk)

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

## **10. Service Director responsible**

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

## **11. Appendices**

**Appendix 1 - Amendments 2021-2022 (Information only)**

**Appendix 2 – Track change copy of the Council Procedure Rules**



## APPENDIX 1

### Constitutional amendments 2021-2022

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

Amendment	Authorisation	Date amended
<b>PART 3 Responsibility for Functions</b>		
Part 3.3 Section B amended – HWB ToR amended	Approved at Annual Council	16 <sup>th</sup> June 2021
Part 3.4 Section C amended – changes to portfolio responsibilities	Approved at Annual Council	8 <sup>th</sup> June 2021
Part 3.7 Scheme of Delegation to Officers – Section F	Monitoring Officer Delegation	9 <sup>th</sup> February 2022
<b>PART 4 Rules of Procedure</b>		
Part 4.1 Council Procedure Rules amended	Approved at Annual Council	16 <sup>th</sup> June 2021
Part 4.2 Access to Information Procedure Rules	Monitoring Officer Delegation	13 <sup>th</sup> July 2021
Part 4.6 Financial Procedure Rules amended	Approved at Annual Council	8 <sup>th</sup> June 2021
Part 4.7 Contract Procedure Rules amended	Monitoring Officer Delegation	8 <sup>th</sup> June 2021
<b>PART 5 Codes and Protocols</b>		
Part 5.1 Code of Conduct – LGA model code	Approved at Council	15 <sup>th</sup> December 2021
Part 5.12 – Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents introduced	Approved by CGA	16 <sup>th</sup> June 2021
Part 5.12 – Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents amended	Monitoring Officer Delegation	14 <sup>th</sup> July 2021

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# **COUNCIL PROCEDURE RULES**

(Amended by Service Director, Legal Governance and  
Commissioning using delegated powers on 1<sup>st</sup>, 14<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup>  
May, 7<sup>th</sup> July 2020 and 19 May 2021 (Annual Council))

## Introduction

Following the introduction of *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* meetings of the Council or any committees may now be held remotely.

Any references to being present at any meeting in these rules is now to be interpreted as including being in remote attendance at any meeting.

A new procedure rule, Rule 51, has been inserted and the existing rules should be interpreted in light of the provisions of that rule.

## (A) Meetings of the Council

### 1. Annual Meeting of the Council

#### (1) Timing and Business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, provide that the Annual Meeting will take place in May. Within those limits the date, time and venue may be proposed by the Corporate Governance and Audit Committee and will be determined by the Council.

At the Annual Meeting the agenda will be as follows:

#### **CIVIC AND PROCEDURAL**

- (a) choose a person to preside if the Mayor and Deputy Mayor are absent;
- (b) elect the Mayor;
- (c) appoint the Deputy Mayor;
- (d) approve as a correct record the Minutes of the previous meeting of the Council;
- (e) receive any announcements from the Mayor and the Chief Executive
- (f) following a local election (other than a by-election) receive the report of the Chief Executive upon:
  - a) The result of the elections of Councillors to the Wards of the Council
  - b) The acceptance of office of Councillors elected

#### **ELECTION OF THE EXECUTIVE**

- (g) elect the Leader of the Council and determine his/her term of office (as necessary);

## **CONSTITUTIONAL BUSINESS**

- (h) appoint, in accordance with paragraph (2) of this Rule the Overview and Scrutiny Management Committee, the Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, of this Constitution);
- (i) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (j) approve a programme of ordinary meetings of the Council for the year;
- (k) consider any other business set out in the notice convening the meeting; and
- (l) no other business will be considered at the Annual Meeting other than in exceptional circumstances to be determined by the Mayor in consultation with the Chief Executive.

### **(2) Selection of Councillors on Committees**

At the Annual Meeting, the Council will:

- (i) decide the size and terms of reference for those Committees to be established for the municipal year;
- (ii) decide, when relevant, the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iii) receive nominations from Group Business Managers of Councillors to serve on each Committee;
- (iv) determine representation on outside bodies and where appropriate political ratios;
- (v) elect Chairs and appoint Deputy Chairs (where appropriate) of the Council's Committees for the ensuing municipal year. If the Council does not make these appointments, Committees may appoint their own Chair and Deputy Chair (where appropriate) subject to confirmation at the next meeting of the Council;
- (vi) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## **2. Ordinary and Additional Meetings of Council, Notice of and Summons to Meetings**

### *Dates of Council Meetings*

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

- changes made to meeting dates as proposed by the Corporate Governance and Audit Committee and agreed by Council during the municipal year,

shall be held on dates fixed by the Council at the Annual Meeting on the recommendation of the Corporate Governance and Audit Committee.

#### *Extraordinary Meetings*

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

#### *Venue and Start Time*

- (3) All ordinary meetings of the Council will be held at 5.30 p.m. in the Town Hall, Huddersfield, or at such other times and places as may be agreed in respect of particular meetings by the Mayor and the Leader of the Council or on the recommendation of the Corporate Governance and Audit Committee.

#### *Council Summons*

- (4) The date, time and venue for each Council meeting will be shown in the summons for the meeting which will be issued by the Service Director - Legal, Governance and Commissioning at least 5 clear days before a meeting. The summons will specify the business to be transacted and will be accompanied by reports where appropriate.

#### *Chair of Meeting*

- (5) Any power or duty of the Mayor in relation to the conduct of a meeting shall be exercised by the Deputy Mayor or in their absence the person elected to preside at the meeting.

### **3. Budget Meeting**

The Council may specify that one meeting will solely be the Council's budget meeting. At that meeting the only items will be to agree the budget, the capital programme and the level of Council tax for the following financial year, together

with any issues connected with the budget and anything else which the Mayor in consultation with the Chief Executive considers appropriate for inclusion.

#### **4. Quorum of Council**

- (1) The quorum for a Council meeting shall be one quarter of the total number of the Members of the Council, rounded up to the nearest whole number.
- (2) If there is not a quorum at a meeting, then consideration of any items of business not dealt with shall be adjourned to a date and time to be chosen by the Mayor at the time when the meeting is adjourned **or** to the next meeting of the Council.

#### **5. Order of Business**

- (1) There shall be two types of ordinary meeting of the Council,
  - one which focuses on **Holding the Executive to Account** and
  - one which focuses on **Key Discussions**.

The designation of each Council meeting shall be set (and published) at the start of the municipal year by the Chief Executive in consultation with the Group Leaders, but may be changed during the course of the year by the Chief Executive in consultation with the Group Leaders if it is considered necessary for the efficient operation of the Council, provided that no less than four ordinary meetings are designated as **Holding the Executive to Account**.

The content and running order of the business to be transacted at each ordinary meeting of Council may be altered in advance by the Chief Executive in consultation with the Mayor and Group Leaders if it is considered necessary or appropriate for the efficient operation of the Council.

The following items shall be included in all ordinary meetings of the Council in the order shown:

#### **PROCEDURAL**

- a) To choose a person to preside if the Mayor and Deputy Mayor are absent.
- b) Announcements by the Mayor or the Chief Executive.
- c) To receive apologies.
- d) To approve as a correct record and sign the Minutes of the previous meeting of the Council.
- e) To receive declarations of interest.
- f) To receive petitions submitted by Members of the Council.
- g) To receive any petitions/hear deputations from Members of the Public.

- h) To receive any public questions.
- i) To receive and consider any petitions referred in accordance with the Council's Petitions Scheme.
- j) To receive Minutes of meetings of the West Yorkshire Combined Authority.

### **DECISION MAKING**

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

### **WRITTEN QUESTIONS BY MEMBERS OF THE COUNCIL**

- l) To deal with written questions by Members to the following under Rule 12:
  - The Leader, Deputy Leader and Cabinet Members
  - Chairs of Committees, Sub Committees and Panels
  - Spokespersons of Joint Authorities and External Bodies (as defined at Rule 13)
- (2) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Holding the Executive to Account** meetings (provided that there is sufficient such business at any one meeting), and such business shall follow on from that set out in (1) of this Rule as follows:

### **CABINET AND COMMITTEES**

- m) To receive reports from Cabinet members in accordance with Rule 13.
- n) To deal with questions to Cabinet members generally, or in relation to minutes of Cabinet put to Council for information or to hear statements from Cabinet members in accordance with Rule 13.

### **MEMBER MOTIONS**

- o) To receive responses to Motions agreed at previous meetings of Council
- p) To consider motions issued under Rule 14, if any, in the order which they have been received by the Service Director – Legal, Governance and Commissioning.

### **GENERAL**

- q) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
- r) To deal with any business expressly required by statute to be dealt with by the Council
- (3) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Key Discussion Meetings** (provided that there is



sufficient such business at any one meeting) and such business shall follow on from that set out in (1) of this Rule as follows:

### **KEY ISSUES**

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

### **OVERVIEW & SCRUTINY**

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

### **MEMBER MOTIONS**

- u) To receive responses to Motions agreed at previous meetings of Council.
- v) To consider motions issued under Rule 14, if any, in the order which they have been received by the Service Director – Legal, Governance and Commissioning.

### **GENERAL**

- w) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
  - x) To deal with any business expressly required by statute to be dealt with by the Council.
- (4) The order of items (k) to (m) or (o) (as appropriate) or (k) to (s) or (t) (as appropriate in the case of Key Discussion Meetings) may be changed or any of the items omitted at any one meeting:
- a) by the meeting by means of a motion passed without discussion;
  - b) by the Chief Executive in consultation with the Mayor.
- (5) Any discussion falling within (s) above shall begin no later than 7:00 pm irrespective of whether the business before it on the agenda has concluded, such other business shall resume once the key discussion issue is complete.
- (6) *“In addition to the Annual Meeting of the Council (CPR1) and the ordinary meetings (CPR5 (1)) there shall be [at least] one meeting of Council convened each Municipal Year at which the mayor from time to time of the West Yorkshire Combined Authority (WYCA) shall attend to meet with Kirklees Councillors as an opportunity to discuss and report back on their work programme and outcomes.*

*The meeting will cover procedural items at (a) - (c), as well as (e) and (j), listed at CPR 5 (1) and will set aside a period of at least 45 minutes for questions from members to the WYCA Mayor. Questions will be allocated on a proportional basis between groups, in a manner to be determined by the Kirklees Mayor and the*

*Chief Executive. In addition any agenda items agreed by the Kirklees Mayor and Chief Executive of Kirklees Council with the Mayor of WYCA will be discussed.”*

## **6. Limitation of Business**

The items of business for consideration at the Council meeting will be limited to those set out in the agenda for the meeting, with the exception of:-

- (a) items of business required by these Rules to be dealt with at the meeting or
- (b) items of urgent business for which the Mayor and Chief Executive shall have prior notice and which the Mayor in consultation with the Chief Executive considers appropriate for discussion at the meeting.

## **7. Minutes**

### *Correct Record*

- (1) The Mayor shall put the motion "that the Minutes of the previous meeting or meetings be approved and signed as a correct record."

### *Accuracy*

- (2) No discussion shall take place on those Minutes except on their accuracy, and any questions on their accuracy shall be raised by motion. After any questions on the Minutes have been dealt with the Mayor shall sign the Minutes.

### *Submission to Council*

- (3) The Minutes of each Council meeting (including Extraordinary Council meetings convened in accordance with paragraph 3 of Schedule 12 to the Local Government Act 1972) shall be presented to the next scheduled Council meeting for approval.

## **8. Announcements by the Mayor, Leader of the Council, Cabinet Members and Chief Executive**

- (1) No discussion shall take place on any announcement made by the Mayor or Chief Executive.
- (2) Any Member may propose that the subject matter of any announcement be referred to Cabinet or an appropriate Committee, Sub-Committee, or Panel and such a motion, on being seconded, shall be put to the vote immediately.

## **9. Presentation of Petitions by Members of the Council and Members of the Public**

### *Presentation of Petitions*

- (1) Petitions on issues on which the Council has powers or duties or which affect the area of Kirklees may be presented by a Member or any member of the public to any meeting of the Council (except the meetings of Annual, Budget or Extra-ordinary Council) or an appropriate Committee, Sub-Committee or Panel meeting.
- (2) When a petition is received at a Council meeting no discussion shall take place on the item.

### *Referral of Subject Matter*

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

## **9a. Council's Petition Scheme – Council Debates**

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

## **10. Deputations**

### *Receiving of Deputations*

- (1) Deputations on issues on which the Council has powers or duties or which affect the area of Kirklees may be received at any meeting of the Council (except the meetings of Annual, Budget or Extra-Ordinary Council) or at any meeting of an appropriate Committee, or Sub-Committee relevant to its terms of reference. The Mayor/Chair in consultation with the Chief Executive shall have discretion to decide whether or not to hear the deputation.
- (2) All deputations should be submitted at least 24 hours prior to the meeting.

### *Deputations which will not be received*

- (3) A deputation will not be received if the Chief Executive considers that it includes references to the following:
  - (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.
  - (b) Information relating to complaints made under statutory provisions which have not been finally dealt with.
  - (c) Information concerning the merit of applications or other matters currently before the Council, Cabinet or a Committee, Sub-committee, Panel or Officers for determination in respect of which the Council is under a duty to act quasi judicially.
  - (d) Information of a personal nature or which is defamatory, offensive, frivolous, repetitive or vexatious.
- (4) Deputations with the sole or predominant purpose of promoting any company's or individual's own business interests or financial position will not be permitted.

### *Size of Deputation and Speech*

- (5) The deputation shall not exceed five persons and the speech shall not exceed five minutes.
- (6) When a deputation is received at a Council meeting, no discussion shall take place on the item but the relevant Cabinet Member shall respond to the deputation. The Cabinet Member's response shall not exceed five minutes.
- (7) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in exceptional circumstances. For example, in order to respond to personal attacks made during the course of a deputation.

Such response shall not exceed five minutes.

*Referral of Subject Matter*

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

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

*Who Can Ask A Question?*

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

*When Questions Cannot Be Asked*

- (2) Questions may not be asked at:
  - (a) the Annual Council Meeting;
  - (b) the Budget Council Meeting;or during the period from:
  - (c) the announcement of a General Election to polling day (inclusive); or
  - (d) the publication of the notice of ordinary elections for the Council to polling day (inclusive).

*Questions Which Will Not Be Answered*

- (3) Questions will not be answered if the Chief Executive considers that they include references to the following:
  - (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.

- (b) Questions relating to complaints made under statutory provisions which have not been finally dealt with.
- (c) Questions about the merit of applications or other matters currently before the Council, Cabinet or a Committee, Sub-Committee, Panel or Officers for determination in respect of which the Council is under a duty to act quasi judicially.
- (d) Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious.

#### *Questions To Be Within Terms of Reference*

- (4) The Chair or Leader may decline to answer a proposed question if in his or her opinion it is not within the terms of reference of the Cabinet, Committee, Sub-Committee or Panel concerned or is not relevant to the functions of the Cabinet, Committee, Sub-Committee or Panel concerned.

#### *Time Allowed for Questions*

- (5) The period allowed for the asking and answering of public questions at any one meeting shall not exceed 15 minutes. Any Member of the Cabinet, Committee or Panel may move an extension of this period should there be questions unanswered. Such a motion shall be moved and seconded and be put without discussion. At any one meeting no person may ask more than two questions and no more than two questions may be asked on behalf of one organisation. A questioner may also put one supplementary question to the Member for each original question asked. Any question which cannot be dealt with during public question time will be dealt with by a written answer.

#### *Answers to Questions*

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

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

An answer may take the form of:

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

#### *Recording in Minutes*

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

#### *Questions Ruled Out of Order*

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

#### *Referral of Subject Matter*

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

## **12. Written Questions by Members**

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

The following provisions shall apply to written questions by Members which must be received by the Service Director - Legal, Governance and Commissioning by 10.00 a.m. on the working day before the Council meeting.

- (1) Any member of Council may put a written question to the Leader of the Council, a member of the Cabinet, a Chair of a Committee, Sub-Committee or Panel or a spokesperson of a Joint Committee or External Body, as defined at Rule 13 (4). Subject to the Mayor's/Chair's discretion, a 3 minute time limit applies for individual questions to be put.
- (2) The Mayor/Chair in consultation with the Chief Executive may determine that a question shall not be put where the question appears defamatory, vexatious or requires the disclosure of confidential or exempt information.
- (3) Following consideration of any questions arising from Rule 12 (1) above, questions will be timetabled in the order which they are received by the Governance Team.
- (4) If a Member who has submitted a question in accordance with Rule 12 is not present at the meeting at the time when the question(s) submitted is/are due to be put to a Member the question(s) will fall.
- (5) The Member to whom the question has been put shall give an oral answer at the Council meeting or may nominate at any time before or during a meeting another Member to answer if that Member agrees.
- (6) An answer may take the form of:
  - (a) a direct oral answer; or
  - (b) a reference to a publication of the Council which contains the desired

- information; or
  - (c) a written answer circulated to all Members within 7 days of the Council meeting.
- (7) The period allowed for written questions at any one meeting shall not exceed 30 minutes. A 5 minute time limit shall apply for individual responses to questions. The same time limit shall also apply to individual responses to supplementary questions, subject in both cases to the Mayor's discretion to increase the time allowed for responses in appropriate circumstances.
- (8) Where written questions are not addressed within the above timescale, then the question will be answered by written reply, and the response shall be copied to all Members of the Council, unless the Member asking the question specifically requests (within 48 hours of the meeting concluding) that the question is referred to the next relevant Cabinet / Committee / Sub-Committee / Panel meeting for reply. Any such questions will only be responded to if the Member who put forward the original question to the Council meeting is in attendance at the Cabinet / Committee / Sub-Committee / Panel meeting to ask the question.

Written questions to spokespersons of Joint Authorities or any Other Bodies not dealt with within the above timescale will be answered by means of a written reply within 7 days of the meeting and be circulated to all Members of the Council.

- (9) When an answer to a written question has been given, the Member who asked it may ask one supplementary question relating to the same topic. Such a supplementary question must follow straight on from the Member's answer to the original question. In circumstances where the responding Councillor has elected, pursuant to Rule 12(6)(c), to provide a written answer to a question, no supplementary question will be permitted.
- (10) A written question, as well as any supplementary question, must be relevant to the Terms of Reference or powers or duties of Cabinet or of the relevant Committee / Sub-Committee / Panel / Joint Committee or External Body or affect the area of Kirklees and should not be of a personal nature or one which is defamatory, offensive, frivolous, repetitive or vexatious.
- (11) The Service Director - Legal, Governance and Commissioning shall record in the Minutes of the meeting the question(s) and the name of the respondent. This will not include any supplementary question and the answer thereto. Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility for a period of 12 months.

### **13. Procedure at Council Meetings in Relation to Reports and/or Minutes of Cabinet and Committees**

- (1) *Minutes for Information / Reports which require approval*
  - (i) Any matter expressly referred to Council by Cabinet or a Committee for



determination shall be dealt with first.

- (ii) Minutes of meetings of Cabinet, Committees, and WYCA meetings shall be presented to Council meetings for information and as a basis for questioning and comment. There shall be no need for any motion or vote to receive them. If the minutes are not considered due to lack of time they shall be deemed to have been presented to Council and will not, therefore, require resubmission.

(2) *Questions / Comments on Cabinet Minutes*

- (i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those of the Cabinet Committee – Local Issues.
- (ii) Prior to the start of questions to Cabinet Members, Portfolio Holders may make a report, not exceeding 10 minutes in length per Cabinet Member, setting out his / her Portfolio Plan for the municipal year, or on progress against that Plan. Comments and statements by Cabinet Members shall not exceed 30 minutes in duration including any questions arising from the information provided. All Cabinet Members will be required to make Council aware of their Portfolio Plan at the start of the municipal year either verbally or in writing circulated to all Members and to report on progress against that Plan at least once in the municipal year.
- (iii) Questions may be asked by any Member of any Cabinet Members whether on a specific matter contained within the minutes or any matter generally which is in the portfolio of the Cabinet Member. There is no restriction on the number of questions Members may ask within the allotted time but each individual Member is only permitted to ask one question together with one supplementary question at any one time.
- (iv) Any member may, in addition to or instead of exercising their rights under Rule 13(2)(iii), comment once for a maximum of five minutes on any item within the Cabinet minutes presented to the meeting.
- (v) The Cabinet Portfolios will be listed on the agenda. This item will provide the opportunity for questions to be asked of the Cabinet Members listed. The portfolios will appear in alphabetical order on the Agenda and questions will be addressed to the Cabinet Member whose portfolio is at the top of the list. Once questions to that Cabinet Member have been completed, his or her portfolio will fall to the bottom of the list and questions will be addressed to the second, third etc., until the allotted time is completed whereupon the portfolio of the Cabinet Member being questioned will fall to the bottom of the list. At the next meeting the list will begin where it ended at the previous meeting, subject to the portfolio which is the subject of a progress report to the meeting being at the top of the list. During this item Members will have the opportunity to question Cabinet Members (and other Members appearing on the schedule) on meetings/discussions with external organisations. Any such question will be answered immediately in the manner provided for in Rule 13(4).

- (vi) Subject to 5(i) of this Rule, Cabinet members will have a right of reply before questions are put to the Cabinet member next in alphabetical order.
- (vii) In circumstances where the Leader has no specific portfolio allocated to him/her the Agenda will provide that he/she heads the list of Cabinet Members for the purposes of Rule 13(2)(v). Once questions to the Leader have been completed he/she will fall to the bottom of the list and questions to Cabinet Members with specific portfolios will proceed in accordance with the provisions of Rule 13(2)(v).

(3) *Questions / Comments on Committee Minutes*

- (i) The Minutes of other Committees submitted to Ordinary meetings of the Council shall be set out in alphabetical order.
- (ii) Any Member may comment on any item within the Committee minutes presented to the meeting
- (iii) Any Member may ask the chair of the relevant Committee a question upon any item within that Committee's Terms of Reference.
- (iv) The Chair of Cabinet, a Cabinet Committee or Cabinet Member or the Chair of a Committee may make a statement at the time that the report/Minutes is/are considered on any matter within the Terms of Reference or which is relevant to the function of Cabinet or that Committee, or which is a matter of importance.

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

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

- (i) Any Member may ask the Chair of the relevant Committee/Sub-Committee/Panel or the Lead Member of a Standing Scrutiny Panel a question upon any item within the Terms of Reference of that Committee/Sub-Committee/ Panel or Standing Scrutiny Panel (as applicable). Any Member may also ask a question of the relevant spokesperson for any of the Joint Committees or external bodies (including regional and sub-regional bodies) identified in Rule 13(4)(ii).
- (ii) For the purposes of this Rule, questions may be asked of spokespersons or representatives of the following Joint Committees or External Bodies:

(a) ~~Kirklees Neighbourhood Housing~~

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

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

appropriate).

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

(5) *Time Permitted*

- (i) Subject to the time limit for speaking set out in CPR 13 (2) the maximum time permitted for consideration of matters in CPR (1) – (3) including comments and questions on Minutes to Cabinet Members shall be a maximum of 60 minutes, and the time permitted for comments and questions to Chairs of Committees/Sub Committees/Panels and representatives on outside bodies shall be a maximum of 30 minutes, provided that there is provision under Rule 5 for consideration of issues under CPR 13.

## 14. Notices of Motion

### *Submission of Motions*

- ~~(1)~~ (1) Every notice of motion (with the exception of those proposed in accordance with Rules 15, 18(16) and (19) shall be submitted in writing and delivered to the Service Director - Legal, Governance and Commissioning by 9.00 a.m. on the **sixth** working day before the date of the Council meeting.

Each motion must be signed by not less than two Members of the Council. Motions (including re-submitted Motions pursuant to CPR 16(5)) will only be accepted for the next scheduled Council meeting (except Annual and Budget Councils) from 10.00am onwards following the day of the previous Council meeting.

- (2) Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) motions will be listed after re-submitted Motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.

- ~~(4)~~(3) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director – Legal, Governance and Commissioning receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.

### *Recording of Motions*

- (24) The Service Director - Legal, Governance and Commissioning will record the date and time of receipt of each motion in a register. This register shall be open to inspection to every Member of the Council.

### *Motions Which Have Revenue Effects*

- (35) No Motion may have the effect of increasing the expenditure or reducing the revenue of the Council other than in the form of a reference to Cabinet or the appropriate Committee for consideration. (This provision does not apply for the setting of the Council Tax).

### *Relevance*

- (46) Every motion shall be relevant to some matter in relation to which the Council has powers or duties and which affects the area of Kirklees.

### *Motions Not Accepted*

- (57) If notice is given of any motion which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper, the Chief Executive in consultation with the Mayor shall determine whether to accept its inclusion on the agenda. If a motion is not deemed acceptable the Chief Executive shall inform the Members who gave notice of the item.

### *Withdrawal*

- (68) A Member who has given notice of motion may subsequently withdraw by writing to the Service Director - Legal, Governance and Commissioning.

### *Inclusion on Council Agenda*

- (79) The Service Director - Legal, Governance and Commissioning shall set out in the agenda for each Council meeting the motions received and accepted in the order they were received.

### *Moving of Motions*

- (810) If a motion set out in the summons is not moved either by the Member who gave notice or by another Member on their behalf, it shall be treated as withdrawn and shall not be considered again without fresh notice. Alternatively, the Council may consent to postpone consideration of a motion to the next meeting.

### *Receipt of Amendments*

- (911) Any proposed amendment to a motion which has been included in the summons for a meeting, shall be delivered to the Service Director - Legal, Governance and Commissioning in accordance with the following timescales:-
- (a) by 10.00am on the day of Council if the meeting is to start at 5.30 p.m.  
or
  - (b) by 2.00 p.m. on the day before a Council meeting which is to start in a morning.

### *Motions on Identical Subjects*

(4012) Where motions have been submitted to Council by different groups which relate to the same subject matter, then the movers shall be given the opportunity to agree a composite motion by 2.00 p.m. on the second working day before the date of the Council meeting. Notice of the composite shall be given to the Service Director - Legal, Governance and Commissioning who will notify the groups or individual Members to allow them to consider the proposals.

### *Alterations to Motions and Amendments*

(4413) Alterations to the wording of any motion or amendment (made in accordance with Council Procedure Rule 18(11) may be made with the agreement of the Members moving and seconding the motion or amendment and with the meeting's consent' provided that when such alterations are agreed copies shall be made available. Only alterations which could be made as an amendment may be made.

### *Need for Debate*

(4214) With the exception of those moved under (5) of this Rule, no motion made under this Rule may be voted on unless there has been a debate.

## **15. Motions and Amendments Which May Be Moved Without Notice**

The following motions and amendments may be moved without notice:

- (1) Appointment of a Chair of the meeting at which the motion is moved.
- (2) Questioning the accuracy of the Minutes of the previous meeting of the Council.
- (3) To change the order of business in the Agenda.
- (4) Reference to Cabinet a Committee, Sub-Committee or Panel for further consideration.
- (5) Appointment of Leader or a Committee, or Member thereof arising from an item on the Agenda for the meeting.
- (6) That leave be given to withdraw a motion.
- (7) Motions and amendments in respect of urgent business under Rule 6.
- (8) That the Council proceed to the next business.
- (9) Motions under Rule 11(5) and 11(9) as to questions by electors at Council Meetings.
- (10) Amendments to any motion to approve the recommendations of Cabinet or a Committee.

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

## **16. Termination and Adjournment of Meeting**

- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time and may incorporate a scheduled break of the meeting as required.
- (2) A meeting of the Council (except the Annual Meeting and Budget Council) shall terminate at 9.00 p.m. unless a Member moves, prior to 9.00pm, a motion that the meeting shall continue until (i) a later time (to be specified in the motion) or (ii) the conclusion of the business of the meeting. If the motion is seconded it shall be put to the meeting without comment.
- (3) If the motion is passed the meeting shall continue until the time specified or until the conclusion of the business of the meeting.
- (4) At 9.00 p.m. or such later time as the Council has agreed, the Mayor shall have discretion to grant an additional period of time to allow the item under consideration at that time to be concluded. Otherwise, the Mayor shall
  - a) allow no further points of order to be raised by any other Member.
  - b) interrupt the discussion of the item being considered by the meeting.

- (c) allow the proposer of the motion then under consideration a maximum of five minutes to reply to the debate unless he/she seeks leave to withdraw the motion.
- (d) put (without discussion) all of the questions necessary to dispose of that motion, unless the motion is withdrawn.
- (e) put (without discussion) all of the questions necessary to complete the consideration of any reports of Cabinet or any Committee, which are on the Agenda for the meeting, unless the Member appointed to preside in any such body (or a person on his/her behalf) indicates a wish to the contrary.

~~(5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director – Legal, Governance and Commissioning receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.~~

- (6) Where proceedings are in progress either at 9.00 p.m. or at a later time (specifically agreed by the Council in accordance with a motion to that effect), the provisions of Rule 24(3) as to recorded votes shall not apply.
- (7) Following any processes outlined above, the Mayor shall finally close the meeting.

## **17. Opposition Priority Business**

- (1) This Rule applies where there is a majority group of members of the Council.
- (2) A minority group may require that any one item of business placed on the Agenda for any Council meeting be treated as opposition priority business. Such a requirement will only be considered if the Leader of that Group has submitted it in writing to the Chief Executive at least seven days before the Council meeting.
- (3) Where the Chief Executive receives more than one such request for a meeting, he/she shall decide which shall be selected so as to ensure that as far as is possible each minority group's share of opposition priority business reflects the relative size of those groups in the period from the last Annual Meeting of the Council.
- (4) Service Director - Legal, Governance and Commissioning shall indicate on the Agenda which item of business (if any) is to be treated as opposition priority business.
- (5) If consideration of an item of opposition priority business has not begun two hours after the start of the meeting it will be brought forward and considered immediately after the conclusion of the item of business then under discussion.

## **18. Rules of Debate**

### *Motions and Amendments*

- (1) A motion or amendment shall not be discussed unless it has been proposed and seconded. Unless notice of the motion or amendment has already been submitted in accordance with Rules 14 and 19, the Mayor may also require that it be written out and handed to him/her before it is discussed further or put to the meeting.
- (2) Members when seconding a motion or amendment may, if they then declare their intention to do so, reserve their right to speak until a later period in the debate on the motion or any amendment.



### *Seconders Speech*

- (3) The Member seconding the motion or amendment and reserving the right to speak shall further indicate to the Mayor during the debate when he/she wishes to speak.

### *List of Names of Those Wishing to Speak*

- (4) During the debate Members should indicate their wish to speak by use of their individual voting console. The Mayor shall have absolute discretion to alter the order of those wishing to speak and may close the list at any time. This provision does not apply to:
- the Mayor
  - the mover of the original motion
  - the seconder of the original motion who has reserved the right to speak
  - Members rising on a point of order or to provide a personal explanation
  - persons moving motions and amendments under Rule 15

### *Addressing the Mayor*

- (5) Unless the Mayor indicates otherwise, a Member must stand and address the Mayor while speaking. If two or more Members rise, the Mayor shall request one to speak and the other(s) to be seated. While a Member is speaking the other Members shall remain seated and be silent, unless rising on a point of order or in personal explanation.

### *Content and Length of Speeches*

- (6) No speech of a Member of the Council in moving a motion to adopt the report of Cabinet or a Committee, or a motion under Rule 14 shall exceed 10 minutes and no other speech on any item before Council shall exceed 5 minutes, except:-
- (a) by consent of the Council, or
  - (b) The Leader, or the Leader's nominee's annual budget speech on the setting of the amounts of Council Tax.

### *Additional Time For Speeches*

- (7) If the Mayor is of the opinion that the subject matter is of special importance or the Member requests additional time, the Mayor may permit the Member to continue for as long as he/she allows.

### *When a Member May Speak Again - Adoption of Reports*

- (8) On a motion to adopt the report of Cabinet or a Committee, a Member may speak once in general regarding the report. In addition, he/she may move or

second or speak to one amendment only on each item in the report requiring a decision by the Council.

#### *When a Member May Speak Again - Other Motions*

- (9) On any other motion a Member shall speak only once whilst the motion is the subject of debate. A Member may also move, second or speak to one amendment. If consideration of an amendment begins before a Member has had the opportunity to speak on the motion he/she may still exercise the right to speak on the motion.

#### *Exceptions to Speaking Only Once*

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

#### *Amendments to Motions*

- (11) An amendment shall be relevant to the motion and shall be either:
- (a) to refer a subject of debate to Cabinet or a Committee, for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others;
  - (d) to insert or add words;

The omission, insertion or addition of words must not have the effect of blocking the motion which is under consideration by the Council. In addition the amendment must not have the effect of increasing the expenditure or reducing the revenue of the Council other than in the form of a referral to Cabinet or the relevant Committee for consideration. (This provision does not apply for the setting of the Council Tax).

#### *Discussion of Amendments*

- (12) Except where the voting procedure in Rule 24(6) applies only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of. However, the Mayor may permit two or more amendments to be discussed together if he/she considers that this would be helpful in the circumstances. Where two or more amendments are discussed together they shall be voted upon in the order in which they were moved.

### *Motion as Amended*

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

### *Withdrawal of Motion/Amendment*

- (14) A motion or an amendment may be withdrawn by the proposer with the consent of the seconder and of the Council (which shall be decided upon without debate). No Member may speak on it after the proposer has been granted permission for its withdrawal.

### *Right of Reply*

- (15) The proposer of a motion shall have the right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the proposer of the original motion shall have also the right to reply at the close of such debate on the amendment and shall not otherwise speak on the amendment. Such a reply shall be confined to matters raised in the debate on the motion or amendment, as the case may be. The proposer of an amendment shall have no right to reply to the debate on the amendment. However where an amendment is carried the proposer of that amendment (now the substantive motion) shall have a right of reply at the close of the debate and on any subsequent amendment.

### *Motions which may be moved during debate*

- (16) When a motion is under debate no other motion shall be moved except the following:-
- (a) to amend or withdraw the motion;
  - (b) to adjourn the meeting;
  - (c) to adjourn the debate;
  - (d) to proceed to the next business
  - (e) that the question be now put;
  - (f) that a Member be not further heard on the item of business before the Council;
  - (g) by the Mayor under Rule 21(2);
  - (h) to exclude the public;
  - (i) to withdraw or amend proceedings in accordance with paragraph (14) of this Rule.

### *Closure Motion*

- (17) A Member may move without comment at the conclusion of a speech of another Member "That the question be now put", "That the debate be now adjourned" or "That the Council do now adjourn". If such a motion is seconded, the Mayor shall proceed as follows:-
- (a) On a motion "that the question be now put", the Mayor shall put this motion to the vote, unless he or she is of the opinion that the matter

before the meeting has not been discussed sufficiently. If the motion 'that the question be now put' is voted on and carried, the Mayor will allow the proposer of the original motion the right to reply under paragraph (15) above before putting the motion under discussion to the vote.

- (b) On a motion "to adjourn the debate or meeting". The Mayor shall put the motion for an adjournment to the vote without giving the mover of the original motion the right to reply, if he or she is of the opinion that the matter before the meeting has not been sufficiently discussed and cannot reasonably be discussed at that meeting.

#### *Point of Order and Personal Explanation*

- (18) A Member may rise on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of one of these Rules or the law and the Member shall specify the Rule or the law and the way in which it has been broken. A personal explanation shall be confined to some material part of a speech by the Member in the Council meeting which may appear to have been misunderstood in the present debate. A personal explanation may not be made in any other circumstances and in particular reference in a speech to another Member does not give that Member any right of personal explanation except in circumstances specified above.
- (19) The ruling of the Mayor on a point of order or on the admissibility of a personal explanation will be final.

#### *Relaxation by the Mayor of Rules of Debate*

- (20) Before the start of the debate on any item or motion the Mayor may determine, after consultation with the Chief Executive, that any of the requirements of this Rule shall be relaxed or waived during the debate on that item or motion.

#### *Mayor's Authority*

- (21) Whenever the Mayor rises during a debate, a Member who is standing and speaking shall sit down and the Council shall be silent. Afterwards, a Member may continue his or her speech unless the Mayor determines otherwise.
- (22) The time permitted for consideration of scrutiny reports under Rule 5 (3) (n) shall be a maximum of 60 minutes.
- (23) The time permitted for consideration of key issues shall be a maximum of 60 minutes
- (24) The time permitted under (22) and (23) of this Rule may be extended at the discretion of the Mayor in consultation with the Chief Executive.

#### *Mayor's Casting Vote*

- (25) The Mayor, or in their absence, the person presiding at the Council meeting,

shall have a second or casting vote in the case of an equality of votes.

## **19. Motion to Make Statutory Calculations and to set Amounts of Council Tax**

### *Motion referred from Cabinet*

- (1) At least 14 days before the date fixed for calculating the amounts required under Sections 32 to 36 of the Local Government Finance Act, 1992, and setting the amounts of Council Tax, the Chief Executive shall distribute to all Members of the Council the motion which has been proposed by the Cabinet for the Council, together with the draft Revenue Budget.

### *Motion distributed by the Leader*

- (2) If the Cabinet is not able to recommend a motion to the Council meeting, the Leader shall distribute to all Members of the Council at least 14 days in advance a motion to be presented to the Council meeting together with the draft Revenue Budget. This motion must be presented in the names of the Chair of the Cabinet and be supported by at least two other Members of the Council.

### *Amendments*

- (3) An amendment to a motion proposed under paragraph (1) above, cannot be moved unless it has been submitted and deemed to be financially sound and sustainable by the Chief Executive no later than 7 days prior to the date of the Budget Meeting. The Notice of such an amendment must be delivered to the Chief Executive and must specify the terms of the proposed amendment and the effect which it will have on the draft Revenue Budget.

Amendments to the Budget Motion cannot be accepted unless the Chief Executive is satisfied, upon the advice of the Service Director - Finance, that the proposed amendment is financially sound and sustainable.

### *Notification of Amendments*

- (4) The Chief Executive shall inform all Members of the Council of any amendments received and the order of receipt. The amendments shall be considered at the meeting in the same order that they have been received by the Chief Executive.

### *Debating the Motion and Amendments*

- (5) (i) The Mover of any Amendment to the Budget Motion shall speak for no longer than ten minutes, or for the same time taken by the Mover of the Budget Motion, whichever is the longer.  
  
(ii) If a motion or an amendment described in paragraph (1), (2) and (3) above is not carried at the Council meeting, further motions and amendments may be moved and seconded without notice for consideration and determination. Copies of these additional motions or amendments must be made available to each Member of the Council by the mover or seconder before any debate begins.

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

(iv) In order to engage in a full debate about the Budget and amendments these rules will allow reference to be made by a member in the Budget debate, to the Budget Motion and / or any amendments submitted by a political group related to the budget during their contribution to the debate whether that be when speaking on the Budget Motion or an amendment to it.

### *Limitations*

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

### *Recording of Votes relating to Council Tax etc.*

- (7) Immediately after any vote is taken at a Budget Decision Meeting of the Council on any decision or amendment relating to the approval of the General Fund, or the statutory calculation for the setting of the Council Tax, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting,

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

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

- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(b); or
- (ii) issues a precept under Chapter 4 of the Part 1 of that Act;

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

## **20. Motion affecting persons employed by the Council**

If a question arises at a meeting of the Council on the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, it shall not be considered until the Council has determined whether or not the public and press shall be excluded.

## **21. Members Conduct**

### *Member not be heard*

- (1) If at a Council meeting any Member of the Council (in the opinion of the

Mayor) persistently disregards the ruling of the Mayor or behaves irregularly, improperly, offensively or obstructs the business of the Council, the Mayor or any other Member may move "That the Member named be not heard further on the item of business before the Council". If the motion is seconded it shall be determined without discussion.

*Member to leave the meeting*

- (2) If the named Member continues his or her misconduct after a motion under paragraph (1) above has been carried, the Mayor shall either move "That the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion), or adjourn the meeting for as long as he/she considers necessary.

*General Disturbance*

- (3) In the event of general disturbance which in the opinion of the Mayor renders the despatch of business impossible, the Mayor may decide to adjourn the meeting of the Council for as long as he/she considers necessary.

*Mayor's Power to Adjourn*

- (4) The provisions of this Rule do not limit the Mayor's power to adjourn the meeting at any time under Rule 16(1).

**22. Disturbance by the Public**

If members of the public interrupt the proceedings of any meeting, the Mayor shall warn them regarding their conduct. If they continue the interruption, the Mayor shall order their removal from the room. In case of general disturbance in any part of the room open to the public, the Mayor shall order that part to be cleared.

**23. Previous Decisions and Motions**

*Motion to rescind a previous decision*

- (1) No motion to rescind any decision taken within the preceding six months, and no motion or amendment with the same effect as one which has been rejected within the preceding six months, shall be proposed unless notice has been given in accordance with Rule 14 and has been signed by at least 10 Members of the Council. When any such motion or amendment has been disposed of by the Council, no similar motion may be proposed within a further period of six months.

*Motion similar to the one previously rejected - exceptions*

- (2) This Rule shall not apply to motions moved on a recommendation of Cabinet or a Committee, or to motions or amendments moved in accordance with Rule 19.

## **24. Voting**

### *Show of Hands / Voting Equipment*

- (1) Voting at Council meetings shall be as directed by the Mayor, either by a show of hands or by use of the electronic voting equipment unless a Ballot is agreed under paragraph (4).

### *Casting Vote*

- (2) The Mayor, or in his/her absence the Deputy Mayor or the Chair at the time the vote is taken shall have a second or casting vote.

### *Recorded Vote*

- (3) Any Member of the Council may request that a recorded vote be taken on an item to record how each Member present at the meeting intended or decided to vote. This request for a recorded vote will only be acceptable if it is supported by at least five other Members and is made before the Mayor has announced the result of the vote.

### *Ballots*

- (4) The vote will take place by ballot at the request of any Member supported by at least five other Members. The Mayor/Chair will announce the numerical result of the ballot immediately the result is known.

### *Right to require individual votes to be recorded*

- (5) At any meeting of the Council a Member may require that his or her decision in voting for or against or abstaining on an item on the Agenda be recorded in the Minutes of the meeting. This will be effective only if it is proposed by the Member before the Mayor has announced the result of the vote.

### *Voting on Appointments (including Mayor and Leader)*

- (6) If there are more than two persons nominated for any appointment to be filled by the Council (including the election of the Mayor and the Leader) and there is no overall majority vote in favour of one person, the following procedure will apply. The name of the person who has received the least number of votes will be struck off the list of nominations and a fresh vote will be taken. This procedure will continue until a majority vote is given in support of one of the persons nominated.

## **25. Failure to Attend Meetings**

- (1) In accordance with the Local Government Act 1972, if a Councillor attends no meetings of the Authority for six months the Chief Executive will tell the Council (unless the Member has been granted leave of absence by the Council). The Council will consider whether the absence was caused by some reason approved by them. If they are not satisfied about the cause of the failure, the Member will cease to be a Member of the Council.



- (2) For the purpose of this Rule a meeting of the Authority shall include:-
- \* the Council, Cabinet or any Committee, Sub-Committee or Panel; or
  - \* any Joint Committee or Joint Board which has Council functions delegated to it;
  - \* any other body at which the Member represents the Council.

## **26. Interests of Members which are not Disclosable Pecuniary Interests**

- (1) Any Member who has an interest which is not a Disclosable Pecuniary Interest as described in paragraph 5 of the Council's Code of Conduct in any matter shall comply with the requirements of that Code in respect of that interest ("Other Interest").
- (2) A Member of the Council may declare in a register kept by the Service Director - Legal, Governance and Commissioning his/her membership of any organisation which requires details of its aims, duties or membership to be kept secret. This register will be open to public inspection during office hours.

## **27. Interpretation of these Rules**

The ruling of the Mayor, after consultation with the Chief Executive, as to the construction or application of any of these Rules, or as to any proceedings of the Council shall be final.

## **(B) Members and Officers Etc**

### **28. Leaders and Business Managers**

- (1) Members of the Council may be chosen by each of the political groups on the Council to act as the Leaders, Deputy Leaders and Business Managers of those groups.
- (2) The names of the Leader, Deputy Leader and Business Manager appointed by a political group represented on the Council shall be notified to the Chief Executive. The powers of a Leader shall also be exercisable by the Deputy Leader in the absence of the Leader.

### **29. Inspection of Documents**

- (1) A Member of the Council may, for the purposes of his/her duty as a Councillor, on application to the Service Director – Legal, Governance and Commissioning, inspect any document which has been considered by the following subject to the provisions of the Local Government (Access to Information) Act 1985 and the Local Government Act 2000 being met in relation to items determined as exempt information:

Council  
a Committee  
a Sub-Committee  
a Panel

For the same purposes a Member may also request that he or she be supplied with a copy of the document. This will be provided if it is practicable.

- (2) Members should not inspect or request a copy of any document relating to a matter in which they have an interest, either a disclosable pecuniary interest or an other interest, as defined in the Council's Code of Conduct. The Service Director – Legal, Governance and Commissioning may decline an application from a Member to inspect a document which would be protected by privilege arising from the relationship of solicitor and client in the event of legal proceedings.
- (3) Copies of all reports and minutes associated with the following meetings shall be kept by the Service Director – Legal, Governance and Commissioning in accordance with the requirements of the Local Government (Access to Information) Act 1985 and the Local Government Act 2000.

Council  
a Committee  
a Sub-Committee  
a Panel

These shall be open to inspection by any Member of the Council during office hours subject to the provisions of those Acts being met in relation to items determined as exempt information.

- (4) The Chief Executive or any Officer of the Council may decline a Member's request to inspect a document, if it contains confidential information. The only exceptions to this rule will be if the Member has a legal right to inspect a document or has obtained the consent of the Cabinet (for matters within its remit) or the Corporate Governance & Audit Committee (for all other matters).
- (5) All requests to inspect documents will be dealt with in accordance with the Council's Access to Information Procedure Rules. Rights in respect of documents under the control of the Cabinet are set out in Rules 26 and 27 of the rules.

### **30. Orders Regarding Works; Inspection of Lands, Premises, etc.**

A Member of the Council shall not issue any order regarding any works which are being carried out by or on behalf of the Council. In addition he or she shall not claim, by virtue of being a Member of the Council, any right to inspect or to enter upon any land or premises which the Council has the power or duty to inspect or enter.

### **31. Representation of the Council on Other Bodies**

If any Member of the Council is nominated or appointed by or on behalf of the Council to serve as a Member of another body, the appointment shall stand until the next Annual Meeting of the Council or until the first meeting thereafter of the Cabinet or Committee making the nomination or appointment unless:

- (a) the constitution of the other body makes different provisions

- (b) the Council (or the Cabinet, in the case of nominations made by it) at any other time resolves otherwise
- (c) the Member resigns from the outside body by the method required by the body or, if none, by notifying in writing to the Service Director - Legal, Governance and Commissioning.

### **32. Interest of Officers in Contracts**

The Service Director - Legal, Governance and Commissioning shall keep a register to record the details of any Officer of the Council who has given notice of a pecuniary interest in a contract as described by Section 117 of the Local Government Act 1972. This register shall be open to inspection by any Member of the Council during office hours.

### **33. Third Party Recording<sup>1</sup> of Committees, Boards and Panels**

- (1) The Council wants to be open and transparent in the way in which it conducts its decision-making.
- (2) Recording is allowed at all meetings of the authority<sup>2</sup> to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- (3) Filming or other recording of all meetings of the authority, whilst those meetings are to the public, is permitted<sup>3 4</sup>.
- (4) Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the meeting of their intentions to record prior to the commencement of the meeting.
- (5) Recordings may only be taken overtly from the area designated for the public and;
  - a. Recording devices must be in silent mode;
  - b. No flash or additional lighting is permitted;
  - c. Recordings must be taken from one fixed position and must not obstruct others from observing proceedings.
- (6) The Chair of a meeting has the authority to instruct that recordings be stopped where<sup>5</sup>:
  - a. The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed;
  - b. There is public disturbance or a suspension/ adjournment of a meeting;

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<sup>1</sup> This includes both video and audio recording.

<sup>2</sup> Including full Council, committees (boards and panels) established by full Council.

<sup>3</sup> In accordance with any regulations relating to such matters.

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

<sup>5</sup> In all cases recording equipment must be switched off.

- c. The recording has become disruptive or distracting to the good order and conduct of the meeting;
- d. Continued recording is against the wishes of an individual<sup>6</sup>.

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

- (1) The Council's meetings will be held in public unless the Access to Information Procedure Rules permit the public to be excluded. Those Rules also deal with public access to documents.
- (2) Any person attending a meeting may take written notes of the proceedings.
- (3) A Member or employee of the Council shall not disclose to any person any document or any matter contained in any document which is marked "Confidential" or "not for publication" except with the permission of the Council, Cabinet, Committee, Sub-Committee, or Panel which considered the item, or if the person concerned has a legal right to inspect the document.

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

#### **35. Appointment of Committees, Sub-Committees and Panels**

- (1) The Council at its Annual Meeting will establish those Committees which are required by law and such other Committees as are deemed necessary to carry out the work of the Council during the municipal year. The Council may at any other time establish new Committees, which are considered necessary to carry out the work of the Council.
- (2) The Council subject to any statutory provision:-
  - (i) shall not appoint any Member of a Committee so as to hold office later than the next Annual Meeting of the Council;
  - (ii) may at any time dissolve a Committee or alter its membership.
  - (iii) shall not appoint the Leader, the Deputy Leader of the Council or any Members of the Cabinet as members of the Overview and Scrutiny Committee or its Panels;
  - (iv) shall require the post holders of Scrutiny Lead Panel Members – Children (including those who attend Children Homes Regulations 44 visits) and Adoption Panel Members to undertake an Enhanced DBS check in accordance with the DBS policy. The Monitoring Officer may require other members to undertake an enhanced DBS check at her discretion where such checks are justified.

#### Appointment of Sub-Committees, Panels etc.

- (3) At the first meeting of a Committee in the municipal year, it shall establish such Sub-Committees or Panels as are considered necessary. Committees subject to any statutory provision,

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

- (i) shall not appoint any Member of a Sub-Committee or Panel so as to hold office later than the next Annual Meeting of the Council.
  - (ii) may at any time dissolve a Sub-Committee or Panel or alter its membership, and
  - (iii) may delegate to any such Sub-Committee or Panel any power or duty delegated to the Committee by the Council.
- (4) A Committee may establish other Sub-Committees or Panels at any time in the municipal year.

#### Membership of Committees, Sub-Committees, Panels etc.

- (5) The Members on each Committee, or Sub-Committee or Panel shall (so far as legally required) be selected by each of the Political Groups represented on the Council, on the basis of their proportional representation at the date that the Committee, or Sub-Committee, or Panel is appointed.

#### Proportional Representation of Political Groups not to apply

- (6) The Council may determine that proportional representation shall not apply to any Committee, and any Committee may make a similar determination with respect to any of its Sub-Committees or Panels subject to compliance with the requirements of Section 17 of the Local Government and Housing Act 1989.

#### Substitute Members

- (7) At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members of [the same political group on](#) Committees, and Sub-Committees, (except the Health and Well-being Board, the Overview and Scrutiny Management Committee, the Overview and Scrutiny Panels, District Committees, Employee Relations Sub Committee, the Standards Committee and the Standards Sub-Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.

#### Changes to the Substitute Panel and Members of a Committee, Sub-Committee and Panel

- (8) The Business Manager to each Group shall provide the Service Director - Legal, Governance and Commissioning within six clear working days of notice of
- (i) any change(s) to the names of those Members included on the panel of substitutes approved by the Annual Council Meeting; and
  - (ii) any change(s) to the membership of a Committee or Sub-Committee, which do not involve a member of that substitutes panel.

#### Notice of Substitutes cannot be revoked

- (9) After notice of a substitution has been given for a Committee, Sub-Committee, or Panel meeting it cannot be revoked. Once a Committee or Sub-Committee, or Panel has begun the Member who has been substituted will only be entitled to attend the meeting as an observer. If a Committee or Sub-Committee or Panel meeting is adjourned the change(s) in membership will stand for the purpose of the reconvened meeting.

#### Membership of a Sub-Committee or Panel to include persons who are not Members of the parent Committee

- (10) The membership of a Sub-Committee or Panel may include persons who are not Members of the Committee by which the Sub-Committee or Panel was appointed.
- (11) Except in cases required by law or permitted by law and agreed by the appointing body, no co-opted member of any Committee, Sub-Committee or Panel shall be entitled to vote on any matter considered by it.

### **36. Observer Attendance by Councillors at Committees, Sub-Committees or Panels**

- (1) Subject to paragraphs (2) and (3) below a Councillor who is not a Member of a Committee, Sub-Committee, or Panel may attend any meeting as an observer. That Councillor shall have the same speaking rights as any Member of that Committee Sub-Committee or Panel. The Councillor cannot:-
- (a) attend for any item of business in which he or she has a disclosable pecuniary interest as defined in the Council's Code of Conduct for Members and Co-optees ("the Code") unless an appropriate dispensation has been granted by the Council's Monitoring Officer.
  - (b) attend for any item of business on the Committee, Sub-Committee or Panel agenda which personally relates to them as a Councillor or otherwise.
  - (c) remain in a meeting of the Committee, Sub-Committee, or Panel after receiving advice from the Service Director – Legal, Governance and Commissioning that he or she should be excluded from the meeting.
  - (d) remain with a Committee, Sub-Committee, or Panel which is exercising a quasi-judicial or administrative function when it is considering its decision.
- (2) Any Member attending a meeting of a Committee, Sub-Committee, or Panel shall under the Agenda Item of "Membership of Committees, Sub-Committees etc." identify themselves as an observer.
- (3) Councillors who attend a Planning Committee or Sub-Committee but who:
- (a) Are not members of that Planning Committee or Sub-Committee; or

- (b) Are members of that Planning Committee or Sub-Committee but who have indicated that they will not be voting on an application because, for example, they believe that they may have predetermined it or wish to make representations rather than participate in the determination of the application, shall be entitled to speak once for a maximum of five minutes.

### **37. Attendance by Members of the Public - Permission to Speak**

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

### **38. Appointment of Chairs and Deputy Chairs of Committees and Sub-Committees/Panels, Lead Members of Scrutiny Panels and Appointments to Outside Bodies, etc.**

- (1) At the Annual Meeting of the Council, the Council will -
  - (i) appoint the Chairs and if considered appropriate the Deputy Chairs of Committees. In default of such appointments by the Council, every Committee, shall be empowered to make the appointment subject to confirmation by the Council;
  - (ii) appoint the Lead Members of the Standing Overview and Scrutiny Panels;
  - (iii) appoint the Members of Outside Bodies, except where membership is appointable by the Cabinet or a Committee, and
  - (iv) agree the dates of meetings of Committees, Sub-Committees, and Panels for the Municipal Year. The alteration of a date may be determined by the respective Chair in consultation with the Service Director - Legal, Governance and Commissioning provided that 7 days' notice of the revised date can be given.
- (2) The Council may at any other time appoint the Chairs (and if considered appropriate the Deputy Chairs of Committees) and the Lead Members of Scrutiny Panels, for the remainder of the Municipal Year.
- (3) At the first meeting of each Committee in the Municipal Year the Chair and if considered appropriate Deputy Chair of its Sub-Committees or Panels shall be appointed for that year.
- (4) Any Committee shall when appointing a Sub-Committee, or Panel under Rule 35(4), also appoint a Chair and if considered necessary a Deputy Chair.
- (5) In the absence of the Chair and Deputy Chair or Lead Member of the Scrutiny Panel ( where appropriate) from a meeting, a Chair shall be chosen for the duration of that particular meeting or until the official Chair, Deputy or

Lead Member (as recognised by Council) arrives. The Chair, Deputy Chair or Lead Member (as appropriate) will then assume the Chair when the item under discussion at the time of his or her arrival has been dealt with.

- (6) The Chair and Deputy Chair of every Committee, Sub-Committee/ Panel and the Lead Member of each Scrutiny Panel shall be a Member of the Council and a Member of the Committee/ Sub-Committee/ Panel which they are appointed to Chair.
- (7) A Member of a Committee, Sub-Committee, or Panel may resign membership and the Chair or Deputy Chair of a Committee, Sub-Committee/Panel/ Sub-Group or the Lead Member of a Scrutiny Panel, may resign office by giving notice in writing to the Chief Executive. Any such resignation shall take effect on the date of receipt of the notice.
- (8) The removal from office of the Chair or Deputy Chair of a Committee may only be agreed by the Council on the recommendation of the Corporate Governance & Audit Committee. The removal from office of the Chair of the Overview and Scrutiny Management Committee or any Lead Member of a Scrutiny Panel may only be agreed by Council on the recommendation of that Committee. Only the Committee which appointed a Sub-Committee or Panel may remove the Chair or Deputy Chair of that Sub-Committee or Panel from office.
- (9) No Member of the Cabinet may be appointed as Chair of Appeals Panel, Corporate Governance and Audit Committee, Licensing and Safety Committee, a Planning Area Sub-Committee, Overview and Scrutiny Management Committee (or as the Chair of Health Scrutiny Panel), or Standards Committee.

### **39. Quorum of Committees, Management Boards, Sub-Committees and Panels**

- (1) Except where ordered by the Council, or authorised by statute, business shall not be transacted at a meeting of any Committee, unless at least one third of the number of the body are present, rounded up to the next whole number if one third is not a whole number.
- (2) Except where ordered by the Council, or authorised by statute or by the Committee which has appointed it, business shall not be transacted at a meeting of any Sub-Committee or Panel unless at least one third of the number of the Sub-Committee or Panel are present, rounded up to the next whole number if one third is not a whole number.
- (3) If the Chair declares there is not a quorum present then the meeting will adjourn immediately. Remaining business will be considered at a date and time fixed by the Chair. If no such date is fixed the business will be considered at the next meeting.
- (4) Where a Committee or Sub-Committee sits to consider an appeal, only those Members who are eligible to attend shall count for the purpose of a quorum.
- (5) No quorum may be less than two Members.



- (6) Committees, Sub-Committees and Panels shall be entitled to meet and transact business prior to the appointment of Co-opted Members.
- (7) Co-opted Members of a Committee, Sub-Committee or Panel shall only be counted for the purposes of a quorum at a meeting, if the Committee, Sub-Committee or Panel has no delegated powers and can only make recommendations.

#### **40. Meetings of Committees, Sub-Committees and Panels and Agenda Papers**

- (1) Every scheduled meeting of a Committee, Sub-Committee or Panel shall be summoned by the Service Director - Legal, Governance and Commissioning through the issue of a notice for the meeting where practical at least 7 days prior to the meeting. The items of business for consideration at the meeting will be set out in the Agenda for the meeting. No additional items of business will be allowed unless the Chair for the meeting determines that they are urgent.
- (2) The Leader of each Political Group (or in his/her absence the Deputy Leader of each Group) shall notify the Chief Executive, in writing, not less than 14 days before the date of the intended meeting to which the item should be submitted of any item(s) which he/she wishes to include on the Agenda of any Committee, Sub-Committee or Panel of the Council. The notification shall include such information as is necessary to enable the Chief Executive to determine whether the subject matter requires consideration by the Committee, Sub-Committee or Panel. The Chief Executive shall determine the appropriate body to which the item shall be referred and notify the Group Leader (Deputy Group Leader) of the date of that meeting which shall be the next available meeting. Any item which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper shall not be accepted and the decision of the Chief Executive shall be final.
- (3) The Chair (or Deputy Chair) of a Committee, Sub-Committee or Panel with the approval of the Leader of the Council, may instruct the Service Director – Legal, Governance and Commissioning to call a meeting of a Committee, Sub-Committee or Panel at any time.
- (4) An additional meeting of a Committee, Sub-Committee or Panel can be summoned if the Service Director - Legal, Governance and Commissioning receives a request in writing from at least half of the Members of the Committee, Sub-Committee or Panel to do so. Service Director - Legal, Governance and Commissioning in consultation with the Chair may also summon a special meeting upon any emergency. The summons for such meetings shall set out the business for the meeting and no other items of business will be considered.

#### **41. Procedure Rules to apply to Committees, Sub-Committees and Panels**

Procedure Rules 9, 10, 11, 15 and 18 (except those parts which relate to speaking more than once) 20, 21, 22, 25, 26, 27 and 34 shall, with any necessary modifications, apply to meetings of Committees, Sub-Committees and Panels.

#### **42. Voting in Committees, Sub-Committees or Panels**

- (1) Voting at a meeting of a Committee, Sub-Committee or Panel shall be by a show of hands or by use of the electronic voting equipment, where appropriate. Alternatively the Committee, Sub-Committee or Panel may require the Service Director - Legal, Governance and Commissioning to take a vote by ballot on any motion or amendment which is put to the meeting.
- (2) The Chair at a Committee, Sub-Committee or Panel meeting shall have a second or casting vote in the case of an equality of votes.
- (3) If there are more than two persons nominated for any appointment to be filled and there is no overall majority in favour of one person the following procedure will apply. The name of the person (or persons, if equal) who has received the least number of votes will be struck off the list of nominations and a fresh vote will be taken. This procedure will continue until a majority vote is given in support of one of the persons nominated.
- (4) At any meeting of a Committee, Sub-Committee or Panel (including joint bodies etc.) a Member may require that his or her decision in voting for or against a question (or his or her abstention from voting) be recorded in the Minutes of the meeting. Such a requirement must be proposed by the Member immediately after the vote is taken.
- (5) At any meeting of a Strategic Planning Committee or a Planning Sub-Committee a recorded vote of decisions on Planning Applications shall take place.

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

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

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

- (1) The Chair may request the Service Director - Legal, Governance and Commissioning to include in the report of a Committee, a reference to any particular matters which were considered in the meeting.
- (2) In accordance with the Agenda for the Council meeting.
  - (a) The Chair of a Committee, (or in their absence any other Member of the Committee) shall propose a motion to seek the Council's approval on

any matter expressly referred by the Committee, to Council for determination.

- (b) The Mayor (or in his/her absence the Deputy Mayor or any other Member of the Council) shall propose a motion to seek the Council's approval to the receipt of any report of a meeting of Cabinet or any Committee.

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

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

### **(D) Miscellaneous**

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

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

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

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

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

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

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

- (1) In the event that the Leader of the Council resigns part way through his or her term of office, or is incapacitated (to such an extent that they are no longer able to reasonably carry out their duties and responsibilities as Leader) or otherwise dies in office the Deputy Leader will act as Leader of the Council in accordance with Article 7 of the Council Constitution until such time as an election takes place and a new Leader of the Council is successfully elected. Such an election shall take

place at the next possible meeting of Council or at an Extraordinary Meeting of Council convened for such a purpose.

- (2) In the event that the Mayor resigns from office part way through his or her term of office or otherwise dies in office the Deputy Mayor shall act in his or her place for the remainder of the Mayors term of office.

## **50. Relevant Definitions**

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

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

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

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

## **51. Remote Meetings**

- (1) *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* make provision for remote attendance at, and remote access to, council meetings held on or before 7 May 2021.
- (2) The regulations enable the council to hold meetings without all, or any, of the members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing.
- (3) The ‘place’ at which the meeting is held may be a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address, or a conference call telephone number.
- (4) In order for members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard (and, where possible, see and be seen by) other councillors and members of the public attending remotely or in person.
- (5) The procedure rules in this constitution apply to remote meetings in the same way as they do for other meetings of the council except where they conflict, in which case this procedure rule takes precedence over other procedure rules in relation to the governance of remote meetings.

## **Process**

- (6) The council facilitates remote attendance and access to its meetings through the medium of Microsoft Teams Live, which enables the following to take place:
  - (a) Contributions to be received from people using a wide variety of devices, not all of whom are on the council network;
  - (b) Being accessible to both participants and members of the public who are not taking an active role but just observing;
  - (c) Presentations and documents (maps, plans, etc) to be displayed and spoken to.
- (7) Before the meeting, any document to be referred to during the meeting should be shared with participants and published (where appropriate) in advance on the council's website, and those presenting should ensure that every page and slide is numbered, wherever possible.
- (8) All participants should refer separately to Part 5.11 of the Constitution, the Protocol for Online Meetings.
- (9) The Chair and the Officer of the Council assisting the meeting may:
  - (a) Pause (adjourn) the meeting by taking down the stream (live feed) from public viewing and then resuming it when needed.
  - (b) Mute someone speaking at any time.
  - (c) Mute everyone speaking except themselves at any time.
  - (d) Allocate different levels of access to people logging in
  - (e) Allow the committee to deliberate in private by using available technology to ensure only those members and officers can participate. The live stream can then be resumed when needed.

## **Questions by members of the public**

- (10) Only written questions from the public may be considered at remote meetings. Any questions should be submitted in accordance with the deadline as set out on the published agenda. The Leader or relevant Cabinet Member will provide an oral response to any questions received, or if they are not able to do so, a written response will be provided. A maximum of 4 written questions may be submitted per person.

## **Voting**

- (11) To undertake a vote at a remote meeting, the Chair, or an Officer of the Council supporting the meeting, will perform a roll-call of all Members present and ask them to state their voting intention (For, Against or Abstain). At the conclusion of the vote the Chair or Officer shall announce whether the motion has been passed or lost.

## **Access to information**

- (13) The requirement to ensure meetings are open to the public includes access by remote means, including video conferencing, live webcast

and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

- (14) Any requirements for the authority to ensure publication, posting or making available a document for inspection at offices of the council include publication on the council's website.



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

**Date:** 13 May 2022

**Title of report:** Corporate Customer Standards Interim Report 2021-22

**Purpose of report:**

To provide an interim update for Corporate Governance and Audit on complaint handling for the year 2021-22. To highlight the number of Local Government Ombudsman complaints received, and to detail the cases where the Local Government Ombudsman found the council to be in error (April – Oct 2021 are reported).

The report also discusses the impact of the pandemic on complaints handling and the type of complaints received. Finally, the report provides a brief update on plans to share good practice, learning and restorative practices across services.

<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>	<b>No</b> .
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Yes</b>
<b>Date signed off by <a href="#">Strategic Director</a> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance IT and Transactional Services?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning Support?</b>	N/A  Julie Muscroft 05/05/22
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Paul Davies</b>

**Electoral wards affected:** all

**Ward councillors consulted:** none

**Public or private:** Public

**Recommendations:** For Corporate Governance and Audit Committee to consider the content of the report, and to share any thoughts on the work plans moving forward.

## **1: Introduction**

The Corporate Customer Standards Officer usually attends Corporate Governance and Audit Committee twice yearly to report on complaint matters. This interim report covers Ombudsman findings on the first half of the previous financial year. The issues around the pandemic led to a disruption to this reporting schedule.

A full update for the year 2021/22 will be provided after the Ombudsman publishes their annual report update in July 2022.

## **2: Update on Complaints Workload and Cases Upheld by the Ombudsman**

The ultimate sanction the Ombudsman may apply is to issue a formal report against a council. Once again, there were no formal reports issued against Kirklees Council in 2021-22. The last formal report against Kirklees Council was published in October 2018.

The Local Government Ombudsman publishes details of every complaint decision six weeks after they are formally made. This enables us to compare performance against other West Yorkshire Councils.

For the period 01/04/2021 – 30/09/2021, the Ombudsman considered the following number of cases

<b>Council</b>	<b>Complaints Considered</b>	<b>Formally investigated</b>	<b>Upheld</b>
Kirklees	33 (19.8% of the total)	16	9 (21.4% of the total)
Calderdale	22	8	5
Bradford	35	13	8
Leeds	51	18	12
Wakefield	26	12	8
<b>Totals (West Yorks)</b>	<b>167</b>	<b>67</b>	<b>42</b>

Kirklees' resident numbers are just under 20% of the West Yorkshire total. Here, the number of complaints received are broadly in line as might be anticipated per head of population. It is worth also bearing in mind that given the comparatively low numbers of contacts involved, just one or two extra complaints can make a considerable difference on percentages, although over the years the proportion of complaints that are created in Kirklees is remarkably consistent.

## **Detail of Cases Upheld by the Ombudsman – April – October 2021**

(Wording within the case summaries are provided by the Local Government Ombudsman).

### **Case 21 005 768 – Disabled Children**



Summary: The Council is at fault for delaying considering a complaint at stage one of the children's statutory complaints procedure. The Council has agreed to complete its stage one investigation without further delay and will offer to make a payment to the complainant to remedy the time and trouble its delay has caused her.

#### **Case 21 003 913 – Covid Business Grants**

While we were dealing with Mr X's complaint, the Council reviewed the matter when it was preparing some documents we had asked for. The Council then decided it should pay Mr X's organisation the grants he was seeking. Mr X's organisation has therefore received all the grants it was entitled to.

#### **Case 20 013 525 – Refuse and recycling**

Summary: Mrs N has made a complaint about the Council failing to stop household waste being left outside her property. She says the Council delayed in providing a solution and failed to respond to her. The Ombudsman has identified failings by the Council, including delivering on promises made, maintaining contact with Mrs N and following its own complaints process. This caused Mrs N an injustice and so we have recommended a number of remedies.

#### **Case 20 007 360 – Childrens Care Services – support for carer**

Summary: We find fault with the Council for delays carrying out an assessment for Mrs C. There were also delays handling her complaint. Mrs C missed out on support and experienced distress, time and trouble pursuing her complaint. The Council agrees actions to remedy the injustice.

#### **Case 20 006 638 – Waste Collection**

Summary: Mr B complained about the Council's failure to take enforcement action against his neighbour who was leaving bins and bin bags out on Mr B's land and for poor communication about the issue. We found fault with the time it has taken the Council to acknowledge it does have a power it can use where a nuisance is being caused. But we do not find fault with its decision not to take action against the bins. The Council has agreed to pay Mr B £100 for his time and trouble and to carry out a period of monitoring of the bin bags.

#### **Case 20 005 598 – Adult Services Safeguarding**

Summary: We found fault on the part of a domiciliary care provider regarding its decision to suspend the care package of a vulnerable woman with complex needs due to the COVID-19 pandemic. We also found fault by the Clinical Commissioning Group (CCG) for the advice it provided to the care provider and family. The care provider and CCG will apologise to the family and pay them a financial sum in recognition of the impact of this fault on them. We also found fault with the Council's handling of the initial safeguarding enquiries but are satisfied it has acted to put matters right.

#### **Case 20 013 122 – general communication**

Summary: We will not investigate this complaint about unsolicited emails sent by the Council to the complainant. This is because the Council remedied any injustice during its complaint procedure, and it is therefore unlikely we could add to their investigation. If he feels the Council has mishandled his data, he can raise his complaint with the Information Commissioner.

#### **Case 20 005 961 – Planning Enforcement**

Summary: Mr E complains the Council failed to ensure the development he lived in complied with its planning conditions. He also says the Council did not take enough action against the developer, caused delays, and failed to keep him informed about its enforcement progress. As a result, Mr E says he experienced distress and loss of trust in the Council's ability to address his concerns. The Council was at fault for its failure to start its enforcement process in late 2018 and the delay this caused. It was not at fault for its handling of the enforcement process, nor how it communicated with Mr E from January 2020. The Council has agreed to apologise to Mr E and pay an acknowledgement for the distress and time and trouble it caused him.

#### **Case – 20 005 593 – Business Grant**

Summary: Mr X complains the Council refused him business rates relief and a business grant, resulting in distress, time and trouble. We find no fault in the Council's decision making but find its poor communication with Mr X amounts to fault. We recommend the Council provides an apology and payment.

### **3: The impact of covid on complaint handling**

The period in question was obviously affected by the pandemic, and the resultant change that occurred, both in the way the council conducted its activities, and in resident activity and behaviour.

Services have reported that some complaints have become more important for the resident – perhaps reflecting that many people spent more time at home, and where local issues (repairs, fly-tipping, waste collection etc.) have held more significance to them.

We have received complaints of concern where, for example, council officers may have undertaken fewer site visits in line with government restrictions, and in areas of work where some delays on standard service delivery have accrued because of the additional duties that arose.

In planning, for example, there have been some concerns expressed by residents about the level of scrutiny and checking of planning applications. Officers were still able to robustly check applications and consider the impact of the proposals upon their surroundings (and there is no indication the Ombudsman found any increased levels of fault and error), but perhaps the less visible way the work was undertaken, and the difficulty and unfamiliarity for residents of speaking at on-line meetings created public concern about the robustness of the process.

Complaints about delay where covid has been a factor (perhaps through staff absence, staff unable to inspect issues on site, and where schemes were rescheduled etc.) had also increased.

There have been few complaints received about direct covid activity (such as pedestrian access changes, town centre support etc.), although one complaint highlighted by the Ombudsman (as detailed above) related to the public health messages that were sent via email to residents.

One significant new area of complaint related to the business grant scheme, which was administered by local councils. There were a whole series of schemes (over a dozen) with different qualification rules, different qualification criteria and time periods, and very short deadlines for introduction. One local business owner presented 14 separate complaints to the Local Government Ombudsman in relation to different business grant claims at the same premises, all of which had been rejected for payment. Only minor administrative issues, related to volumes and pressure of work were identified. Given the numbers of Kirklees complaints considered by the Ombudsman for Kirklees in 20-21 is likely to be around 80 cases in total, this one situation has had a considerable impact upon overall figures for 2021-22.

Numbers year on year for 2021-22 are also affected by the backlog created within the Ombudsman Service following their 3 month close down at the start of the pandemic in 2020, and their “soft return” to case handling in acknowledgement that councils were stretched through dealing with new and additional duties, and the issues presented during the lock down periods.

The Local Government Ombudsman has published a report on its experience of complaints handling in covid times. <https://www.lgo.org.uk/information-centre/news/2022/feb/ombudsman-s-covid-report-highlights-how-councils-and-care-providers-coped>

#### **4: Introducing restorative practice in complaints handling.**

Unfortunately, with the pressure on workloads over the past 2 years, it has meant making new progress beyond that already undertaken on sharing learning and restorative practice has been slower than hoped.

An additional member of staff to the Corporate Customer Standards Section will assist with this work, as we intend to spend more time speaking directly with complainants to better understand their concerns, to understand the impact the situation has had, and also so officers can better explain the constraints on service provision and the legislative boundaries that may apply to the particular decision.

We also recognise that a more restorative approach would need to be adopted earlier in the complaints process, so more time is spent in service understanding the situation and discussing the complaint with the resident at an earlier point. Many services do some excellent work, working with residents to try to guide them through the process and to assist and enable them to understand processes, but we need to make this work more consistent and integral to what we do. We are discussing the

approach to roll out and test some ideas with service with the restorative team at present.

## **5: Information required to take a decision**

This is detailed in the report above.

## **6: Implications for the Council**

### **6.1 Working with People**

It is important that customers feel that – as far as is reasonable- they are fairly treated.

### **6.2 Working with Partners**

None directly, although their roles and actions sometimes appear within complaint resolution issues.

### **6.3 Place Based Working**

None directly.

### **6.4 Improving outcomes for children**

Improved outcomes for all customers is an important part of any complaints process- both resolving the immediate complaint and understanding what can be learnt, as addressed in the report above.

### **6.5 Climate change and air quality**

None directly.

### **6.6 Other (e.g., Legal/Financial or Human Resources)**

The work to resolve complaints both within Service areas and Directorates, and through the central team is an important part of caring, for citizens, customers and staff, suppliers and businesses.

## **7: Consultees and their opinions**

There are no consultees to this report although executive team, service directors and heads of service are involved in understanding complaints handling, and they and or the teams have detailed involvement in all complaint handling by the corporate team and Ombudsman.

## **8: Next steps and timelines**

To consider if any additional activity, or further reports or information is sought.

## **12: Officer recommendations and reasons**

Members are asked to note the Report and determine if any further action is sought on any matter identified.

## **13: Cabinet portfolio holder's recommendations**

Not applicable

**14. Contact officer:**

Chris Read (01484 221000 x73579)

**15. Service Director responsible:**

Julie Muscroft; Legal, Governance and Commissioning

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