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Thursday 24 November 2022

Notice of Meeting

Dear Member

Corporate Governance and Audit Committee

The **Corporate Governance and Audit Committee** will meet in the **Reception Room - Town Hall, Huddersfield** at **11.30 am** on **Friday 2 December 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".

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 Ammar Anwar
Councillor Kath Pinnock
Councillor Harry McCarthy
Councillor Elizabeth Reynolds
Councillor Joshua Sheard
Councillor John Taylor

When a Member of the Corporate Governance and Audit Committee cannot attend the meeting, a member of the Substitutes Panel (below) may attend in their place in accordance with the provision of Council Procedure Rule 35(7).

Substitutes Panel

Conservative

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

Green

K Allison
S Lee-Richards

Independent

C Greaves
A Lukic

Labour

S Hall
M Kaushik
F Perry
M Sokhal
E Firth
T Hawkins

Liberal Democrat

A Munro
PA Davies
J Lawson
A Marchington
A Pinnock

Ex Officio Members

Councillor Paul Davies - Cabinet Member (Corporate Services)
Councillor Elizabeth Smaje - Chair of Overview and Scrutiny Committee
Councillor Jo Lawson – Chair of Standards Committee

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Declarations of Interest

1 - 2

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.

3: Admission of the Public

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

4: Deputations/Petitions

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

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

5: Public Question Time

The Committee will hear any questions from the general public.

6: Corporate Customer Standards Annual Report 2021-22 3 - 26

To receive an update on Corporate Customer Standards complaint handling for the year 2021-22.

Contact: Chris Read, Corporate Customer Standards Officer

7: Committee System Proposal - Democracy Commission Report 27 - 44

To consider the report of the Democracy Commission relating to the Committee System Proposal.

Contact: Samantha Lawton, Head of Governance

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

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



Name of meeting: Corporate Governance and Audit Committee

Date: 02 Dec 2022

Title of report: Corporate Customer Standards Annual Report 2021-22

Purpose of report:

To provide an update of Corporate Customer Standards to Corporate Governance and Audit Committee on complaint handling for the year 2021-22.

To highlight the number of Local Government Ombudsman complaints received, and the cases where the Local Government Ombudsman found the council to be in error.

The report also sets out information about “Whistleblowing” reports received and actions taken.

The report also discusses the impact of the pandemic on complaints handling and the type of complaints received.

The report incorporates an update about Childrens Service, and Housing Services Complaint Handling for the year (as appendices).

Finally, the report provides a brief update on plans to share good practice, learning and restorative practices across services.

For Corporate Governance and Audit Committee to consider the content of the report, and to advise if they have any comment on the work plans moving forward.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	Julie Muscroft 23/11/22
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Julie Muscroft 23/11/22
Cabinet member portfolio	Paul Davies

Electoral wards affected: all

Ward councillors consulted: none

Public or private: Public

1: Purpose of Report

The Local Government Ombudsman (LGO) publishes its annual report at the end of July each year, and so the report for Corporate Governance and Audit Committee follows this schedule and addresses third stage complaint received during the year 2021/22, and those which were considered by the LGO during that year. The report also addresses “Whistleblowing” matters which have been notified through the corporate process. The report also contains as appendices reports on Children’s Services, and Housing Services complaints, which are handled through slightly different processes

The issues around the pandemic led to a disruption to this standard reporting schedule, and it is intended the reporting process will return to its pre-pandemic arrangements.

2: The Ombudsman - complaints volumes, cases upheld and local comparative information

The ultimate sanction the Ombudsman may apply is to issue a formal report against a council.

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 (with rare exceptional cases). This enables us to compare performance against other West Yorkshire Councils.

For the period 01/04/2021 – 33/03/2022, the Ombudsman considered the following number of cases

Council	Total enquiries received	Complaints formally investigated	Numbers Upheld (% of complaints formally investigated)	Numbers satisfactorily remedied prior to LGO involvement
Kirklees	123 (20%)	43 (25%)	20 (47%)	6 (30%)
Calderdale	72	17	11 (65%)	1 (9%)
Bradford	136	46	30 (65%)	4 (13%)
Leeds	190	41	26 (63%)	2 (8%)
Wakefield	84	23	13 (57%)	1 (8%)
Totals (West Yorks)	605	170	100	14

Kirklees’ resident numbers are just under 20% of the West Yorkshire total. The Ombudsman received 123 Kirklees complaints/enquiries from 605 West Yorkshire approaches. This equals 20.3%, and so is around the number we might anticipate.

More Kirklees cases than might be anticipated progressed for formal Ombudsman investigation, but the numbers upheld were again broadly in line with what we might anticipate per population in West Yorkshire. It is useful to note the complaints

process appears robust given only 47% of the Kirklees cases formally investigated were upheld (the average for all Metropolitan is 68%).

Another measure of the value of the complaints process comes with the number of cases where the recommended remedy is deemed appropriate by the Ombudsman. This figure for Kirklees is at 30%, almost 3 times better than the average for Metropolitan councils at 11%.

While councils must never be complacent about its complaint performance (and overall numbers are very low meaning a few cases can slew the percentage outcomes), the figures do indicate a reasonable confidence that the complaints process in Kirklees does robustly consider complaint matters and correctly identify issues arising.

This report has not sought to compare historic data – it should be noted that in 2020-21, the Ombudsman closed for new enquiries for approximately 3 months, and the period 2021-2 featured “catch up” from the Ombudsman, complaints which were exclusively created by the pandemic, and pent-up demand from residents dissatisfied by delay in service caused through pandemic pressures. There would seem little value in trying to compare historic data in such circumstances.

Appendix 1 shows a summary of the 20 upheld cases. They are also available to be viewed at: <https://www.lgo.org.uk/your-councils-performance/kirklees-metropolitan-borough-council/statistics>

3: Third Stage Complaint Investigations

Appendix 2 shows a brief summary of the council’s complaints process.

In total 1045 cases passed through the Corporate Customer Standards Section in 2021-22. This compares to 857 cases in 2020-21 (and similar in 2019-20). 2022-23 figures indicate that perhaps the customer standards section will receive 10% fewer contacts this year.

Third Stage Complaints - investigated internally

Service	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Adults	1	4	2	4	1	1
Benefits, C Tax & NNDR	16	14	6	7	6	8
Corporate and others	15	10	6	12	7	16 (includes 10 business grant)
Children's and Education	5	5	11	7	2	2
Environment & Public Protection	16	29	31	19	19	17
Highways and Transport	11	3	8	7	7	12
Housing (including KNH)	2	2	4	2	4	5
Planning	19	15	20	13	26	22
Total	85	82	88	71	72	83
% Upheld and Part Upheld	21%	20.7%	22.7%	21.1%	18%	16.9%

The Waste Service has set up a dedicated team were set up to specifically respond to resident complaints about missed bin collections.

The waste collection service is now far more responsive, particularly where repeat issues are identified (often through poorly parked vehicles having an impact upon access for the bin collection vehicles). This allows issues to be picked up more quickly.

In recent years the customer standards section has been more often asked to input into the complaints process at an earlier stage, to give advice on complaints handling. Care needs to be taken to ensure a full independent third stage review of the case can also be performed, and the ethos of working with, rather than taking on the complaint for the service needs to be adopted.

More work will need to be undertaken to clarify expectation for services, outlining the "offer" the customer standards section can reasonably provide to services. This will be considered once the new assistant manager is in post.

4: Childrens Services and Housing Services

Complaints involving children are considered under a separate statutory complaints process, which is set out in government statutory guidance. This is provided in Appendix 3. It can be noted that the Complaints Unit have successfully concluded a large proportion (79%) of complaints through local resolution (135 of 171 complaints received). Residents who remain dissatisfied once matters have been considered through the statutory process will progress to the Local Government Ombudsman for independent review. The outcomes are recorded in the Ombudsman section.

Similarly, complaints about Housing Services (HRA) are dealt with under a separate process involving the Housing Ombudsman and their Complaint Handling Code (CHC). (Appendix 4).

720 complaints were received, of which 60% were resolved at the initial stage, 280 progressed to the formal stage (only) with 7 going forward to the Housing Ombudsman. Almost two thirds of all complaints related to property issues (such as repairs taking too long), 9% related to asset condition (mainly damp), and 18% to housing management issues, many of which were related to antisocial behaviour (ASB). 5 of the 7 Ombudsman cases related to ASB case handling.

5: The impact of covid on complaint handling

2021-2 was still affected by the pandemic and the immediate aftermath after the resumption in activity following periods of lockdown, and the change both in the way the council conducted its activities, and in resident 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.

There were complaints where, for example, council officers may have undertaken fewer standard site visits than previously, and areas of work where delays on standard service delivery have increased.

In planning, for example, there were some concerns raised 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 increased levels of fault), but perhaps the less visible way it was undertaken, and the difficulty and unfamiliarity 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 fewer complaints received about direct covid activity (such as pedestrian access changes, town centre support etc.).

One significant new area of complaint related to the business grant scheme, which was administered by local councils. One local business owner presented 14 separate complaints to the Local Government Ombudsman in relation to different business grant claims at the same premises, which had been rejected for payment.

The local government ombudsman has published a specific 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>

6: Introducing restorative practice in complaints handling.

Unfortunately, with the pressure on workloads, it has meant progress on sharing learning and restorative practice has been slower than hoped. Recruiting to an assistant manager post within the section (ongoing) will considerably increase flexibility and capacity.

The sections workload has increased substantially in the past 15 years. One impact has been the available time to discuss complaint matters with residents, and periods of workload build up has a direct impact upon resident satisfaction on complaint handling. The Ombudsman statistics suggest we often generally reach the right conclusions, but residents remain dissatisfied with the outcome, and the way they express their dissatisfaction leads to more Ombudsman investigations taking place (although no greater numbers of error are actually found).

When the team has additional capacity, we intend to spend more time speaking directly with complainants to better understand their concerns, the impact the situation has had, and better explain the constraints on service provision and the legislative boundaries that apply in many areas. This may increase the level of challenge and the officer will need to be much better prepared to have an “instant” conversation about a very wide range of service matters. It may therefore be that the role of the Corporate Customer Standards officer is to facilitate a discussion between resident and service to ensure a greater understanding of the issues are shared.

A more restorative approach would need to be adopted sooner in the complaints process with more time spent understanding the situation and discussing the complaint with the resident at an earlier point. Many services do some excellent work, working with people to assist them, but this process needs to be consistent and integral to service delivery and complaints resolution, with an understanding about expectations of the resident, and council officers being clear what is realistic. A part of this is considering the wording of the existing complaints process and the guidance provided to residents.

7: Whistleblowing

The Head of Risk and the Corporate Customer Standards Officer co-ordinate investigations for those cases directly reported to the Whistleblowing telephone line and email address. Other investigations may take place through issues reported to the HR section, direct to Internal Audit, the external auditor or to the Chief Executive’s Office.

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

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

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

Whistleblowing contact details when provided always remain confidential on request although whistle-blowers are always advised if in specific certain circumstances, they are likely to be identified, or if they are an employee, they may have a legal responsibility to be open (with the statutory protection).

During the year 2021-22 16 Whistleblowing referrals were received via either the Whistleblowing e-mail address (www.whistleblowing@kirklees.gov.uk) or telephone (01484 225030). This was in line with the usual numbers received. The whistleblowing reports received and how they were dealt with can be found in Appendix 5.

8. Implications for the Council

- 8.1 **Working with People** – It’s important that consumer satisfaction is monitored and understood; the complaints process is a part of this.
- 8.2 **Working with Partners** – None directly; issues arising with partners would be resolved by them; Council /partner relationship issues are resolved outside of this process.
- 8.3 **Place Based Working** – None directly.
- 8.4 **Improving outcomes for children**– as addressed in the report/as 8.1.
- 8.5 **Climate change and air quality**- None directly.
- 8.6 **Impact on the finances of local residents**- None directly.
- 8.7 **Other (e.g., Legal/Financial or Human Resources)**- Understanding where and how complaints arise is an important part of delivering better services. This often involves the service directly complained about, and support services.

9. Consultees and their opinions

Executive Team have been consulted on this report. Heads of service / directors are involved in complaints about their service area.

10. Next steps and timelines

10.1 To consider if any additional information is sought.

11. Officer recommendations and reasons

11.1 Members are asked to note the report

12. Cabinet portfolio holder's recommendations

Not applicable

Contact officer

Chris Read (01484 221000)

Background Papers and History of Decisions

Ombudsman's reports are available online

Service Director responsible

Julie Muscroft (01484 221000)

Appendix 1: Detail of Cases Upheld by the Ombudsman 2021 - 2022

(For impartiality purposes, the wording within the case summaries are provided by the Local Government Ombudsman).

- [Kirklees Metropolitan Borough Council \(21 001 819\)](#)
-

Statement Upheld Charging 27-Mar-2022

Summary: Mr X complained the Council reduced his direct payments following a review it carried out in 2018 without giving proper reasons for doing so. Mr X said this caused him distress and negatively affected his standard of living. Based on the evidence there was no fault in the Council's initial decision to reduce Mr X's care package. There was fault in the Council's delay carrying out Mr X's 2019 needs review however; this did not cause Mr X a significant injustice.

- [Kirklees Metropolitan Borough Council \(21 004 717\)](#)
-

Statement Upheld COVID-19 02-Mar-2022

Summary: Mrs X complained the Council wrongly refused COVID-19 business grants, causing financial hardship. There was fault in the way the Council considered whether the business was a restaurant or takeaway. It also failed to consider whether the fact the business operated from a food court meant it was eligible for a Restart grant even if the business was deemed to be a takeaway. It should apologise, pay Mrs X £300 for the uncertainty and additional time and trouble she was put to, and reconsider her Restart grant application.

- [Kirklees Metropolitan Borough Council \(20 011 740\)](#)
-

Statement Upheld Noise 07-Feb-2022

Summary: Mr X complained the Council failed to properly investigate and take action regarding a noise nuisance caused by a nearby sports facility. We have found the Council to be at fault but dealt with this appropriately by installing double glazing, apologising and making an offer of payment to Mr X. This is a suitable remedy for the injustice suffered. We therefore propose completing this investigation.

- [Kirklees Metropolitan Borough Council \(21 007 142\)](#)
-

Statement Upheld COVID-19 12-Jan-2022

Summary: Mr X complained the Council delayed paying him a COVID-19 business grant and wrongly refused other COVID-19 business grants, which added to the financial difficulties the business suffered as a result of the pandemic. The Council was at fault for a delay in reconsidering one of the grants after Mr X appealed and for not addressing the additional information Mr X provided at that stage. This caused Mr X injustice, for which the Council should apologise.

- [Kirklees Metropolitan Borough Council \(20 010 768\)](#)
-

Statement Upheld COVID-19 12-Jan-2022

Summary: Mr X complained the Council wrongly refused a COVID-19 business grant, which added to the financial difficulties his business suffered during the pandemic. The Council was at fault for taking too long to make its decision and did not fully explain its reasons, causing injustice to Mr X for which it should apologise.

- [Kirklees Metropolitan Borough Council \(21 001 349\)](#)
-

Statement Upheld COVID-19 10-Jan-2022

Summary: Mr X complained about the Council's refusal of COVID-19 business grants. The Council was at fault for not giving adequate reasons for refusing a discretionary grant in April 2021, for which it should apologise. There was no fault with its decision making in relation to the other grant applications Mr X made.

- [Kirklees Metropolitan Borough Council \(21 012 329\)](#)
-

Statement Upheld COVID-19 22-Dec-2021

Summary: We will not investigate this complaint about the Council asking Mrs X to repay a business grant. The Council has done enough to remedy any injustice caused by fault on its part. Personal injury and defamation are more appropriately for the courts.

- [Kirklees Metropolitan Borough Council \(21 010 143\)](#)
-

Statement Upheld Residential care 08-Dec-2021

Summary: We will not investigate Mrs B's complaint about the way she was treated by her Care Provider. This is because we are satisfied with the remedy provided.

- [Kirklees Metropolitan Borough Council \(20 014 449\)](#)
-

Statement Upheld Enforcement 29-Nov-2021

Summary: Mr X complained the Council failed to properly investigate his complaints of breaches of planning enforcement. There was no fault in the enforcement process. However, the Council was at fault when it failed to keep Mr X updated about his complaints.

- [Kirklees Metropolitan Borough Council \(21 007 130\)](#)

Statement Upheld COVID-19 10-Nov-2021

Summary: Mr X complained the Council wrongly refused a COVID-19 business grant. The Council was at fault for not responding to an application for Small Business Rates Relief in April 2020, for which it will apologise. There was no fault in the way it considered the grant applications.

- [Kirklees Metropolitan Borough Council \(20 010 797\)](#)
-

Statement Upheld COVID-19 09-Nov-2021

Summary: The Council was at fault for not communicating properly with Mr X, for which it should apologise. I have not found fault with the way the Council considered whether the business was eligible for Small Business Rates Relief, which meant Mr X's business was not eligible for the COVID-19 Small Business Grant.

- [Kirklees Metropolitan Borough Council \(21 005 768\)](#)
-

Statement Upheld Disabled children 10-Aug-2021

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.

- [Kirklees Metropolitan Borough Council \(21 003 913\)](#)
-

Statement Upheld COVID-19 04-Aug-2021

Summary: We will not investigate this complaint about COVID-19-related grants.

- [Kirklees Metropolitan Borough Council \(20 013 525\)](#)
-

Statement Upheld Refuse and recycling 28-Jul-2021

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.

- [Kirklees Metropolitan Borough Council \(20 007 360\)](#)
-

Statement Upheld Other 01-Jul-2021

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.

- [Kirklees Metropolitan Borough Council \(20 006 638\)](#)
-

Statement Upheld Refuse and recycling 28-Jun-2021

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.

- [Kirklees Metropolitan Borough Council \(20 005 598\)](#)
-

Statement Upheld Safeguarding 08-Jun-2021

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.

- [Kirklees Metropolitan Borough Council \(20 013 122\)](#)
-

Statement Upheld Other 21-May-2021

Summary: We will not investigate this complains 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.

- [Kirklees Metropolitan Borough Council \(20 005 961\)](#)
-

Statement Upheld Planning applications 18-May-2021

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.

- [Kirklees Metropolitan Borough Council \(20 005 593\)](#)

Statement Upheld COVID-19 05-May-2021

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.

Appendix 2: The Council's Complaints Procedure

The council's complaint process for 2022-23 has three internal stages.

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

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

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

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

Complaint stages are sometimes merged depending on the type of complaint received to ensure matters are dealt with effectively and to ensure the complainant can progress to the Ombudsman as quickly as possible if the issue appears unresolvable.

There has been some discussion about whether the council might move to a 2 stage complaints process.

A complaint is a "statement of dissatisfaction however made" so currently any initial contact of dissatisfaction is described as a complaint (stage 1). Many of these contacts are resolved and clarified immediately. Some councils do not describe these initial contacts as stage 1 complaints.

Stage 2 currently is the main service investigation. Individual services have the responsibility to monitor trends, learning and collect statistics for this stage.

Some service functions have a formal "appeals" process to consider what are in effect "complaints".

The Corporate Customer Standards function has never held the capacity to collect such second stage data, and if this is required, some thought would need to be put

into how such data was collected across services in a way that was consistent and meaningful, and who might collect it.

Appendix 3: Summary of results from Childrens Service 2021-2

There was a total of **330** initial contacts received by the Compliments and Complaints Unit for Childrens Services, between April 2021 and March 2022. See table below showing the breakdown of figures into the different types of contacts and complaints recorded.

TYPE OF CONTACT	2021 - 2022
Compliments	40
Resolved by Other Means (Enquiries, Referrals, NFA)	119
Total compliments & ROM	159
Local Resolution	135
Stage 1	15
Stage 2	1
Stage 3	0
Corporate	19
LGO	1
Total complaints	171
Total contacts	330

Complaints

Out of the total contacts received, **171** were recorded as a complaint, averaging at **14** being made every month. It is positive to note that out of the **171** complaints recorded, **135** of these were resolved early by the service using Local Resolution: 79% of all complaints received.

Local Resolution is a restorative approach that encourages the Responding Managers to intervene early, have open and honest communication, even if challenging and resolve with a positive outcome. It also allows the service to resolve matters as swiftly as possible, preventing any drift and delay of cases.

Complaints from young people make up a total of **14** from the overall **171** complaints recorded over the last year, roughly **12%**. The complaints from the young people are usually made via Childrens Rights Team so they have an advocate to offer support when complaining and ensuring their views are heard and considered

Compliments

33% of the contacts categorised as “resolved by other means” were compliments.

Compliments are received from; Young people, family members, colleagues from other services/areas and professionals. Examples of such compliments demonstrate appreciation of the efforts of their social worker, how all involved felt at ease, comfortable and respected during conversations, that suggestions were thoughtful and communication strong and about success in forming positive working relationships with families, despite often difficult situations

Feedback forms are being developed that will assist with the capturing of compliments to ensure that all the good work which takes place is captured and recorded.

Ongoing and Future Work:

The complaints unit have been working hard to develop relationships between the unit and relevant teams, through attending Team Meetings and delivering inductions and training.

The unit has also delivered complaint's briefing to one of the Local MPs and relevant councillors.

The team developed appropriate IT systems, including a new complaints database which has been launched with an external provider. It is a more effective system for maintaining accurate records, it has quicker reporting functions and has been created to ensure the team can pull more specific performance analysis from each case, for example it can search and report by, service area, issue, ethnicity, and if learning was received.

The unit is in the process of developing feedback forms to be provided to complainants at the conclusion of the process to allow feedback to be given in terms of the effectiveness of the procedures. It is planned for these to be launched in 2023.

The unit shares weekly reports to Senior Managers outlining outstanding and ongoing complaint responses.

Monthly reports are completed and distributed for all Stage 2 and 3* complaints to ensure managers are aware of the investigations that are ongoing. This report includes details on where the complaint response is and who is doing what – this helps to ensure complaints are completed within timescales

The team attends quarterly meetings with the Regional Complaints Managers Group, to share best practice, review new policies, consider, and discuss complex cases, and keep up to date with any new information from Local Government Ombudsman.

Restorative Practice has been successful, in terms of encouraging the service to have early conversations and interactions with Complainants to assure them that they have been listened to and their concerns taken seriously. This can be seen through the low ratio of Stage 2's to the number of complaints received. The Complaints Managers play a key part in this process.

There is an identified area of practice improvement regarding the quality of responses and the identification of learning from Complaints raised.

Guidance documents have been developed for staff and Stage 2 investigating officers on sharing evidence to support the findings.

The Complaints Managers have played an active part in the feedback to staff on the findings/learning and good practice identified at Stage 2 complaints.

The Complaints Manager meet regularly with the Children's Rights Team to ensure the voice of the child is clearly heard, responded to, and understood through the complaint's procedure.

The team has successfully attained a qualification in Public Services Complaints Management Award by attending an online short course presented by Queen Margaret University.

The Team is further developing: Vexatious Complaints Procedure; Evidence based Investigation

Appendix 4

Housing: Homes and Neighbourhoods – Summary Report

April 2021 – March 2022

Background

The Homes and Neighbourhoods Service (HN) is responsible for the management and maintenance of around 22,000 council owned homes. Improving the approach to complaints handling is a priority action in the HN Satisfaction of Tenants and Residents (STAR) Survey Improvement Framework which sets out the council's commitment to achieving continuous improvements over the next 3 years.

The development of a robust complaints handling strategy supports HNs vision 'Striving to be an excellent landlord by putting tenants and communities first' and the practical application of the HN Service Excellence principles launched in 2021.

The Housing Ombudsman Complaint Handling Code (CHC) was introduced in July 2020, and was updated in April 2022, as part of the Government's response to improve the standards that every social tenant in England is entitled to expect from their landlord and an integral part of the Charter for Social Housing Residents White Paper. Further details can be found here:

[ComplaintHandling Code - Housing Ombudsman \(housing-ombudsman.org.uk\)](https://www.housing-ombudsman.org.uk/ComplaintHandlingCode)

All social housing landlords are expected to be complaint with the CHC by 1 October 2022.

Assessment of HNs complaints policy and procedure began in December 2020 with a mandatory self-assessment. In Summer 2021 a more in-depth assessment was completed. This assessment identified that the HN is working towards addressing the requirements of the CHC and identified some areas for further improvement to ensure HN have a customer focussed, effective and fair complaints process in place. In response an Improvement Plan has been developed to drive implementation of the new complaints strategy and to provide assurance of how and when all requirements of the CHC will be addressed to ensure the council is compliant.

Performance Headlines

Between April 2021-March 2022, HN recorded 720 complaint cases. Of these, 433 were resolved at the informal stage and 7 recorded as progressing to the Housing Ombudsman. A summary of the complaints received by service and subject matter is set out below:

- 64% of all complaints related to Property Services (Operations which is the largest service area in HN). The top reasons for a complaint included further repair works needed, unsatisfactory quality and appointments not kept.
- 18% of all complaints were allocated to Housing Management with the top reasons being empty homes standard and anti-social behaviour (ASB).
- 9% to Assets, of which 79% related to damp.
- 8% were undefined and 1% to Business Assurance
- 5 of the 7 Ombudsman cases related to ASB case handling.

During the same period there were 57 compliments received. A summary of the compliments received is set out below:

- Pleased by the service provided.
- Issue dealt with promptly and professionally with very little disturbance.
- Operative was efficient, courteous and helpful.
- Officer was absolutely superb at resolving my issue.
- So helpful and efficient for sourcing and providing information.
- Understanding, sympathetic and extremely helpful and efficient

Complaints Strategy Progress

The strategy has been aligned with the requirements of the CHC and incorporates all actions that were identified during the internal assessments. Work completed to date has ensured that we have implemented and actioned all elements of the CHC and achieved compliance by the deadline of 1 October 2022. We do recognise that some areas require further development and embedding, and work is ongoing to progress these areas.

The strategy puts the customers at the heart of our approach, work has been completed to update and improve the information available to customers on our website, to provide clear information in relation to our policy and procedures and allow customers easy access to log a complaint online. The procedures implemented, ensure a consistent service is provided to customers with clear information in relation to the procedure and timescales and adopts a restorative approach to engage with the customer at the earliest stage and throughout the investigation to fully understand the details of the complaint, the outcome the customer is seeking and to provide regular updates of the complaint investigation and to explain the outcome and any decisions reached.

Training for all Managers across HN has been delivered in relation to our complaint's strategy and service excellence. In addition, a training package for all staff has been rolled out which focuses on early resolution, service excellence principles, maximising the tenant voice and improving the customer experience. The package also includes an action plan process to drive continued discussion and focus on

complaints, customer satisfaction and learning and service improvements, to further embed our commitment to developing a positive complaints culture.

Learning and Service Improvement

Key themes identified from the data are:

- Further work required
- Poor information supplied
- Poor attitude of staff

Processes are being implemented and action taken to assist service areas to review complaints performance within their teams, to identify areas of poor performance, recurring themes and trends and identify specific learning and service improvements. These include:

- Service specific performance information will be provided to all HN service areas from Quarter 2, to provide a detailed analysis of the performance information with a higher level of detail in relation to specific teams to assist managers to identify areas of concern and specific learning and service improvements required.
- Property Services have implemented a complaints panel, to be held Quarterly to review and assess a sample of complaints to identify areas of learning and service improvement.
- Housing Management & Partnerships have implemented a process of review for all complaints received by Housing Management Teams to identify areas of good practice, learning and service improvements.

Customer Satisfaction and Engagement

We are focused on improving customer satisfaction and we are seeing improvements in the quality of investigations and responses provided to customers.

Processes to seek feedback from customers in relation to their experience of the complaint handling process has been implemented. The process includes a text survey sent to all complainants at the end of the process, and a more in-depth telephone survey which will be carried out with around 25% of all complainants initially.

A scrutiny panel process is in development to drive improvement, identify areas of good practice, and make recommendations to improve our complaints handling process across HN. This will include Managers at all levels across the organisation and tenant representatives. It is expected that this process will be implemented in Quarter 3.

Work is ongoing to develop improved information for our customers in relation to complaints handling, to include performance data, examples of the customer journey and details of learning and service improvements.

Appendix 5: Summary of Whistleblowing Concerns

Operational Activity

A complaint was received about how a staff member had responded to criticism from a member of the public, and that they had made a comment which was perceived to be racist in nature and unreasonably aggressive. A discussion was held with the staff member, and they left the council's employment shortly afterwards (they were working notice at the point of the incident).

A new member of staff had been criticised for making inappropriate comment on a "private" group chat – they felt they had been misled about the culture of the team which led them to making the comments. HR investigated matters and provided advice to the section – the individual had left the council at this point.

A concern was raised that a relative of a candidate was involved in the selection process for a temporary piece of work. The candidate was withdrawn from the selection process, advice was provided to the staff member.

Unsubstantiated allegations and perceptions of behaviour were raised against 2 senior managers, in a backdrop of service change and review. While no direct issues were able to be substantiated, the managers were made aware of the allegations and the concerns that their approach had generated. They agreed to place more thought into how change was introduced into the workplace, so it was clear the required changes were not intended to be critical of previous work behaviours.

A concern was raised that a staff member was picking up the majority of available overtime/shift hours. It was passed to HR for records to be checked and feedback provided to service managers.

Covid

There was a concern that staff that should be asked to isolate, were being asked to attend work. This was an issue which was highlighted by union representatives and progressed through that route.

Suppliers & Procurement

An accusation of bullying in the workplace was made at a partner organisation. A full investigation took place within that partner organisation, and no evidence to substantiate the issues were found. However, the section wanted to ensure the staff member was comfortable in the workplace and support and training was provided on various aspects of behaviours and team working.

A concern was raised about aspects of a long-term contract with a supplier. Internal Audit undertook a full audit of the arrangements. While no wrongdoing was identified, work was agreed around the nature of the tender process.

Schools

There was a concern about culture amongst teachers at a school, and their comments within a “private” group discussion. The issue was raised with governors at the school.

There was a concern about culture and behaviour of senior management at a school by a member of staff. The issue was raised with governors at the school who agreed to undertake a wider piece of work to engage with all staff members about motivation and agreeing the improvement plan for the school.

A complaint was received about how a vulnerable young person was being supported at a school. The concerns were shared with the School Governors.

There was a concern about openness and how a School Head had responded to criticism about the direction of the school from a staff member. This was shared with the School Governors.

An anonymous concern from a former employee at a school about age discrimination was received. It was passed to the School Governors.



Name of meeting: Corporate Governance and Audit

Date: 2 December 2022

Title of report: Committee System Proposal – Democracy Commission Report

Purpose of report: To consider the recommendations of the Democracy Commission in addressing the terms of reference agreed by Corporate Governance and Audit Committee.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Rachel Spencer Henshall – Eamonn Croston – 16th November 2022 Julie Muscroft – 24th November 2022
Cabinet member portfoliohttp://www.kirklees.gov.uk/you-kmc/kmc-howcouncilworks/cabinet/cabinet.asp	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: No

Public or private: Public

Has GDPR been considered? No GDPR implications

1. Summary

1.1 The Corporate Governance and Audit Committee has a clearly defined and important role in ensuring the adequacy of the Corporate Governance arrangements and monitoring and reviewing the operation of the Council's constitution. As a result, the Committee has been central in the oversight of the ongoing work in relation to the review and examination of alternative models of Governance.

2 Information required to take a decision

Background

2.1 On 24th September 2021 Council approved the appointment of the Local Government Advisor (LGA), Mark Edgell to advise and work with Councillors on the governance review process. Council further approved that the Corporate Governance and Audit committee be tasked with determining the next steps of the proposal for a committee system arrangement

2.2 Subsequently, an informal session was arranged on 13th October 2021 with this Committee to receive further advice from the LGA and discuss the approach to the review of the different governance models available. Mr Edgell attended that session and discussed the various governance models available, the approach to a governance review and the issues specific to Kirklees.

2.3 On 4th November 2021 an all-Councillor committee system session was held to discuss the issues together, in a balanced, neutral way and to capture the views of all members. The outcome report of that session was considered by this committee on 26 November 2022. The Committee determined that further work should be undertaken to consider:

- (i) further evidence from LA's who had moved from cabinet and scrutiny model to a committee system
- (ii) further evidence from LA's who had moved from committee system to cabinet and scrutiny model
- (iii) further evidence from LA's who had returned to a cabinet and scrutiny system after changing to a committee system
- (iv) how the evidence base for decision making could be improved
- (v) how the rationale for decision making could be more effectively communicated
- (vi) how non-executive members could influence decision making
- (vii) how pre-scrutiny consideration could be improved.

2.4 On 26th November 2021 the Corporate Governance and Audit Committee resolved that the Democracy Commission be convened to undertake this work. The Terms of Reference for the review were set and agreed by the Corporate Governance and Audit Committee on 21st January 2022 and are set out at paragraph 2.7 below.

- 2.6 The Democracy Commission's findings and report is set out and attached at **Appendix 1**.
- 2.7 DEMOCRACY COMMISSION TERMS OF REFERENCE:** To review the advice, conclusions and recommendations of the LGA Independent Advisor.
1. *To consider evidence from other Local Authorities operating under alternative models of governance such as those who have changed from:*
 - *Leader and Cabinet model to a Committee System.*
 - *Committee System to Leader and Cabinet model.*
 - *Leader and Cabinet and changed to Committee system and back to a Leader and Cabinet model*
 2. *To review the current model in light of evidence from other Councils/Models and consider whether more inclusive decision making can be achieved through:*
 - *Strengthening the impact of scrutiny – Increased member involvement and focus on pre-decision scrutiny*
 - *Increased understanding of evidence, openness and transparency in relation to Cabinet Decision Making*
 - *Improved flow of information and processes in place*
 3. *To submit a report to Corporate Governance and Audit Committee setting out findings and recommendations arising from the review.*
 4. *The Commission will report back to Corporate Governance & Audit committee at every meeting.*
- 2.8 The Commission have regularly updated the Corporate Governance and Audit Committee at each meeting.
- 2.9 A Swot analysis of each governance model is appended at **Appendix 2 and 3** of the Democracy Commission's report.
- 2.10 Corporate Governance and Audit Committee are asked to consider the findings in the attached report and recommendations from the Democracy Commission.

3 Implications for the Council

The Council's capacity to work effectively and to deliver all aspects of its corporate outcomes is underpinned by ensuring that it takes informed and transparent decisions with openness and accountability. The Council's choice of governance arrangements is fundamental to this. The decision-making structure of the Council should provide a framework of transparent accountability to users, stakeholders, and the wider community.

If the recommendations are not approved, it would mean that there would be time and financial resource implications and further consideration of what those are will be required to be established once the finer details are determined.

The current recommendations are in line with the Localism Act 2011 and the Local Government Acts.

3.1 Early intervention and Prevention (EIP)

No implications

3.2 Economic Resilience (ER)

No implications

3.3 Improving Outcomes for Children

No implications

3.4 Reducing Demand on Services

No implications

Next steps and timelines

That CGA consider the report of the Democracy Commission and if approved, the recommendations are to be submitted to Council in January 2023 for consideration and approval.

4 Officer recommendations and reasons

That Corporate Governance and Audit committee thanks the Democracy commission for the work undertaken on behalf of this Committee. The Committee also notes and endorses the following recommendations of the Democracy Commission and recommends that they be taken to Council for approval: -

The Commission recommends that

1. The Council supports the retention of the current model of governance (Cabinet Strong Leader Model) with the suggested improvements set out below: -
2. The Council recognises the key role of the scrutiny function, including key strategy formation in engaging non cabinet members in the decision-making process, which can be further developed through the following suggested enhancements:
 - (i) Improvements to enhance and improve pre-decision scrutiny to include reviewing the current scrutiny panels
 - (ii) Clear guidance as far as reasonably practicable in defining pre-decision scrutiny and associated timelines

- (iii) Annual training and work programme briefings provided to all Members of the Council's Scrutiny Panels.
 - (iv) Providing clear information to Members and officers on the benefits of pre decision scrutiny and to ensure there is an understanding of the requirements to engage in early pre-decision scrutiny to enhance good decision making
3. The Council recognises that good scrutiny and decision making relies on the provision of transparent, accessible information in a timely manner and supports the development of sharing information to raise awareness, increase understanding of and ensure clarity for Members and Officers around scrutiny, Access to Information Rules and the sharing of information.
 4. That Cabinet be requested to explore increasing dialogue on key strategic issues with Members to increase transparency and explore developing both formal and informal engagement with Members.
 5. That consultation be undertaken with Group Business Managers and Members, to identify any potential barriers preventing some Members being appointed to Committees/Panels such as timing, frequency, location, format of meetings and any actions appropriately co-ordinated.
 6. That information be communicated to all Members (across different roles) in relation to engagement with the decision-making process, including access to information rules, scrutiny, raising a notice of concern, speaking and questioning rights at committees.
 7. That work is considered to explore enhancing training and development for Councillors to help understand and carry out their roles.
 8. To note and thank Mark Edgell and the Local Government Association for the advice, report and recommendations which has provided the panel with an independent starting point for the review by the Commission.
 9. To note and thank the Local Authorities and stakeholders who gave their time and shared their experiences with the Commission.

5 Cabinet Portfolio Holder's recommendations

Not applicable

6 Contact officer

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7. Background Papers and History of Decisions

AGM: 19 May 2021

[Agenda for Annual Council on Wednesday 19th May 2021, 12.30 pm | Kirklees Council](#)

Council: 8 September 2021

[Agenda for Council on Wednesday 8th September 2021, 5.30 pm | Kirklees Council](#)

Corporate, Governance and Audit: 24 September 2021

[Agenda for Corporate Governance and Audit Committee on Friday 24th September 2021, 10.00 am | Kirklees Council](#)

Corporate, Governance and Audit: 26 November 2021

[Agenda for Corporate Governance and Audit Committee on Friday 26th November 2021, 10.00 am | Kirklees Council](#)

Corporate, Governance and Audit: 21 January 2022

[Agenda for Corporate Governance and Audit Committee on Friday 21st January 2022, 10.00 am | Kirklees Council](#)

7 Service Director responsible

Julie Muscroft, Legal, Governance and Commissioning
01484 221 000

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Report on Change of Governance Model

1. Background

- 1.1 On 24th September 2021 Council approved the appointment of the Local Government Advisor (LGA), Mark Edgell to advise and work with Councillors on the governance review process. Council further approved that the Corporate Governance and Audit committee be tasked with determining the next steps of the proposal for a committee system arrangement.
- 1.2 Subsequently, an informal session was arranged on 13th October 2021 with this Committee to receive further advice from the LGA and discuss the approach to the review of the different governance models available. Mr Edgell attended that session and discussed the various governance models available, the approach to a governance review and the issues specific to Kirklees.
- 1.3 On 4th November 2021 an all-Councillor committee system session was held to discuss the issues together, in a balanced, neutral way and to capture the views of all members. The outcome report of that session was considered by CGA committee on 26 November 2022. The Committee determined that further work should be undertaken to consider:
 - (i) further evidence from LA's who had moved from cabinet and scrutiny model to a committee system
 - (ii) further evidence from LA's who had moved from committee system to cabinet and scrutiny model
 - (iii) further evidence from LA's who had returned to a cabinet and scrutiny system after changing to a committee system
 - (iv) how the evidence base for decision making could be improved
 - (v) how the rationale for decision making could be more effectively communicated
 - (vi) how non-executive members could influence decision making
 - (vii) how pre-scrutiny consideration could be improved.
- 1.4 On 26th November 2021 the Corporate Governance and Audit Committee resolved that the Democracy Commission be convened to undertake this work. The Terms of Reference for the review were set and agreed by the Corporate Governance and Audit Committee on 21st January 2022 and are set out at **Appendix 1**

The Commission

- 1.5 During the research and planning process the Commission identified a number of local authorities they wish to hear from in line with the terms of reference with an aim to achieve a balance between those Council's operating under a Leader and Cabinet Model and those operating under a Committee System model.
- 1.6 Evidence has been heard from Brighton and Hove, Cambridgeshire (committee systems) along with, Newark in Sherwood and Basildon (Cabinet and Leader).
- 1.7 Following those sessions the Commission reconsidered the evidence they had heard from the Local Authorities, report from the LGA and recommendations of Mark Edgell, the written submissions submitted by Members, stakeholders and officers and drafted recommendations for Corporate Governance And Audit to Committee.
- 1.8 At the conclusion of the review process, particularly after the evidence from the Local Authorities, consideration of the SWOT analysis (**Appendix 1 and 2**) and hearing from a variety of witnesses the Commission recommended The Cabinet and Strong Leader model as the most suitable governance model with some improvements as the method in terms of decision making for Kirklees. It also became evident that feelings of disengagement from the democratic process experienced by some councillors had resulted from 'cultural' rather than 'procedural' issues that could be addressed from within the current governance model.
- 1.9 During the review members and officers identified and recommended some measures intended to facilitate the 'cultural shift' required to better enable all councillors to make an active and informed contribution to the business of the Council.
- 1.10 This report summarises the review methodology; feedback from witnesses and key messages from stakeholders; evidence gathered from meetings with four councils operating committee systems and cabinet strong leader models of governance; and makes recommendations in light of these.

2. Methodology

- 2.1 The review was broken down into two phases. The first, where, through the LGA consultation and initial work with Members this provided valuable feedback from members and initial recommendations from Mark Edgell, LGA Adviser to start to identify areas of concern, reasoning for the change of model and potential improvements. As a result of this CGA agreed a set of terms of reference for the Commission to explore further.
- 2.2 The second phase was the Commission considering the following: -

- Development of a project plan
- Identify key lines of enquiry
- Desk top research including national publications and guidance
- SWOT Analysis
- Local Authority evidence sessions with Local Authorities
- Consideration and review of written evidence submissions from Members, officers and external stakeholders and partners

2.3 The evidence sessions and reports considered the reasons and expectations held of those local authorities administering a Committee system or had previously done so.

2.4 Largely, the reasons stated for such a change often related to a political change and included the belief that the Committee system was inherently more open and democratic, or that existing scrutiny arrangements needed to be improved or were ineffective, and that it was more inclusive of a greater number of Members. The expectations, therefore, in deciding to change to the Committee system were that the perceived weaknesses identified as resulting from the Leader and Cabinet model would automatically be addressed by moving to the Committee system.

2.5 The Commission did not find any definitive evidence to support this supposition. In ‘Musical Chairs: Practical Issues for Local Authorities in moving to a committee system’ the Centre for Public Scrutiny 1 suggested that, rather than one or other governance model being ‘better’ than the alternative, it was the culture and behaviours prevailing within local authorities that had the most impact, more than formal structures and processes. This was also very apparent and came through strongly as a key message in the evidence the Authorities gave to the Commission.

2.6 All members of the Commission acknowledged that culture was key and there was a recognition by the majority of members that either a committee system or Cabinet Model will work depending on the culture as well as the systems and processes in place.

3. Stakeholder, Member and Officer Feedback

3.1 The Commission wrote to a number of external partners and organisations during the review and received responses from some organisations, Members and officers.

3.2 The responses were varied but there were a number of key issues highlighted in the main they related to support for greater engagement for members, improvement of scrutiny/pre-decision scrutiny, transparent and enhanced flow of information and more support than not to retain the current model.

3.3 Key messages from Local Authorities

- The driver for change to a committee system was hugely reliant on consensus politics across the council to make it work effectively.
- Culture of the organisation is crucial – whatever the system, it is unlikely to work if culture is poor. For decision making to work effectively it needed openness and a willingness to work with people collaboratively.
- If a committee system – No formal independent scrutiny process as it is performed by the committees when making the decisions, with the exception of Health Scrutiny
- There was often a Policy/Finance/Audit Committee that could make decisions on behalf of (or overturn) other committees – defacto cabinets
- Difficulties filling committees in both models
- No evidence of improvement in public participation or increase in attendance at meetings
- Committee system can be a slower decision-making process and delay – felt less agile and responsive. Responses from the Local Authorities was mixed.
- Drivers for the change of governance model were often political change
- Committee system works requires significant officer and senior management resources (briefings etc) to make work. Each committee meeting can have additional pre-meets to achieve consensus/approval at committee
- Significant officer resource is drawn from the senior management team to support the committee system.

4. Conclusions

- 4.1 When considering all the evidence heard, the majority of the Commission agreed that although either the Committee system or Cabinet Leader Model could work depending on culture, systems and processes the commission concluded that it would be possible and more appropriate at this time to improve councillors' engagement by recommending improvements to the operation of the current Cabinet and Strong Leader model.
- 4.2 The commission recognised that constitutionally Kirklees had a permissive and open approach which was viewed positively by all Members and were keen to build on this with the suggested improvements set out in the recommendations below at paragraph 5.
- 4.3 There was a strong desire to enhance pre-decision scrutiny by ensuring there was an understanding that pre-decision scrutiny is carried out some time before a decision is made, at the point decision-makers may still be weighing up different evidence and assessing available options. The Commission

recognised that such an approach may require some more time and resources and as such it would be limited to significant strategic matters. All Commission Members supported this view and recognised that it would require a commitment of openness from Cabinet.

5. Recommendations

That Corporate Governance and Audit approve the following: -

1. The Commission supports the retention of the current model of governance (Cabinet Strong Leader Model) with the suggested improvements set out below: -
2. The Commission recognises the key role of the scrutiny function, including key strategy formation in engaging non cabinet members in the decision-making process, which can be further developed through the following suggested enhancements:
 - (i) Improvements to enhance and improve pre-decision scrutiny to include reviewing the current scrutiny panels
 - (ii) Clear guidance as far as reasonably practicable in defining pre-decision scrutiny and associated timelines
 - (iii) Annual training and work programme briefings provided to all Members of the Council's Scrutiny Panels.
 - (iv) Providing clear information to Members and officers on the benefits of pre decision scrutiny and to ensure there is an understanding of the requirements to engage in early pre-decision scrutiny to enhance good decision making
3. The Commission recognises that good scrutiny and decision making relies on the provision of transparent, accessible information in a timely manner and supports the development of sharing information to raise awareness, increase understanding of and ensure clarity for Members and Officers around scrutiny, Access to Information Rules and the sharing of information.
4. That Cabinet be requested to explore increasing dialogue on key strategic issues with Members to increase transparency and explore developing both formal and informal engagement with Members.
5. That consultation be undertaken with Group Business Managers and Members, to identify any potential barriers preventing some Members being appointed to Committees/Panels such as timing, frequency, location, format of meetings and any actions appropriately co-ordinated.
6. That information be communicated to all Members (across different roles) in relation to engagement with the decision-making process, including access to information rules, scrutiny, raising a notice of concern, speaking and questioning rights at committees.

7. That work is considered to explore enhancing training and development for Councillors to help understand and carry out their roles.
8. To note and thank Mark Edgell and the Local Government Association for the advice, report and recommendations which has provided the panel with an independent starting point for the review by the Commission.
9. To note and thank the Local Authorities and stakeholders who gave their time and shared their experiences with the Commission.

Appendices

Appendix 1 – Democracy Commission Terms of Reference

Appendix 2 – SWOT analysis – Cabinet and Leader Model

Appendix 3 – SWOT analysis – Committee System

Appendix 1

1. To review the advice, conclusions and recommendations of the LGA Independent Advisor.
2. To consider evidence from other Local Authorities operating under alternative models of governance such as those who have changed from:
 - Leader and Cabinet model to a Committee System.
 - Committee System to Leader and Cabinet model.
 - Leader and Cabinet and changed to Committee system and back to a Leader and Cabinet model
3. To review the current model in light of evidence from other Councils/Models and consider whether more inclusive decision making can be achieved through:
 - Strengthening the impact of scrutiny – Increased member involvement and focus on pre-decision scrutiny
 - Increased understanding of evidence, openness and transparency in relation to Cabinet Decision Making
 - Improved flow of information and processes in place
4. To submit a report to Corporate Governance and Audit Committee setting out findings and recommendations arising from the review.
5. The Commission will report back to Corporate Governance & Audit committee at every meeting.

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SWOT – Cabinet and Leader Model

<p>STRENGTHS</p> <ul style="list-style-type: none"> • Clear decision makers • Faster decision-making process • Clear decision and responsive input to outside and regional bodies • Empowers non-executive Members via Scrutiny (if used effectively) • Improved co-ordination of cross cutting issues • Wide opportunities to engage within constitutional parameters • Scrutiny agenda set by Members, working informally with Cabinet portfolio whilst still including and addressing community concerns • Ad hoc scrutiny can achieve positive influence – and include direct engagement with communities and third parties 	<p>WEAKNESSES</p> <ul style="list-style-type: none"> • Power is invested in a very few / can be viewed that everything of significance delegated to Cabinet • Lack of collaborative working or the Scheduling of Cabinet decisions can preclude/reduce the impact of prior Scrutiny
<p>OPPORTUNITIES</p> <ul style="list-style-type: none"> • Proactive decision making when dealing with outside and regional bodies • Could use more of constitutional powers • Encouraging extending forward plan timescales would enable more effective scrutiny of decisions • Dialogue relating to cross cutting strategic priorities could be offered to Members at pre-cabinet briefings – more informal and consensual working 	<p>THREATS</p> <ul style="list-style-type: none"> • Too much delegation (to Cabinet Members / Officers) leads to lack of transparency and Members feeling disenfranchised and a sense of exclusion • Scrutiny Committees undervalued

SWOT – Committee System

<p>STRENGTHS</p> <ul style="list-style-type: none"> • More Councillors are involved • More Councillors feel more engaged • In depth discussion and debate • Cllrs develop good knowledge and expertise of the committee they are part of 	<p>WEAKNESSES</p> <ul style="list-style-type: none"> • Difficult to identify decision makers (potential to use techniques, i.e. consistently referring ‘difficult’ matters back to Committee) • Can be viewed as superficially transparent, decisions can be significantly influenced ‘informally’ or behind the scenes • Policy / Resource Committee can have a veto – so not all Committees have absolute decision-making powers and could be overturned • Emergency decisions (if not time to arrange a committee) can be made by senior officers • Can be a difficulty in dealing with cross cutting issues and reports having to go to multiple committees • No in depth scrutiny from councillors independent to the decision makers
<p>OPPORTUNITIES</p> <ul style="list-style-type: none"> • Members become knowledgeable and ‘specialists’ in their areas • Learning opportunities for new Members 	<p>THREATS</p> <ul style="list-style-type: none"> • Decision making can be slowed by Committee timetable • Limited options for proactive decision making in relation to outside and regional bodies