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Kirklees Council



Main Hall - Town Hall, Huddersfield

Tuesday 16 May 2023

Dear Member

A Meeting of Annual Council will meet on Wednesday 24 May 2023 at 12.30 pm at Main Hall - Town Hall, Huddersfield.

Agenda Items 1 to 3 will be considered at 12.30pm. The meeting will then adjourn until 2.30pm when the remaining items of business will be considered.

This meeting will be webcast live and will be available to view via the Council's website.

The following matters will be debated:

Pages

1: To elect the Mayor for the ensuing year

To elect the Mayor for the 2023/2024 Municipal Year.

2: To appoint a Deputy Mayor for the ensuing year

To appoint a Deputy Mayor for the 2023/2024 Municipal Year.

3: To approve as a correct record and authorise the signing of the Minutes of the Ordinary Meeting of the Council held on 8 March 2023

1 - 10

To agree and authorise the Mayor to sign as a correct record.

4: Interests 11 - 12

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

5: Announcements by the Mayor and Chief Executive 13 - 14

To note, including the results of the Local Council Elections held on 4 May 2023, and the acceptance of the Office of Councillors elected.

6: To receive any apologies for absence from Elected Members

To note.

7: Proposed Revisions to Contract Procedure Rules (Reference from Corporate Governance and Audit Committee) 15 - 82

To consider the report.

Contact: Jane Lockwood, Head of Procurement

8: Proposed Revisions to Financial Procedure Rules (Reference from Corporate Governance and Audit Committee) 83 - 114

To consider the report.

Contact: Martin Dearnley, Head of Audit and Risk

9: Changes to the Council Constitution (Reference from Corporate Governance and Audit Committee) 115 - 144

To consider the report.

10: Proposed Amendments to Overview and Scrutiny (Reference from Corporate Governance and Audit Committee) 145 - 164

To consider the report.

Contact: Samantha Lawton, Head of Governance

11: Appointment of Committees, Boards and Panels 165 - 168

To determine the Committees, Boards and Panels of Council for the 2023/2024 municipal year.

(Report attached)

Contact: Samantha Lawton, Head of Governance

12: Allocation of Seats 169 - 170

To determine, for the 2023/2024 Municipal Year, the allocation of seats on Committees and to any Political Groups formed under the Local Government (Committees and Political Groups) Regulations 1990 (or any substituted regulations) and the allocation of seats to any Members of the Council who are not Members of any such Political Groups if there are any outstanding unallocated places.

(Schedule attached)

It is proposed that arrangements for representation of Political Groups on the Committees and Panel listed below should NOT be in accordance with the requirements of Section 15 and 16 of the Local Government and Housing Act 1989 but should be as set out in the report to be circulated at this item:

Corporate Parenting Board
Health and Wellbeing Board
Overview and Scrutiny Management Committee

This notice is given in accordance with Section 17 of the 1989 Act and Regulation 20 of the Local Government (Committee and Political Groups) Regulations 1990. Each proposal will require approval with no Members of the Council voting against.

Contact: Samantha Lawton, Head of Governance

13: Membership of Committees, Boards and Panels, and Ratio of Substitutes Panel

To determine (i) Membership of Committees, Boards and Panels for the 2023/2024 Municipal Year, in accordance with nominations from Group Business Managers, and (ii) the ratio of Substitutes Panel Members for each political group.

(Schedule to follow)

Contact: Samantha Lawton, Head of Governance

14: Dates and Times of Committees, Boards and Panels

171 -
188

To determine the date and time of meetings of Committees, Boards and Panels for the 2023/2024 Municipal Year.

(Schedule attached)

Contact: Samantha Lawton, Head of Governance

15: Appointment of Members to Joint Authorities

189 -
194

To determine the arrangements for the allocation of seats on Joint Authorities for the 2023/2024 Municipal Year.

(Report attached)

Contact: Samantha Lawton, Head of Governance

16: Appointments to Outside Bodies and Other Committees

195 -
202

To determine the appointment of representatives to other Committees, Outside Bodies etc, for the 2023/2024 Municipal Year, except for those appointments to bodies which is exercisable only by the Leader or is delegated by the Council.

(Report attached)

Contact: Samantha Lawton, Head of Governance

17: Appointment of Spokespersons for Joint Committees and External Bodies

203 -
206

To determine the Council's spokespersons nominated to reply to oral questions at Council for the 2023/2024 Municipal Year.

(Report attached)

Contact: Samantha Lawton, Head of Governance

18: Appointment of Chairs of Committees, Boards and Panels

To appoint Chairs of the following Committees, Boards and Panels for the 2023/2024 Municipal Year.

- (a) Appeals Panel
- (b) Corporate Governance and Audit Committee
- (c) Health and Wellbeing Board
- (d) Licensing and Safety Committee
- (e) Overview and Scrutiny Management Committee
- (f) Personnel Committee
- (g) Standards Committee
- (h) Strategic Planning Committee
- (i) Statutory Officer Dismissal Committee
- (j) Scrutiny Panel – Childrens
- (k) Scrutiny Panel – Environment and Climate Change (*)
- (l) Scrutiny Panel – Growth and Regeneration (*)
- (m) Scrutiny Panel – Health and Adult Social Care

(*) Subject to approval at Agenda Item 10

By Order of the Council



Chief Executive

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

**At the Meeting of the Council of the Borough of Kirklees held at
Council Chamber - Town Hall, Huddersfield on Wednesday 8 March 2023**

PRESENT

The Mayor (Councillor Masood Ahmed) in the Chair

COUNCILLORS

Councillor Karen Allison
Councillor Timothy Bamford
Councillor Aafaq Butt
Councillor Andrew Cooper
Councillor Nosheen Dad
Councillor Paul Davies
Councillor Eric Firth
Councillor Adam Gregg
Councillor Steve Hall
Councillor Lisa Holmes
Councillor Yusra Hussain
Councillor Viv Kendrick
Councillor Jo Lawson
Councillor Vivien Lees-Hamilton
Councillor Gwen Lowe
Councillor Andrew Marchington
Councillor Harry McCarthy
Councillor Bernard McGuin
Councillor Alison Munro
Councillor Shabir Pandor
Councillor Mussarat Pervaiz
Councillor Andrew Pinnock
Councillor Jackie Ramsay
Councillor Mohammad Sarwar
Councillor Will Simpson
Councillor Richard Smith
Councillor Mohan Sokhal
Councillor Mark Thompson
Councillor Sheikh Ullah
Councillor Michael Watson
Councillor Habiban Zaman

Councillor Bill Armer
Councillor Cahal Burke
Councillor Martyn Bolt
Councillor Moses Crook
Councillor Paola Antonia Davies
Councillor Donald Firth
Councillor Charles Greaves
Councillor David Hall
Councillor Tyler Hawkins
Councillor James Homewood
Councillor Manisha Roma Kaushik
Councillor Musarrat Khan
Councillor John Lawson
Councillor Susan Lee-Richards
Councillor Aleks Lukic
Councillor Naheed Mather
Councillor Tony McGrath
Councillor Matthew McLoughlin
Councillor Darren O'Donovan
Councillor Carole Pattison
Councillor Amanda Pinnock
Councillor Kath Pinnock
Councillor Elizabeth Reynolds
Councillor Cathy Scott
Councillor Elizabeth Smaje
Councillor Melanie Stephen
Councillor John Taylor
Councillor Graham Turner
Councillor Lesley Warner
Councillor Adam Zaman

136 Announcements by the Mayor and Chief Executive

Council received tributes to (i) the Elected Members who be retiring at the forthcoming elections; Councillors Lukic, Sarwar, K Taylor, White and Warner and (ii) Councillor Perry who had recently resigned.

Council were reminded of the requirements of Section 106 of the Local Government and Finance Act 1992 in relation to voting and participation in the meeting.

137 Apologies for absence

Apologies for absence were received on behalf of Councillors Anwar, Loonat, Sheard, A Smith, K Taylor and White.

138 Minutes of Previous Meeting

RESOLVED – That the Minutes of the Meeting of Council held on 22 February 2023 be approved as a correct record.

139 Declaration of Interests

No interests were declared.

140 Budget 2023 - 2024

It was moved by Councillor P Davies and seconded by Councillor Pandor, that;

(i) General Fund Revenue

- the draft Revenue Budget for 2023-2024, as attached at Appendix A, be approved
- the forecast spending and funding plans for the 2024-2028 period, as set out at Appendix A, be noted
- the forecast levels of statutory and other council reserves, as set out at Appendix Cii, be noted
- the strategy for the use of balances and reserves (paragraph 2.16 refers) be approved
- the Council's participation in the Leeds City Region Business Rates Pool for 2023-2024 be noted and that authority be delegated to the Chief Executive and Service Director (Finance), in consultation with the Leader and Cabinet Member (Corporate Services), to agree the governance arrangements for 2023-2024, to be approved by the Business Rates Joint Committee (paragraph 2.6.4 refers)
- it be noted that discussions regarding the uplifts on the rates paid to external providers for demand-led activities are ongoing, and that authority be delegated to the Strategic Director (Adults and Health) to agree the final uplifts to rates for 2023-2024 (paragraph 2.10.3 refers)
- the Council's anticipated Housing Support Fund Round 4 allocation, and Council Tax Support Fund for 2023-2024 be noted, and that authority be delegated to the Strategic Director (Corporate Strategy, Commissioning and Public Health), in consultation with the Cabinet Member (Corporate Services), the Cabinet Member (Learning, Aspiration and Communities) and Service Director (Finance) to agree the mechanism for how the funding will be used (paragraph 2.13.7 refers)
- approval be given to the Council's flexible capital receipts policy for 2022-2023 and 2023-2024 (paragraphs 2.14.8 to 2.14.11 and

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- Appendix E refer)
- approval be given to the Council Tax requirement for 2023-2024 (Appendix H refers)
- the Council's Statutory 151 Officer's positive assurance statement as to the robustness of the forecasts and estimates and adequacy of financial reserves be noted (paragraphs 3.3.1 to 3.3.16 refer)
- authority be delegated to the Council's statutory s151 Officer to amend how the finally approved precepts are recorded in the Council's revenue budget in line with the final notifications received following decisions by the West Yorkshire Mayor Police and Crime Commissioner, the Fire and Rescue Authority and the Parish Councils, should these be received after 8 March 2023 (paragraph 3.1.3 refers)

(ii) Treasury Management

- the borrowing strategy be approved (paragraphs 2.17 to 2.26 of Appendix I refer)
- the investment strategy be approved (paragraphs 2.27 to 2.35 of Appendix I, Appendices A and B refer)
- the policy for provision of repayment of debt (minimum revenue provision) be approved (paragraphs 2.36 to 2.39 of Appendix I and Appendix C refer)
- the treasury management indicators be approved (Appendix D refers)
- the investment strategy (non treasury investments) be approved (Appendix E refers)

(iii) Capital

- the updated Capital Plan 2022-2028 be approved (Appendix A refers)
- the Capital Strategy (including prudential indicators) be approved (Appendix F refers)

(iv) Housing Revenue Account

- the draft Housing Revenue Account Budget for 2023-2024 be approved (Appendix A refers)
- the strategy for the use of the Housing Revenue Account reserves be approved (paragraph 2.18.6 refers)

Whereupon, it was moved by Councillor J Taylor and seconded by Councillor D Hall by way of AMENDMENT, that;

<u>Conservative Group - Budget Amendment</u>					
General Fund Revenue	23-24	24-25	25-26	26-27	27-28
	£000	£000	£000	£000	£000
<u>DEVELOPMENTS</u>					
Reduce Council Tax Increase 2023/24 by 1%	2,100	2,100	2,100	2,100	2,100
Flockton Bypass feasibility study	100	0	0	0	0
Winter Maintenance review	100	150	200	250	300
First 30 mins free parking across the borough next year	700	0	0	0	0
X-Mas week bin collections	20	20	20	20	20
reverse budget proposals to reduce tip opening hours	70	70	70	70	70

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Total Revenue Developments	3,090	2,340	2,390	2,440	2,490
Capital borrowing costs - revenue impact	-6	-199	-913	-1,895	-4,256
Use of general reserves over MTFP	-2,459	-1,016	148	1,580	3,891
	625	1,125	1,625	2,125	2,125
SAVINGS					
Cease Trades Unions support costs	-125	-125	-125	-125	-125
Annual incremental council-wide target for efficiencies	-500	-1,000	-1,500	-2,000	-2,000
Total Savings	-625	-1,125	-1,625	-2,125	-2,125
Total Revenue effect	0	0	0	0	0
General Fund Capital	23-24	24-25	25-26	26-27	27-31
	£000	£000	£000	£000	£000
Extend LBUR programme	0	1,000	1,000	1,000	1,000
Additional flood management and drainage improvements	250	250	250	250	250
Review Cultural Heart programme		-7,500	-15,000	-12,500	-75,000
Total Capital Developments	250	-6,250	-13,750	-11,250	-73,750
Funded by :					
Ward councillor review of estate (future capital receipts)	-500	-1,000	-1,500	0	0
Change in borrowing requirement	250	7,250	15,250	11,250	73,750
	-250	6,250	13,750	11,250	73,750

Whereupon, it was moved by Councillor Cooper and seconded by Councillor Lee-Richards by way of AMENDMENT, that;

Green Group - Budget Amendment					
GENERAL FUND - Revenue	23-24	24-25	25-26	26-27	27-28
	£000	£000	£000	£000	£000
Developments					
Community based care co-operative model development	50	50			
feasibility- council trading company to private householders	50				
signage and ANPR cameras at 2 locations to enforce moving traffic offences	50				
Total	150	50	0	0	0
Capital borrowing costs - revenue impact	76	303	492	563	634
Total	226	353	492	563	634
Funded by :					
Efficiencies	-226	-239	-378	-449	-520
Revert energy contract from green to standard rate and use to fund renewable energy projects in the District		-114	-114	-114	-114
Total	-226	-353	-492	-563	-634
Revenue effect	0	0	0	0	0
GENERAL FUND - Capital	23-24	24-25	25-26	26-27	27-31
	£000	£000	£000	£000	£000

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Safer streets - area based traffic calming	1,000	1,000	1,000	1,000	1,000
Renewable energy projects		1,600			
Renewable energy installation in schools	500	500			
fuel poverty measures	500				
cycleways development	1,000				
climate bonds - regen projects	500	500			
Total	3,500	3,600	1,000	1,000	1,000
Funded by :					
Borrowing requirement	-2,500	-3,100	-1,000	-1,000	-1,000
Climate Bond	-500	-500			
Fuel poverty measures - 3rd party contribution; Charitable trust	-500				
Total	-3,500	-3,600	-1,000	-1,000	-1,000
HRA - Revenue	23-24	24-25	25-26	26-27	27-28
	£000	£000	£000	£000	£000
Capital borrowing costs - revenue impact	106	370	565	760	955
Total	106	370	565	760	955
Funded by :					
repair & maintenance efficiencies	-74	-270	-415	-560	-705
comfort charge from tenants (retrofit housing scheme)	-32	-100	-150	-200	-250
Total	-106	-370	-565	-760	-955
Total Revenue effect	0	0	0	0	0
HRA - Capital	23-24	24-25	25-26	26-27	27-31
	£000	£000	£000	£000	£000
Retrofit Housing	4,250	2,750	2,750	2,750	2,750
Passivhaus standard on all new build properties	795	634	687	488	228
Solar PV panels on all new build projects	636	507	550	390	182
Total	5,681	3,891	3,987	3,628	3,160
Funded by :					
Borrowing requirement	-4,250	-2,750	-2,750	-2,750	-2,750
WYMCA funding support for Passivhsaus/Solar PV	-1,431	-1,141	-1,237	-878	-410
Total	-5,681	-3,891	-3,987	-3,628	-3,160

Whereupon, it was moved by Councillor J Lawson and seconded by Councillor Marchington by way of AMENDMENT, that;

Liberal Democrat Group - Budget Amendment					
GENERAL FUND - Revenue	23-24	24-25	25-26	26-27	27-28
	£000	£000	£000	£000	£000
Developments					
Reintroduce Area Committees (Place Partnerships)	58	58	58	58	58
Planning Enforcement - Additional Staff	200	300	300	300	300
Local Plan - Review	500	500			
Operation Torrbank - Roll-out Across District	250				
Electric Bike Scheme	75	60	60	60	60
Glass Recycling Programme	250	500	500	500	500

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Children's Mental Health - Expand Team to tackle CAMHS	40	80	80	80	80
Waiting Lists - undergraduate training programme					
Free Bulky Waste Collections	570	570	570	570	570
Tolson Museum future options - feasibility	10				
Air Quality - feasibility - Milnsbridge	10				
Total Revenue Developments	1,963	2,068	1,568	1,568	1,568
Savings					
efficiency targets	-500	-1,000	-1,500	-2,000	-2,000
use of general reserves	-1,385	-970	30	530	530
explore joint funding with health partners re CAMHS	-20	-40	-40	-40	-40
re-direct PCN lead funding to support area committees	-58	-58	-58	-58	-58
Total Savings	-1,963	-2,068	-1,568	-1,568	-1,568
Total Revenue effect	0	0	0	0	0
Capital	23-24	24-25	25-26	26-27	27-31
	£000	£000	£000	£000	£000
Extend Local Road Improvements - Additional Funding for Pavements		5,000	5,000	5,000	
Expand Anti-Idling Scheme to Improve Air Quality	100				
Roadside EV Charging	50	50			
Solar PV & Storage Scheme - Pilot in 3 Schools	500				
Filter Light (jct with Dalton Green Lane/Wakefield Road & Greenhead Lane)	60				
Investigate phasing of lights at jct of Wakefield Road/Green	10				
Lea Court					
Repair and replacement of Oakenhaw Cross	500				
Capital plan further re-phase	-1,220	-5,050	-5000	-5000	
Total (net) Capital Developments	0	0	0	0	0
HRA - Revenue	23-24	24-25	25-26	26-27	27-28
	£000	£000	£000	£000	£000
Capital borrowing costs - revenue impact	25	71	71	71	71
	25	71	71	71	71
Savings					
efficiencies	-25	-71	-71	-71	-71
Total Savings	-25	-71	-71	-71	-71
Total Revenue effect	0	0	0	0	0
Capital	23-24	24-25	25-26	26-27	27-31
	£000	£000	£000	£000	£000
Ashbrow Extra Care Scheme - Develop to Passivhaus Construction Standard	1,000				
Total Capital Developments	1,000	0	0	0	0
Funded by :					
prudential borrowing	-1,000				
	-1,000	0	0	0	0

The Conservative Group Amendment, as proposed by Councillor J Taylor and seconded by Councillor D Hall, on being put to the vote was LOST.

In accordance with Council Procedure Rule 19 (7), the vote was taken by Recorded Vote, which was as follows;

FOR: Councillors Armer, Bamford, Bolt, D Hall, D Firth, Gregg, Holmes, Lees-Hamilton, Lukic, McGrath, McGuin, Smaje, Stephen, J Taylor, Thompson and Watson (16 votes)

AGAINST: Councillors Ahmed, Allison, Burke, Butt, Cooper, Crook, Dad, P Davies, P A Davies, E Firth, Greaves, S Hall, Hawkins, Homewood, Hussain, Kaushik, Kendrick, Khan, J Lawson, J D Lawson, Lee-Richards, Lowe, McCarthy, McLoughlin, Marchington, Mather, Munro, O'Donovan, Pandor, Pattison, Pervaiz, A Pinnock, A U Pinnock, K Pinnock, Ramsay, Reynolds, Sarwar, Scott, Simpson, Sokhal, Turner, Ullah, Warner, A Zaman and H Zaman (45 votes)

ABSTAINED: (none)

The Green Group Amendment, as proposed by Councillor Cooper and seconded by Councillor Lee-Richards, on being put to the vote was LOST.

In accordance with Council Procedure Rule 19 (7), the vote was taken by Recorded Vote, which was as follows;

FOR: Councillors Allison, Burke, P A Davies, Cooper, Lawson, Lee-Richards, Lukic, Marchington, Munro, A Pinnock, K Pinnock and Warner (12 votes)

AGAINST: Councillors Ahmed, Butt, Crook, Dad, P Davies, E Firth, Greaves, S Hall, Hawkins, Homewood, Hussain, J D Lawson, Lowe, Kaushik, Kendrick, Khan, O'Donovan, McCarthy, McLoughlin, Mather, Pandor, Pattison, Pervaiz, A U Pinnock, Ramsay, Reynolds, Sarwar, Scott, Simpson, Sokhal, Turner, Ullah, A Zaman and H Zaman (34 votes)

ABSTAINED: Councillors Armer, Bamford, Bolt, D Firth, D Hall, Holmes, Gregg, Lees-Hamilton, McGrath, McGuin, Smaje, Stephen, J Taylor and Thompson.

The Liberal Democrat Group Amendment, as proposed by Councillor Lawson and seconded by Councillor Marchington, on being put to the vote was LOST.

In accordance with Council Procedure Rule 19 (7), the vote was taken by Recorded Vote, which was as follows;

FOR: Councillors Allison, Burke, Cooper, P A Davies, Lawson, Lee-Richards, Lukic, Marchington, Munro, A Pinnock and K Pinnock (11 votes)

AGAINST: Councillors Ahmed, Butt, Crook, Dad, P Davies, E Firth, Greaves, S Hall, Hawkins, Homewood, Hussain, J D Lawson, Lowe,

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Kaushik, Kendrick, Khan, O'Donovan, McCarthy, McLoughlin, Mather, Pandor, Pattison, Pervaiz, A U Pinnock, Ramsay, Reynolds, Sarwar, Scott, Simpson, Sokhal, Turner, Ullah, Warner, A Zaman and H Zaman (35 votes)

ABSTAINED: Councillors Armer, Bamford, Bolt, D Hall, Gregg, Holmes, Lees-Hamilton, McGrath, McGuin, Smaje, Stephen, J Taylor, Thompson and Warner

Whereupon, the Substantive Motion was put to the vote, CARRIED and it was therefore RESOLVED;

(v) General Fund Revenue

- the draft Revenue Budget for 2023-2024, as attached at Appendix A, be approved
- the forecast spending and funding plans for the 2024-2028 period, as set out at Appendix A, be noted
- the forecast levels of statutory and other council reserves, as set out at Appendix Cii, be noted
- the strategy for the use of balances and reserves (paragraph 2.16 refers) be approved
- the Council's participation in the Leeds City Region Business Rates Pool for 2023-2024 be noted and that authority be delegated to the Chief Executive and Service Director (Finance), in consultation with the Leader and Cabinet Member (Corporate Services), to agree the governance arrangements for 2023-2024, to be approved by the Business Rates Joint Committee (paragraph 2.6.4 refers)
- it be noted that discussions regarding the uplifts on the rates paid to external providers for demand-led activities are ongoing, and that authority be delegated to the Strategic Director (Adults and Health) to agree the final uplifts to rates for 2023-2024 (paragraph 2.10.3 refers)
- the Council's anticipated Housing Support Fund Round 4 allocation, and Council Tax Support Fund for 2023-2024 be noted, and that authority be delegated to the Strategic Director (Corporate Strategy, Commissioning and Public Health), in consultation with the Cabinet Member (Corporate Services), the Cabinet Member (Learning, Aspiration and Communities) and Service Director (Finance) to agree the mechanism for how the funding will be used (paragraph 2.13.7 refers)
- approval be given to the Council's flexible capital receipts policy for 2022-2023 and 2023-2024 (paragraphs 2.14.8 to 2.14.11 and Appendix E refer)
- approval be given to the Council Tax requirement for 2023-2024 (Appendix H refers)
- the Council's Statutory 151 Officer's positive assurance statement as to the robustness of the forecasts and estimates and adequacy of financial reserves be noted (paragraphs 3.3.1 to 3.3.16 refer)
- authority be delegated to the Council's statutory s151 Officer to amend how the finally approved precepts are recorded in the Council's revenue budget in line with the final notifications received following decisions by the West Yorkshire Mayor Police and Crime Commissioner, the Fire and Rescue Authority and the Parish

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Councils, should these be received after 8 March 2023 (paragraph 3.1.3 refers)

(vi) Treasury Management

- the borrowing strategy be approved (paragraphs 2.17 to 2.26 of Appendix I refer)
- the investment strategy be approved (paragraphs 2.27 to 2.35 of Appendix I, Appendices A and B refer)
- the policy for provision of repayment of debt (minimum revenue provision) be approved (paragraphs 2.36 to 2.39 of Appendix I and Appendix C refer)
- the treasury management indicators be approved (Appendix D refers)
- the investment strategy (non treasury investments) be approved (Appendix E refers)

(vii) Capital

- the updated Capital Plan 2022-2028 be approved (Appendix A refers)
- the Capital Strategy (including prudential indicators) be approved (Appendix F refers)

(viii) Housing Revenue Account

- the draft Housing Revenue Account Budget for 2023-2024 be approved (Appendix A refers)
- the strategy for the use of the Housing Revenue Account reserves be approved (paragraph 2.18.6 refers)

In accordance with Council Procedure Rule 19 (7), the vote was taken by Recorded Vote, which was as follows;

FOR: Councillors Ahmed, Butt, Crook, Dad, P Davies, E Firth, S Hall, Hawkins, Homewood, Hussain, J D Lawson, Lowe, Kaushik, Kendrick, Khan, O'Donovan, McCarthy, McLoughlin, Mather, Pandor, Pattison, Pervaiz, A U Pinnock, Ramsay, Reynolds, Sarwar, Scott, Simpson, Sokhal, Turner, Ullah, Warner, A Zaman and H Zaman (34 votes)

AGAINST: Councillors Allison, Armer, Bamford, Bolt, Burke, Cooper, P A Davies, Greaves, D Firth, D Hall, Gregg, Holmes, J Lawson, Lee-Richards, Lees-Hamilton, Lukic, McGuin, McGrath, Marchington, Munro, A Pinnock, K Pinnock, Smaje, Stephen, J Taylor, Thompson and Watson (27 votes)

ABSTAINED: (none)

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

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

AGENDA ITEM 5

DISTRICT COUNCIL ELECTIONS THURSDAY 4 MAY 2023 RESULTS

Ward: Almondbury Party: Liberal Democrat	Paola Antonia Convertino Davies
Ward: Ashbrow Party: Labour	Amanda Ursula Pinnock Zarina Shahbaz
Ward: Batley East Party: Labour & Co-operative	Habiban Nisa Zaman
Ward: Batley West Party: Labour & Co-operative	Yusra Hussain
Ward: Birstall & Birkenshaw Party: Conservative	Joshua Connor Sheard
Ward: Cleckheaton Party: Liberal Democrat	Andrew Charles Pinnock
Ward: Colne Valley Party: Labour	Beverley Dawn Addy
Ward: Crosland Moor & Netherton Party: Labour	Imran Safdar
Ward: Dalton Party: Labour	Musarrat Khan
Ward: Denby Dale Party: Labour	Hannah Elizabeth Jarman McKerchar
Ward: Dewsbury East Party: Labour	Paul Peter Moore
Ward: Dewsbury South Party: Labour	Nosheen Dad
Ward: Dewsbury West Party: Labour	Darren Thomas Patrick O'Donovan
Ward: Golcar Party: Liberal Democrat	Andrew Clive Glover Marchington
Ward: Greenhead Party: Labour	Carole Pattison

Ward: Heckmondwike Party: Labour & Co-operative	Aafaq Noor Butt
Ward: Holme Valley North Party: Conservative	Donna Bellamy
Ward: Holme Valley South Party: Labour & Co-operative	Paul Davies
Ward: Kirkburton Party: Conservative	John Joseph Taylor
Ward: Lindley Party: Liberal Democrat	Anthony John Smith
Ward: Liversedge & Gomersal Party: Conservative	Lisa Holmes
Ward: Mirfield Party: Conservative	Itrat Ali
Ward: Newsome Party: Green	Susan Jane Lee-Richards



Name of meeting: Annual Council

Date: 24 May 2023

Title of report: Proposed Revisions to Contract Procedure Rules 2023

Purpose of report: To provide information on proposed changes to Contract Procedure Rules for the municipal year 2023/24

Key Decision – A key decision is an executive decision to be made by Cabinet which is likely to result in Council spending or saving £250k or more per annum, or to have a significant positive or negative effect on communities living or working in an area compromising two or more electoral wards. Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.	Not Applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	Not Applicable
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name	R Spencer-Henshall – Strategic Director – Corporate Strategy, Commissioning & Public Health 16.5.23
Is it also signed off by the Service Director for Finance?	E Croston Service Director – Finance
Is it also signed off by the Service Director for Legal Governance and Commissioning?	J Muscroft Service Director - Legal Governance and Commissioning
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public or private: Public

Has GDPR been considered? Yes

1. Summary

- 1.1 This report sets out information on proposed changes to Contract Procedure Rules for the year 2023/24.
- 1.2 These changes were considered, and recommended, by Corporate Governance & Audit Committee on 12th May 2023.
- 1.3 The Contract Procedure Rules ensure that the Council is acting in line with current legislation and other developments in public law when conducting procurements.
- 1.4 A more fundamental review of the Contract Procedure Rules will be undertaken at the appropriate time in line with any legislative changes relating to the Procurement Bill.
- 1.5 The proposed changes relate to bonds and guarantees and some additions in relation to Rule 10 executing contracts.

2. Information required to take a decision

- 2.1 The detail relating to the changes is contained in the table below;

Section of the Contract Procedure Rules	Proposed changes
Rule 2 Preparation and Process	<p>The section on Bonds to be updated to include Bonds and Guarantees. Recommended changes to bond levels are noted in this section. The rules would now make clearer the need to have a parent company guarantee with the new addition below;</p> <p>2.3.10 The council should always seek a parent company guarantee when such an option is available.</p> <p>Suggested changes to bond levels are noted at 2.3.11; The levels would be increased from £300,000 to £500,000 for supply contracts relating to;</p> <ol style="list-style-type: none">a. capital construction works in excess of £500,000b. any IT contracts that involve pre operational payments in excess of £500,000; <p>and a suggested increased from £3million to £5million for</p> <ol style="list-style-type: none">c. any contracts with a total consideration in excess of £5m
Rule 10 Executing contracts	It is proposed that "Contract" be capitalised throughout where it relates to the defined definition.
Rule 10* Executing contracts	<p>New additions proposed at 10.5 in relation to signing and signatures;</p> <ul style="list-style-type: none">• a document shall be properly signed where it is physically signed in hardcopy format, or it is electronically signed in an electronic format approved by the Solicitor the Council; <p>The Solicitor to the Council may authorise an external firm of lawyers to sign documents (and or initial and make amendments to documents) as agent on behalf of the Council.</p>
Rule 10 Executing contracts	10.7 Reference be changed from 'EU supplies and services threshold' to 'UK Threshold for supplies and services.'

Rule 10* Executing contracts	CPR 10.8-10.10 deals with land transactions, see below proposed new addition in relation to authorising third party auctioneers to sign on the councils behalf; 10.11 The Solicitor to the Council may authorise an external property auctioneer to sign as agent for the Council, a Sale Memorandum to record the property price and terms of conditions of sale.
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2.2 All text changes are marked in Appendix A by track changes.

2.3 A clean copy of the revised contract procedure rules with suggested amendments can be seen at Appendix B.

3. Implications for the Council

3.1 Working with People – None directly

3.2 Working with Partners - None directly

3.3 Place Based Working – None directly

3.4 Climate Change and Air Quality- None directly

3.5 Improving outcomes for children- None directly

3.6 Financial Implications for the people living or working in Kirklees

3.7 Other (eg Integrated Impact Assessment/Legal/Financial or Human Resources)

Although each of the sub categorisations above suggest no direct implications, these Contract Procedure Rules covers all aspects of the councils operations. These updated CPRs reflect good procurement practice which in turn supports the Council Plan by using procurement activity to help achieve the Council's wider objectives and outcomes. The legal obligation to have CPR's is to comply with Section 135 Local Government Act 1972 and the Public Contracts Regulations 2015

4. Consultation

Consultation has been carried out with the Head of Audit and Risk, Head of Corporate-Legal and officers in Procurement and Legal Services. All Heads of Service across the Council have had the opportunity to comment and feedback.

5. Next steps and timelines

If approved, these changes will be implemented from 25th May 2023.

6. Officer recommendations and reasons

That approval be given to the amendments to Contract Procedure Rules, as set out at Appendix A.

7. Cabinet Portfolio Holder's recommendations

Not applicable.

8. Contact officer

Jane Lockwood, Head of Procurement (01484 221000, e-mail; JaneA.Lockwood@kirklees.gov.uk)

9. Background Papers and History of Decisions

The attached document includes track changes. The 2022 version of CPRs is available as a part of the council constitution.

10. Service Director responsible

Julie Muscroft, Service Director- Legal, Governance and Commissioning
Eamonn Croston, Service Director-Finance

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KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES

MAY 202~~3~~²

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INTRODUCTION

These Contract Procedure Rules (CPRs) aim to promote the highest standard of probity, integrity, and impartiality in making a clear, understandable and fair selection of Suppliers and Supplies to the Council. Equally important are the delivery of best value through competitive procedures and the avoidance of practices which may restrict, prevent or distort competition.

These Contract Procedure Rules cover the Procurement of all Supplies (goods, works and services) and Income Contracts.

These Contract Procedure Rules must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for particular Supplies. However, when designing the Procurement within the parameters of these CPRs, the process and the Specification should be clearly proportionate and relative to the need which the Supply fulfils and should appropriately balance the value of, and risks associated with, any proposed action.

Where the council wishes to obtain the delivery of goods, works, or services, the use of procurement is the usual method. Grants should only be used to assist or support objectives of another organisation. In some instances, CPRs will apply to grants (see [Appendix 4](#) ~~Appendix 4~~).

Procurement Principles:

The aim of every procurement exercise should be value for money. In pursuit of that aim, procurers shall endeavour to treat market operators equally and without discrimination, and to act in a transparent and proportionate manner. Without detracting from those principles, procurers should take every opportunity to consider how improvements to the economic, social and environmental wellbeing of the district (social value) can be generated and enhanced in contracts and procurement processes, including encouraging the participation of local businesses in Council tenders.

RULE 1 – CONDUCT AND COMPLIANCE AND WAIVER

- 1.1 All Council employees, and any person or organisation working on behalf of the Council in Procuring or managing a Supply, must comply with these CPRs.
- 1.2 Cabinet may waive any parts of these CPRs on a case by case basis following consideration of a detailed report setting out in particular: -
 - 1.2.1 the legality of the proposed non-compliant process or action; and
 - 1.2.2 the reputational and financial risks associated with the proposed non-compliant processor action.
- 1.3 Failure to comply with these CPRs without a valid waiver may result in disciplinary action against the officers concerned and may in some cases constitute a criminal offence.
- 1.4 Each Service Director must ensure:-
 - 1.4.1 compliance with these CPRs and the FPRs, using training, instruction and internal control processes;
 - 1.4.2 appropriate supervision and performance management to ensure that decisions taken are subject to authorisation and quality control procedures.
 - 1.4.3 a suitably experienced and trained officer is identified to adequately manage the Contract for every contractual relationship the Council enters into.
- 1.5 When authorising staff to procure Supplies on their behalf, each Service Director must set a financial (or other) limit on the authority vested in individual officers to procure the Supplies. Such limits must be recorded in the relevant Scheme of Officer delegations. An officer wishing to commence a procurement exercise and/or commit the council to contractual obligations must ensure that:
 - 1.5.1 they have the Cabinet authority or a written approval of the delegated decision by an authorised officer under the Scheme of Officer Delegation to incur the expenditure and provide details to the Head of Corporate Procurement.
 - 1.5.2 officer executive decisions are recorded accurately and promptly including the relevant information required, such as the context in which the decision was taken, the reasons for the decision and alternative options considered.
 - 1.5.3 all significant officer decisions taken relating to the procurement exercise (i.e. decisions which may be of interest to councillors and/or the public) are recorded
 - 1.5.4 where a Supply is a Key Decision), a Key Decision Notice (KDN) has been published in a Notice of Forthcoming Key Decisions.
- 1.6 The Head of Procurement may:-
 - 1.6.1 authorise officers who are not procurement officers under their managerial responsibility to act on their behalf in respect of any role assigned to the Head of Procurement in these CPRs;
 - 1.6.2 issue waivers in relation to the need to consult them under CPR 1.3;
 - 1.6.3 undertake a review of procurement arrangements and practices, and value for money within any service area, in consultation, as appropriate, with the Service Director, Solicitor to the Council, Chief Finance Officer and Head of Internal Audit.

- 1.7 The Head of Procurement must record the precise extent of such authorisations and the officer to which roles have been delegated and share these authorisations with the Solicitor to the Council and the Head of Internal Audit.
- 1.8 A Service Director has authority to commence any Procurement subject to:
- 1.8.1 compliance with these CPRs and FPRs; and
 - 1.8.2 having appropriate delegated authority; and
 - 1.8.3 compliance with management processes designed to ensure that proposed projects meet the Council's business needs; and
 - 1.8.4 seeking Value for Money.
- 1.9 These CPRs are a minimum standard and a more prescriptive procurement regime must be followed where this is required by UK law and agreements with Grant funding organisations.
- 1.10 The Head of Procurement, the Solicitor to the Council and the Head of Internal Audit may each issue Guidance Notes to aid the interpretation of these CPRs, with the following leading responsibilities:
- 1.10.1 the Head of Procurement – Good Procurement Practice;
 - 1.10.2 Solicitor to the Council – UK Procurement Rules and other laws and Corporate Governance;
 - 1.10.3 Head of Internal Audit – Procurement project related financial management, Best Value and Risk.
- 1.11 Any dispute concerning interpretation of these CPRs must be referred to the Head of Internal Audit who, in consultation with the Solicitor to the Council, may provide clarification and determination.
- 1.12 Subject to Part 3 of the Council's constitution and without prejudice to the role of the Monitoring Officer or the Chief Finance Officer, the Chief Executive may reassign specific duties delegated in these CPRs to the Head of Procurement, the Head of Internal Audit, and the Solicitor to the Council provided that:-
- 1.12.1 the post holders to whom these duties are assigned must hold general competencies as follows:-
 - public sector procurement in respect of duties reassigned from the Head of Procurement;
 - finance in respect of duties reassigned from the Head of Internal Audit;
 - Law and Court procedure in respect of duties reassigned from Solicitor to the Council.
 - the same degree of separation of officer responsibility for the duties is maintained.

Conflicts of Interest and Integrity¹

- 1.13 Service Directors shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all economic operators.

¹ Officers should also familiarise themselves with the FPRs 17 and 18, Chapter 7 of the Employee Handbook and Part 5.6 of the Council's Constitution and Members should also refer to Part 5.1 of the Constitution.

- 1.14 Any Officer, Member or other person acting on the Council's behalf in procuring a Supply must declare any potential Conflict of Interest as soon as they become aware of a potential Conflict of Interest and update the declaration in the event of any changes.
- 1.15 Service Directors must record such declarations and in each case decide whether safeguards need to be put in place or the Officer or Member concerned should be removed from the Procurement or Disposal process.
- 1.16 In exercising the decisions delegated to them, the Head of Procurement, Head of Internal Audit and Solicitor to the Council (or any other persons undertaking their responsibilities by application of CPR 1.11 or CPR 1.6) must reach their decisions independently.

RULE 2 – PREPARATION AND PROCESS

- 2.1. Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000, the Service Director must consult with the Head of Procurement. The Head of Procurement must consider if any issues relating to the procurement may create risks that require consultation with the Solicitor to the Council and/or the Head of Internal Audit, and undertake these consultations as necessary.
- 2.2. The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with UK Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service, Find A Tender Service (FTS) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.
- 2.3. Each Service Director must ensure:
 - 2.3.1. That Supplies of a similar type are procured together where it is sensible to do so. A Procurement must not be subdivided with the effect of preventing it from falling within the scope of these CPRs or the UK Procurement Rules, unless justified by objective reasons.
 - 2.3.2. Where the cost of the Supply is less than the UK Threshold and an approved Framework Agreement or Dynamic Purchasing System is not being used, there must be consultation with the Head of Procurement to see whether the value of the Supply needs to be aggregated with any other similar Supplies for the purposes of the UK Procurement Rules.
 - 2.3.3. The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding the UK supplies and services threshold.
 - 2.3.4. The process can be adequately resourced.
 - 2.3.5. The appointment of an officer to carry out supervision of the resulting contract(s) in accordance with Financial Procedure Rule 21.8.

Compliance

2.3.6. Each Procurement complies with the following:-

- a. it is justified by a business case (that includes a risk assessment) approved by a Senior Manager with relevant authority to purchase; and
- b. a Whole Life Costing Approach underpins the specification of the Supply;

- and
- c. it aligns with the Procurement Strategy; and
- d. it complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 6.14), consortia and other suppliers (Service Director should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.12 & 6.13).

Estimated Value

2.3.7. Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.

2.3.8. An estimate of the full cost of the Supply contract or Framework Agreement which is as accurate as possible is made. Valuations must:

- a. be estimated by reference to the gross value of the Supply contract (including installation, supplier maintenance, options, and any income gained by all Suppliers involved in the agreement);
- b. assess the gross value of a Framework Agreement to be the reasonably estimated value of all Supply contracts which might be made through it;
- c. where the Supply contract includes a fixed duration, cover the entire possible duration of the contract (i.e. including any options, such as for extension or renewal);
- d. where a maximum contract duration is not certain, treat the contract as if it lasts for 4 years;
- e. include any Grant funding;
- f. exclude VAT.

2.3.9. The Supply is likely to be within budgetary provision (see CPR 10.1).

Bonds and Guarantees

2.3.10. The council should always seek a parent company guarantee when such an option is available.

2.3.10.2.3.11. Bonds; All supply contracts relating to;

- a. capital construction works in excess of £~~5~~300,000
- b. any IT contracts that involve pre operational payments in excess of £~~5~~300,000
- c. any contracts with a total consideration in excess of £~~5~~3m

will be bonded in the sum of 10% of the Tender value, except where the Solicitor to the Council and Head of Internal Audit agree either:-

- i. No bond is necessary; or
- ii. A different value (or percentage) is appropriate; and or
- ~~ii.~~iii. a cash bond; and or
- ~~iii.~~iv. A parent company guarantee or other form of surety can be accepted instead.

The Specification

2.4. In preparing a Specification, the Service Director should consider how the procurement activity might meet the Councils wider policy and strategy but subject always to ensuring full compliance

with UK procurement legislation. Service Directors must also consider how what is proposed to be procured might improve the economic, social and environmental wellbeing of Kirklees.

- 2.5. Consultation with suppliers in the relevant market is permitted but it must not prejudice any potential Supplier and no technical advice may be sought or accepted from any supplier in relation to the preparation of any specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers.
- 2.6. The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.10) and other procurement documentation must be created to be understandable by all reasonably well informed people in the relevant industry.

Award Criteria

- 2.7. Where a competitive process is being carried out, a transparent, unambiguous and clearly set out schedule of Award Criteria, which are objectively verifiable and non-discriminatory and are appropriately prioritised, must be prepared and advertised. These criteria must be linked to the subject matter of the contract, must not include unlawful non-commercial considerations or Suitability Criteria (which should be identified separately and must follow CPR 3.5– 3.9) and must be proportional to the contract's main objectives.
- 2.8. The Head of Procurement is consulted at the preparatory stage if conducting interviews or receiving presentations is considered to be beneficial to the process (also see CPRs 4.16-4.17).

Contracting

- 2.9. For contracts up to the UK supplies and services threshold, other than Land Contracts, the Service Director shall wherever possible use appropriate standard contract terms. Otherwise every contract for Supplies or Income Contract must set out:
- a. details of the Supply to be made or to be disposed of;
 - b. the price or prices to be paid or received and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deductions;
 - c. the time(s) within which the contract is to be performed;
 - d. termination provisions and break clauses, if appropriate;
 - e. appropriate data protection clauses where personal data is involved; and
 - f. such other matters as the Solicitor to the Council considers to be necessary (the Solicitor to the Council need not be consulted, but guidance must be followed).
- 2.10. For contracts above the UK supplies and services threshold, other than Land Contracts the Service Director must consult with the Solicitor to the Council who will prepare contract documentation appropriate for the contract.

Data Processing

- 2.11. All contracts that involve the processing or sharing of personal data must be reported to the Information Governance Team, who will keep a log of these contracts.
- 2.12. Where any Supplier is given possession of, or access to, any personal data, the Service Director must have regard to the Council's obligations as regards the Data Protection Legislation. The Service

Director must follow the Council's Information Security Policy, in particular regarding contracting with data processors, sharing data and consulting with the Information Governance Team. The Service Director must ensure that:

- 2.12.1. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
- 2.12.2. appropriate guarantees of the security of the personal data are included within a written contract;
- 2.12.3. the performance of the contract is appropriately monitored;
- 2.12.4. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
- 2.12.5. appropriate steps are taken to minimise as far as possible the impact of a breach of data security;
- 2.12.6. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.

Collaboration

- 2.13. The potential for genuine collaboration with other public bodies must be considered when planning a procurement exercise.
- 2.14. When taking any benefit from a procurement in which a third party takes any degree of control, Service Directors must ensure that appropriate due diligence steps are taken to be sure that all arrangements are appropriate and compliant. Apart from in the case of Central Purchasing Organisations (like the Yorkshire Purchasing Organisation and the Crown Commercial Service); any addition to procurements on a speculative basis (for example, where the Council is added as a user to a third party framework without a likelihood the Council will use it) must be approved by the Head of Procurement.

RULE 3 - PROCUREMENT PROCESS

3.1. Subject to complying with the law, the process for procurement must comply with the following:

Value of Supplies	Requirement		
	Procurement Process	Advertising	Min no. of Suppliers
£0 - £24,999.99	<p>Any Reasonable Means to select are permitted. Reasons to justify the decision taken must be recorded,</p> <ul style="list-style-type: none"> Where practicable, suppliers from Kirklees (and/or West Yorkshire) area are encouraged and should be invited to submit quotes. Officers need to ensure that purchases achieve best value for the Council and an audit trail is maintained to demonstrate this. 	<ol style="list-style-type: none"> Any reasonable means A Contract Award notification form needs to be completed for values in excess of £5,000 and up to £24,999. This must be reported to Corporate Procurement 	3
£25,000 – Threshold	<p>One of the following:-</p> <ul style="list-style-type: none"> Quotations (CPRs 3-4) Framework Suppliers, Standing Lists, etc. (CPR 5) Exceptions (CPR 6) Internal, Consortia & Compulsory(CPR 6) <p>In addition;</p> <p>Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary</p>	<p>As the Head of Procurement determines</p> <ol style="list-style-type: none"> From a standing list An approved Framework Agreement An approved Dynamic Purchasing System Advertise on eProcurement Portal, ContractsFinder PLUS other reasonable advertising means 	<p>Below £100,000 – 3</p> <p>Above £100,000 – 4</p>
Above Threshold	<p>One of the following:-</p> <ul style="list-style-type: none"> Tenders (CPRs 3 - 4) Framework Suppliers, Standing Lists, etc. (CPR 5) Exceptions (CPR 6) Internal, Consortia & Compulsory(CPR 6) <p>In addition</p> <p>Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary</p> <p>The Legal Service will perform the execution of any contract(s).</p>	<p>Advertise on eProcurement Portal, Contracts Finder, FTS and in other media if appropriate; or</p> <p>Use approved Framework Agreement; or</p> <p>Use approved Dynamic Purchasing System</p>	5

- 3.2. These CPRs also apply to the selection of any nominated or named sub-contractor, product or manufacturer whose use by a supplier is a requirement of a contract specification.
- 3.3. A Service Director must invite at least the number above of suppliers to submit a written Tender, unless:-
 - 3.1.1 an **approved**² Framework Agreement or Dynamic Purchasing System is being used (and in which case the rules of the Framework Agreement or the Dynamic Purchasing System must be followed); or
 - 3.1.2 it is otherwise agreed with the Head of Internal Audit in consultation with the Solicitor to the Council.
- 3.4. The Suppliers must be reasonably capable of, or have indicated that they are willing to, submit a Tender. If it is not possible to identify the number of suitable and/or willing prospective suppliers indicated above, the Service Director must retain a record of the efforts made and reasons why an appropriate number of suppliers could not be identified.

Supplier Selection

- 3.5. Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of Suitability.
- 3.6. Where the procurement process has an overall value of less than the supplies and services UK threshold, a qualification stage must not be used, although key, proportional, suitability questions linked to the subject matter of the contract should, as appropriate, be used to establish the suitability of the supplier. The questions (or absence of any) must be approved by the Head of Procurement.
- 3.7. When operating a procurement process with a value above the supplies and services UK threshold, the Service Director must use the Council's standard selection questionnaire to establish suitability and/or to establish a shortlist. Any variations to this must be agreed with the Head of Procurement who will notify relevant authorities as necessary.
- 3.8. The selection of any potential Supplier to submit a Tender must be on the basis of a consistent, fair, justifiable and rational method, approved by the Head of Procurement. Selection Criteria must be transparent and financial ratios to be used as part of the evaluation must be disclosed. When conducting a procurement process which is subject to the UK Procurement Rules, minimum standard and/or pass marks must be published in the relevant FTS contract notice or invitation to confirm interest.
- 3.9. Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the HMRC Employment Status Indicator (ESI) Tool. The results of this should be reported to the Head of Procurement. The Service Director and the Head of Procurement must agree on the approach to procurement if the assessment suggests that the Council faces any risk. Any proposal to engage a self-employed person must be agreed with the Head of Procurement.

² See CPR 5.17

RULE 4 –TENDER RECEIPT & EVALUATION

- 4.1 For Procurements which are valued above £25,000, suppliers must be required to submit Tenders by electronic means of communication unless the Head of Procurement agrees otherwise. This must be through the eProcurement Portal unless the Head of Procurement agrees otherwise. (If the Head of Procurement approves another means, they will be required to agree and supervise a fair means of tender opening).
- 4.2 All invitations must state clearly the date and time of return. Electronic Tenders must be returned in accordance with the approved tendering system requirements.
- 4.3 All electronic Tenders received by the appointed time will be opened at the same time by the Head of Procurement.
- 4.4 At the Tendering opening the Head of Procurement will maintain a written record of the:
- 4.4.1 Procurement reference and title;
 - 4.4.2 name of each supplier submitting a Tender and the time of submission;
 - 4.4.3 name of suppliers failing to submit prices/proposal for any restricted opportunities;
 - 4.4.4 prices from each supplier;
 - 4.4.5 name of opening officer;
 - 4.4.6 names of the persons present at the opening for any tenders submitted outside of the eProcurement Portal ;
 - 4.4.7 date and time of opening of Tenders;
- 4.5 Late Tenders must not be accepted unless the lateness is caused by the Council or other matters reasonably outside of the control of the tenderer AND no unfair advantage is given to the bidder which submits the late Tender. Any decision to accept a late Tender will be made by the Head of Procurement following both (a) such verification as they feel appropriate and (b) approval by the Head of Internal Audit. However, deadlines may be extended at any time prior to their arrival so long as this complies with the principle of equal treatment and non-discrimination between tenderers.
- 4.6 Suppliers must always be required to submit bids which comply with the tender documents. Variant may be permitted providing that the tender documents:
- 4.6.1 say whether a standard or reference bid is also required;
 - 4.6.2 include the minimum requirements to be met by the variants;
 - 4.6.3 set award criteria which can be applied to the variants.
- 4.7 Any variants which are submitted must conform to the requirements of the tender documents.
- 4.8 Tenders which do not comply with the CPR 4.6 may be accepted by the Service Director, only after approval by the Head of Internal Audit.
- 4.9 The Service Director will carry out an evaluation of the Tenders received against the pre-set Award Criteria (CPR 2.7) and keep a written record of the analysis and outcome.
- 4.10 The use of or participation in e-auctions to set prices is permitted where:
- 4.10.1 bids can be ranked automatically; and
 - 4.10.2 the mathematical formula to determine the rankings of the bids (or each variant where

variants are permitted) is disclosed; and

4.10.3 the written agreement of the Head of Internal Audit has been given; and

4.10.4 the process is subject to supervision by the Head of Procurement.

- 4.11 The Service Director will require tenderers to explain the price or costs proposed in their tender where tenders appear to be abnormally low.
- 4.12 The Service Director must ensure that, where required by UK procurement rules, appropriate notices of intention to award a contract to a particular supplier, or group of suppliers, are issued, and the necessary standstill period observed, prior to formal acceptance of the tender. The Head of Procurement will supervise the production and issuance of the mandatory debrief letters and inform the Solicitor to the Council that the debrief process has completed satisfactorily prior to formal acceptance of any Tender.
- 4.13 Any complaint or challenge to the procurement process at any stage must immediately be referred to the Head of Procurement, who must take steps to investigate and (subject to CPR 4.15) take action as necessary, taking guidance from the Solicitor to the Council and the Head of Internal Audit.
- 4.14 If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the Solicitor to the Council must be informed immediately with full objective disclosure of the facts relating to the issue(s), who will manage the claim. At this stage information exchange should be restricted and Service Directors must not copy dispute related information to anybody who has not seen it before until the Solicitor to the Council advises about confidentiality and Legal Privilege.

Clarifications, Presentations and Interviews

- 4.15 Where information or documentation submitted by a bidder is or appears to be incomplete (including where specific documents are missing) or erroneous or unclear, Service Directors may request the bidder concerned to submit, supplement, clarify or complete the relevant information or documentation, provided that requests for clarification:
- 4.15.1 set an appropriate time limit for a reply; and
 - 4.15.2 do not request changes or otherwise seek to influence the bidder; and
 - 4.15.3 deal with all of the matters in the Tender which are incomplete or erroneous or unclear; and
 - 4.15.4 treat all tenderers equally and fairly and so, for example, the request:-
 - a. must not occur before all of the bids have been subject to an initial evaluation;
 - b. must not unduly favour or disadvantage the bidder to whom the request is addressed; and
 - c. must be sent in the same way to all bidders unless there is an objectively verifiable ground justifying different treatment.
- 4.16 Clarity may also be facilitated through planned presentations designed to assist in understanding or verifying submitted bids. Clarification questions may be asked during such presentations and prior scoring may be appropriately moderated. All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.
- 4.17 Interviews and/or presentations which form part of the bid must be authorised by the Head of Procurement in writing. They must also be:

- 4.17.1 Comprehensively recorded; and
- 4.17.2 assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and
- 4.17.3 supervised by the Head of Procurement.

RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE

- 5.1 The Head of Procurement will maintain a list of approved central purchasing organisations, purchasing consortia and Council "trading services".

Standing Lists

- 5.2 The Head of Procurement will determine for which types of Supply Council-wide Standing Lists must be kept (see CPR 6.12). The Head of Procurement will notify the relevant Service Director of such decisions where the Standing List is Service specific and be responsible for creation and maintenance of Standing Lists which will be used Council-wide by any Service Director requiring Supplies of that type.
- 5.3 Standing Lists may be used for Supplies where the aggregated value (in compliance with the UK Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant UK Threshold.
- 5.4 Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the eProcurement Portal, Contracts Finder and other appropriate media as the Head of Procurement may determine. Standing Lists will remain valid for five years from creation. During that period the Standing List will remain open to the addition of further suppliers meeting the appropriate admission requirements and will remain advertised on the Council's web site for that time. Standing Lists must be renewed every 5 years.
- 5.5 Admission to a Standing List should be on the basis of a transparent, rational, justifiable evaluation of information submitted by prospective Suppliers relating to technical, financial and any other relevant matters determined by the Head of Procurement.
- 5.6 The Head of Procurement (in consultation with the Solicitor to the Council) may delete a supplier from a Standing List only where there is appropriate evidence and a written report justifying the action.
- 5.7 If there are insufficient suppliers on a Standing List, or too few are willing to submit Tenders, to meet the CPRs Tender requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 5.8 Each Service Director must establish and advertise a set of fair, proportionate and transparent rules that reflect these CPRs which set out how Supplies will be procured through each Standing List which they are responsible for.

Council Framework Agreements and Dynamic Purchasing Systems

- 5.9 Framework Agreements and Dynamic Purchasing Systems may be used to source contracts for appropriate types of Supplies (subject to compliance with the UK Procurement Rules, as applicable).

- 5.10 Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a Supply contract and in accordance with the UK Procurement Rules.
- 5.11 All Framework Agreements will be in the form of a written agreement detailing the method by which the Council will call off Supplies during the duration of the Framework Agreement and stating that there will be no obligation to order any Supplies of any type from a Framework Supplier.
- 5.12 Framework Agreements above the UK Threshold must be closed to new entrants and must not last longer than 4 years without this being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 5.13 Contracts created through Framework Agreements must not be greater than 4 years in duration without being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 5.14 Dynamic Purchasing Systems must:
 - 5.14.1 be set up by an advertised competitive process which is approved by the Head of Procurement; and
 - 5.14.2 remain advertised; and
 - 5.14.3 not limit the number of suppliers admitted to the system (but the system may be split into categories); and
 - 5.14.4 be set up with clear operative rules which involve obtaining Tenders from all suppliers on the system, or on the relevant category on the system, as appropriate; and
 - 5.14.5 be operated wholly electronically; and
 - 5.14.6 be open to new entrants; and
 - 5.14.7 be subject to consistent due diligence assessments of DPS participants
- 5.15 When using Framework Agreements or Dynamic Purchasing Systems, the Council must follow the procurement rules set out in the Framework Agreement or the Dynamic Purchasing System.
- 5.16 The Head of Procurement will ensure that the use of Framework Suppliers and Dynamic Purchasing Systems provide value for money, considering all procurement costs and alternative approaches.
- 5.17 The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems which Service Directors are permitted to use.

- 5.18 Supplies may be obtained through third party Frameworks Agreements (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:
- 5.18.1 are created by a public body or a private sector party as agent of a public sector body which is approved by the Head of Procurement (see also CPR 5.1);
 - 5.18.2 have valid mechanisms that exist to enable the Council to use the Framework Agreement (including appropriate transparent referencing in the procurement documents and inclusion in the framework call of conditions);
 - 5.18.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;
 - 5.18.4 where the UK procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 6 – EXCEPTIONS FROM COMPETITION

- 6.1 Subject to compliance with the UK Procurement Rules the following are exempted from the competitive requirements of these CPRs³:
- 6.1.1 where there is genuinely only one potential Supplier, such as for works of art and copyrighted material or unique technology, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;
 - 6.1.2 items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit);
 - 6.1.3 the selection of a supplier whose usage is a condition of a Grant funding approval;
 - 6.1.4 the selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party;
 - 6.1.5 where CPR 6.12 applies;
 - 6.1.6 counsel or other external legal advice, provided that the Solicitor to the Council takes steps to ensure that value for money is being obtained;
 - 6.1.7 a necessary Supply required extremely urgently, not due to any action or inaction of the Council, with the prior agreement of the Head of Internal Audit;
 - 6.1.8 direct award from an approved Framework Agreement (see CPR 5.18) which has validly been set up to be called off on a non-competitive basis and which was set up in accordance with the requirements of these CPR and the UK Procurement Rules;
- 6.2 The Service Director must make a written record of the justification for the selection of the Supplier. The Service Director must obtain the approval of the Head of Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £100,000. Value for money must be evidenced and recorded.
- 6.3 Trial Purchases**
- 6.4 Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000 without competition in order to ascertain if the Supply is of interest to the Council. Where an exception to competition in CPR 6.1 does not apply, a full competition compliant with the CPR must be held following the trial if the Service Director wishes to continue with the type of Supply.
- 6.5 Arrangements must be made to ensure that the Supplier involved in the trial has not acquired any advantage through that involvement when compared to any alternative suppliers of a similar product. The Head of Procurement must approve any proposed trial arrangement exceeding £25,000.
- 6.6 The procuring Service Director and the Head of Procurement may decide that;
- 6.6.1 An alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Internal Audit.
 - 6.6.2 Following receipt of Tenders for the Supply, it is appropriate to seek to reduce the overall cost, or change other terms of the Supply by negotiation with one or more suppliers which have submitted Tenders.

³ When the UK Procurement Rules apply, these exemptions may not be permitted (Directors must check this)

- 6.6.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
- 6.6.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the council without competition is appropriate (although subject to UK Procurement Rules).

Note in the above, in order to achieve internal check, the Head of Procurement alone cannot reach such decisions. Where the Head of Procurement is making a decision in relation to a Procurement exercise by their own Service Director, there must be consultation with the Head of Internal Audit.

Negotiated Contracts

- 6.7 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by (or included on a list of negotiators kept by) the Head of Procurement.
- 6.8 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 6.9 For any contract valued at above £100,000 the Service Director must obtain the approval of the Head of Internal Audit of the proposed terms of the negotiated Supply including its cost and the reason for choice before the contract is entered into.

Legal Issues

- 6.10 The Solicitor to the Council must be consulted in advance of any negotiation in respect of any contract estimated to exceed the UK threshold (except those in relation to Land where the Head for Corporate Property Management should be consulted irrespective of value).
- 6.11 Before a decision pursuant to CPRs 6.1 to 6.3 is made, the Head of Procurement will decide whether the purchase is likely to be on terms which would be acceptable to a private buyer operating under normal market economy conditions. If the Head of Procurement does not think that this is likely to be achieved, they must consult with the Solicitor to the Council about the possibility of subsidy control before approving the exemption from competition.

Mandatory suppliers, frameworks agreements or dynamic purchasing systems

- 6.12 In respect of defined categories of goods, works and services the Head of Procurement may determine (following a written risk assessment which, as appropriate, deals with the UK Procurement Rules and the possibility of state aid) that the use of one (or more) Suppliers is compulsory.
- 6.13 The Head of Procurement may also determine that Supplies of a particular type are to be obtained from Suppliers via a Framework Agreement or a Dynamic Purchasing System or Standing Lists, and set standards to be established in those arrangements.
- 6.14 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:-
 - 6.14.1 where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
 - 6.14.2 in respect of the outsourcing of an activity having a value below £100,000;
 - 6.14.3 in respect of services provided within schools;

6.14.4 in respect of ad hoc services for the design and construction of buildings or parts of buildings.

RULE 7 - RECORD KEEPING AND REPORTING

7.1 Service Directors must keep detailed written records of the progress of all procurement or disposal procedures (including negotiation). To that end, Service Directors must ensure that they keep sufficient documentation to justify decisions taken in all stages of the procedure, such as documentation on:-

- 7.1.1 communications with economic operators and internal deliberations;
- 7.1.2 preparation of the procurement or sale documents;
- 7.1.3 the dividing large procurements into contract Lots;
- 7.1.4 consideration of social value in the commissioning and procurement process
- 7.1.5 any interviews, other dialogue or negotiation;
- 7.1.6 A risk log;
- 7.1.7 supplier vetting; and
- 7.1.8 reasons for award of the contract.

The documentation must be kept for a period as defined within the Councils relevant retention schedule.

- 7.2 A full trail of electronic Tenders received must be recorded on the eProcurement Portal or retained in a database approved by the Head of Internal Audit.
- 7.3 All contracts over £5,000 must be reported to the Head of Procurement who will arrange to publish these transactions on the statutory contracts register (also see [Appendix 2Appendix 2](#)).
- 7.4 The relevant Service Director must complete the Council's standard 'Regulation 84 Report' template by the end of each procurement process which is subject the UK Procurement Rules.
- 7.5 Each Service Director must promptly provide to the Head of Procurement the information specified in [Appendix 2Appendix 2](#).
- 7.6 The Head of Procurement must ensure that the appropriate publications are made to comply with the Local Government Transparency Requirements (and each Service Director will notify the Head of Procurement of any expenditure above £500; also see CPR 7.3 above).
- 7.7 The Service Director must keep a written record of the reasons for using a negotiated procedure

RULE 8 - INCOME CONTRACTS & CONCESSIONS

- 8.1 CPR 8 Includes nil value and disposal contracts but excludes Land.
- 8.2 CPRs 8.2 to 8.8 apply when the Council intends to derive income from:-
 - 8.2.1 the disposal of property (other than Land);
 - 8.2.2 the sale of a right to exploit a business opportunity;
 - 8.2.3 the operation of business activity.

8.3 Where the Council is proposing to enter into an Income Contract at manifestly less than market value where the market value is estimated at £1,000 or more, the Head of Internal Audit must be

consulted and they will decide whether this amounts to a Grant (and so FPR 4 applies instead of CPR 8).

The disposal of an asset

8.4 The procedure for the disposal of assets is:-

- 8.4.1 assets valued up to £25,000 must be disposed of by a method chosen by the Service Director and a written justification of the choice retained;
- 8.4.2 assets valued above £25,000 must be disposed of following public notice either by open Tender process, closed Tender process involving at least 3 prospective purchasers or public auction. The use of the Council web site is permissible for this purpose.

8.5 Leased assets must be disposed of only in accordance with the instruction of the lessor.

The sale of a right to exploit a business opportunity

8.6 The letting of rights to exploit a business opportunity for the contractor's own benefit (for example, advertisement space on Council Land) (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process asset out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as state aid.

- 8.6.1 A business opportunity contract that will not generate income in excess of £25,000 over the duration of the contract may be sourced by any reasonable means and should be arranged and undertaken by the Service Director responsible for the activity.
- 8.6.2 The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £25,000.

The operation of business activity, beyond that normally undertaken by a local authority.

- 8.7 If an Income Contract is intended to be or become profitable or be commercial in nature, advice must be obtained from the Solicitor to the Council.
- 8.8 If an Income Contract has any potential to distort the relevant market advice must be obtained from the Solicitor to the Council.

Concession Contracts

- 8.9 Concession contracts for works or services are a type of Supply contract and the procurement of all Concessions shall follow the competitive and contracting requirements in these CPRs for Supplies.
- 8.10 Concession contracts for works or services above UK thresholds or more are subject to the Public Concessions Regulations 2016 and will be subject to such additional procurement process requirement(s) as the Head of Procurement feels are necessary to comply with these Regulations.

Valuation

- 8.11 The value of a Concession contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the Supplies which are the object of the Concession contract and for any ancillary Supplies.
- 8.12 The value of an Income Contracts is the gross income generated by the Council as a result of the

rights granted, or goods, works or services supplied by the Council.

8.13 When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account:-

8.13.1 the value of any form of option and any extension of the duration of the contract;

8.13.2 revenue from the payment of fees and fines by the users of the works or services or public other than those collected on behalf of the Council;

8.13.3 payments or any other financial advantages, in any form, from the Council or any other public authority to the contractor;

8.13.4 the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;

8.13.5 revenue from sales of any assets which are part of the contract;

8.13.6 the value of all the supplies and services that are made available to the contractor by the Council, provided that they are necessary for executing the works or providing the services;

8.13.7 any prizes or payments to candidates or tenderers.

RULE 9 - LAND

9.1 Procurement of Land will generally be by the means described in this CPR 9. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the Solicitor to the Council authorises other nominated officers to deal with tenancies or licences for specific purposes.

9.2 The Head of Corporate Property Management (and any other Director authorised so to do) will arrange the acquisition or disposal of estates or interests in land (including any buildings erected on it) either pursuant to the authority delegated to him by a Service Director in accordance with Part 3 (Section F) of the Constitution or, in the case of a decision made by Cabinet then in accordance with the authority delegated to him from the Cabinet.

9.3 Where any proposed land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between the Head of Corporate Property Management and the Solicitor to the Council, and details of the process leading to the transaction must be recorded, and the circumstances reported to Cabinet either for information, if falling within the delegated authority of officers, or in order to secure the relevant authority to give effect to the transaction.

9.4 Where Land is sold at a public auction, the Head of Corporate Property Management must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) for consideration alongside the bids submitted or made. If a successful bid is less than the reserve price then the Head of Corporate Property Management may accept a lower bid provided that such lower bid is not less than 10% below the professional valuation of the reserve price.

RULE 10 – EXECUTING CONTRACTS

Supplies

10.1 A ~~C~~contract may only be awarded where the Service Director has sufficient approved budget to meet the first year costs and is satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost through the anticipated life of the ~~C~~contract.

- 10.2 Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and Framework Agreements up to the UK supplies and services threshold must be in writing and can be made by the Service Director either:
- where appropriate, by issuing the order through the Council's electronic purchasing system (currently SAP) and incorporating the correct standard terms; or
 - By issuing (electronically or on paper) contract terms which the Service Director has assessed as being appropriate both in terms of suitability and risk.
- 10.3 If the Service Director and Solicitor to the Council decide that it is appropriate for the Cecontract to be sealed (or if it is required by law), the Cecontract will be executed by the Solicitor to the Council.
- 10.4 The Head of Procurement must ensure that the Council's electronic procurement systems are setup so that the most appropriate Official Council Order are available to be attached to the supply being purchased.
- 10.5 Contracts for all Supplies (which includes call-offs from Framework Agreements and Dynamic Purchasing Systems), Concessions, Income Contracts and every Framework Agreement with an estimated value above the UK supplies and services threshold must be in writing and must (subject to CPR 10.6) be either:
- made under the corporate common seal of the Council, attested by one legal officer; or
 - signed by two legal officers;
 - a document shall be properly signed where it is physically signed in hardcopy format, or it is electronically signed in an electronic format approved by the Solicitor the Council;
- who have been nominated as Cecontract signatories by the Solicitor to the Council under their Scheme of Officer Delegations. The solicitor to the Council may authorise an external firm of lawyers to sign documents (and or initial and make amendments to documents) as agent on behalf of the Council.
- 10.6 Notwithstanding CPR 10.5, the Solicitor to the Council may authorise officers who are not Legal Officers to sign specific or specialist Cecontracts for Supplies above the UK supplies and services threshold. Two authorised officers must sign each such Cecontract.
- 10.7 The Solicitor to the Council may, subject to including appropriate restrictions and/or instructions designed to achieve valid execution of the relevant Cecontracts and suitable record keeping, provide third parties with a power of attorney to sign Council Cecontracts of values below the £UK Threshold for supplies and services threshold.

Land

- 10.8 The Solicitor to the Council will complete all land transactions, including acquisition or disposal by way of freehold or leasehold purchase or sale or the taking or granting of all short or long term leases or tenancies- and other deeds and documents associated with Land. The Solicitor to the Council may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Solicitor to the Council.
- 10.9 Any Cecontract for the sale or acquisition of, or any other deed or document relating to, Land must either be signed by, or have the corporate common seal affixed in the presence of, the Solicitor to the Council (or by a legal officer nominated by him or her). Additionally, the Solicitor to the Council

may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.

General

10.10 The Solicitor to the Council is entitled to sign any agreement in any way related to Procurement, Supplies, Concessions or Income Contracts or any security instrument (regardless of whether another officer including the Chief Executive may sign such things), subject to CPR 10.5 and provided that this is not subject to any contrary direction from the Council or Cabinet.

~~10.10~~10.11 The Solicitor to the Council may authorise an external property auctioneer to sign as agent for the Council, a Sale Memorandum to record the property price and terms of conditions of sale.

RULE 11 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS

11.1 It is recognised that during the term of a Contract, modifications may be proposed, which if adopted would result in additional Works, Goods and/or Services, which were not considered when the original procurement took place, being procured or otherwise would alter the overall nature of the Contract. There are significant limitations upon the Council being able to make such modifications, especially where the Regulations apply. When considering a variation, modification or the termination of an existing Contract, advice must be sought in advance from the Corporate Procurement Service and with the Solicitor to the Council.

11.2 A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, but with prior consultation with the Head of Procurement if alternative Supplies would be required.

11.3 A Service Director, in consultation with the Solicitor to the Council, has the power to terminate any contract in the event of any breach of contract justifying termination, where in the opinion of these officers no other remedy is appropriate. Where the financial implications of a decision to terminate a contract exceed, or may exceed £100,000, the reason for termination and any consequences must be reported to the next meeting of the Cabinet.

11.4 The Solicitor to the Council may release any bond held by the Council, on request from the Head of Procurement.

11.5 The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Solicitor to the Council accept such proposed sums.

11.6 Service Directors may vary contracts by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract.

11.7 Any variation with a value above £25,000 to a contract which cannot be fulfilled by following CPR 11.6 must be subject to the approval of the Head of Procurement.

11.8 Any variation to a contract which cannot be fulfilled by following CPR 11.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.

11.9 Subject to approval of the Solicitor to the Council and the Head of Procurement contracts may be novated to another Supplier where permitted by an express provision to novate in the terms and conditions of contract; or in the event of a successor due to the original Supplier carrying out a corporate restructuring, merger, acquisition, takeover or insolvency. The new Supplier must comply with the requirements under the original contract.

RULE 12 - MISCELLANEOUS

- 12.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the Solicitor to the Council and the Chief Finance Officer. This does not apply to any purchase of shares or similar for the purpose of investment.

Approved by Council

Apply from 25th May 202~~3~~²

DEFINITIONS

Award Criteria	Relate directly to the goods, services or works to be provided. Award criteria evaluate supplier's offers made in relation to fulfilling the Council's requirements for the Supply, in particular the Specification.
Chief Executive	The Chief Executive is the head of the Council's paid staff and its principal adviser on policy matters and leads the discharge of Council strategy and responsibilities.
Chief Finance Officer	Means the Service Director – Finance
Commissioning	The relationship between commissioning and procurement is described in the diagram in Appendix 3.
Concession	Is where a Supplier is remunerated mostly through being permitted to run and exploit the work or service and is exposed to a potential loss on its investment.
Conflict of Interest	Means any interest outside of the Council which may appear to an objective bystander to affect the fair judgment of an Officer or Member or any other person acting on the Council's behalf in the Procurement of a Supply or the disposal of property (including Land). The concept of conflict of interest shall at least cover any situation where the relevant person has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a Procurement or sale procedure.
Contract	Means any form of contract, agreement for the supply of any works, goods, or services that the Council enters into (whether by purchase, lease, hire or any other arrangement).
Contract Procedure Rules (CPRs)	Means these Contract Procedure Rules.
Data Protection Legislation	Means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority.

Dynamic Purchasing System (DPS)	Is a procurement tool available for contracts for works, services and goods commonly available on the market. It has its own specific set of requirements(as set out in Regulation 34 of the Public Contracts Regulations 2015); for example, it must be run as a completely electronic process, must remain open to new entrants, all suppliers on the relevant category in the Dynamic Purchasing System must be invited to quote for all contracts and it should be set up using the restricted procedure.
eProcurement Portal (YORtender)	The on-line Supplier and Contract Management System used by the Council to operate e-tenders and for the online management of suppliers and contracts and to advertise contracts. Currently available at https://yortender.eu-supply.com
Financial Ratio	Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.
Find A Tender Service (FTS)	"Find a Tender" means the UK e-notification service where notices for new procurements are required to be published;
Financial Procedure Rules (FPRs)	The Financial Procedure Rules.
Framework Agreement	Means an agreement between a Contracting Authority and one or more Suppliers which operates as a Procurement tool through which contracts for Supplies can be sourced. Framework Agreements which deal with Supplies that are above, or aggregate above, the UK Threshold are subject to the Public Procurement Rules.They set out the terms for the Supply (often including the price) and the method for calling off orders. 'Framework' and 'Framework Suppliers' shall be construed accordingly.
Head of Corporate Property Management	Means the officer appointed by the Service Director who is responsible for corporate property management functions.
Head of Internal Audit	Means the officer appointed by the Chief Executive who is responsible for Internal audit.
Head of Procurement	Means the officer appointed by the Service Director – Legal, Governance & Commissioning who is responsible for Corporate Procurement.
Income Contract	An Income Contract is one where the main object of the contract is that the Council does something in relation to a Council asset ⁴ and includes situations where the Council does so at nil value (subject to this not being a Grant – see Appendix 4).
Land	"Land" includes any interest in land (including buildings) and any easement or right in or over land
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as ⁵ the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.

⁴ For contracts where the Council provides services to another body, please refer to FPRs 20.4-20.6

⁵ The words "including", "include", "for example", "e.g.", and "such as" in these CPRs indicate examples and are not intended to be exhaustive. [Appendix 4](#) and [Appendix 5](#) provide examples of the types of contracts that are covered by the Local Government Transparency Code and the Public Contracts Regulations 2015.

Official Council Order	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Solicitor to the Council whether attached electronically or by paper to an order for Supplies.
Personal Data	Means data which relate to a living individual who can be identified— (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual (e.g. references) and any indication of the intentions of the data controller or any other person in respect of the individual.
Procurement	The purchase, contract hire, lease, rental ⁶ or any other form of acquisition which results in a contract for Supplies where the Council is the buyer (therefore, in the context of the CPR, this does not include the Council providing the Supply to itself or gifts). Procurement also includes the establishment of Standing Lists, Framework Agreements and Dynamic Purchasing Systems. 'Procurement' and 'Procured' shall be construed accordingly.
Public Procurement Rules	The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations).
Reasonable Means	Methods of selection or advertising which reflect reasonable trade practice. This might include informal briefs, supplier written Tenders or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet.
Senior Manager	Means an officer who reports directly to a Head of Service.
Service	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.
Service Director	Means the most senior officer responsible for the day to day functions of each Service.
Social Value	Means The Public Services (Social Value) Act 2012 ('Social Value Act') that requires the Council to consider how a procurement over the relevant thresholds could improve the economic, social and environmental wellbeing of the district
Solicitor to the Council	Means the Service Director – Legal, Governance & Commissioning in the role as legal advisor to the Council.
Special Purpose Vehicle	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with

limiting

⁶ Note: Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources and their delegate [See the FPR].

[Legal Services & Work and Governance and Democratic Engagement Committee - a formal paper to the Council - 2022/23 - Item 2022 contract procedure](#)

	others to provide specific Supplies to the Council.
Specification	A written document detailing the Council's requirements. This can include things such as definitions, acceptance test methods, material requirements or characteristics, drawings, plans, certifications of compliance with standards, workmanship, data security measures, quality control including performance testing and KPIs, completion, delivery, safety, timing, key personnel qualities, communication requirements, returns policies and tolerances.
Standing List	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
Suitability Criteria	Relate to the assessment or vetting of suppliers' general capability, fidelity, skill, competence, etc. to carry out the contract. 'Suitability' shall be interpreted accordingly.
Supplier	Any person, partnership, company, or other organisation, which provides or contractually offers to provide any Supply to the Council or on behalf of the Council.
Supply / Supplies	Means the supply of any works, goods, or services; being provided, or to be provided, to or on behalf of the Council (whether by purchase, lease, hire or any other arrangement).
Tender	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
UK Threshold	The financial threshold from time to time at which the UK Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1 .
Value for Money	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.
Whole Life Costing Approach	Is an approach which addresses all the elements of a Supply over its life cycle such as:- <ul style="list-style-type: none"> • costs relating to acquisition, • costs of use, such as consumption of energy and other resources, • maintenance costs, • end of life costs, such as collection and recycling costs which can be used to produce a spend profile of the Supply over its anticipated lifespan.

Relevant Thresholds in Public Contract Regulations inclusive of VAT

[Microsoft Word - Procurement Policy Note 10:21 - New Thresholds Values and Inclusion of VAT in Contract Estimates.docx \(publishing.service.gov.uk\)](#)

Supply and service contracts	£213,477
Light Touch Regime Contracts (Annex XIV)	£663,540
Works contracts	£5,336,937
Concession contracts	£5,336,937

- ◆ These are current the values for the purposes of these CPRs. The threshold values to be used will be those applicable at the commencement of the procurement process. The thresholds are updated every two years with the next update due on the 1 January 2024

Appendix 2

Information to be Reported to the Head of Procurement (RULE 7 – RECORD KEEPING AND REPORTING)

	Information	When
A.	Details of all contracts awarded for Supplies of £5,000 or above following a competitive process including the name of the Supplier, and amount of the Tender and if the chosen supplier was not the cheapest, then the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.	When Requested
B.	Details of all contracts awarded for Supplies of £100,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.	When Requested
C.	Details of all contracts awarded for supplies of £5,000 or above which a Service Director considered to be exempt from the competitive requirements by virtue, including the reason for the exemption.	When Requested
D.	Contracts with a value of £5,000 or more see CPR, with the following information: 1. reference number 2. title of agreement 3. Contract Manager; name of person responsible for managing the contract 4. description of the goods and/or services being provided 5. Supplier name and details 6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract) 7. start, end and review dates, including permitted extensions 8. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and 9. whether or not the Supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number 10. whether or not the contract involves processing personal data	In All Cases on Contract Award
E.	All other information necessary to enable compliance with the Council's obligations under legislation and regulation to publish data about its contractual arrangements and payments.	In All Cases on Request
F.	Copies of Regulation 84 reports	All cases where the Public Procurement Rules apply on Contract Award

Appendix 3

Relationship between Commissioning and Procurement



Appendix 4

How to decide if a procurement or grant is applicable

- The Council obtains supplies of goods, works, and services from external suppliers and normally uses competitive processes to do so in accordance with the Contract Procedure Rules (CPRs)
- It is always appropriate to use procurement to obtain **goods** and **works**, and this is the usual preference to obtain **services**.
- There may though be some occasions when a grant may be an appropriate way to achieve the priorities of the Council. The table below aims to provide a guide to support commissioners to think about whether a grant or procurement is the most appropriate method in obtaining and/or supporting a particular **service**.

1	If you are seeking to obtain goods or works you should <u>procure as per CPRs</u>
2	<p>If you are seeking to obtain a service and can answer YES to ANY of the following, you should <u>procure as per CPRs</u></p> <ul style="list-style-type: none">• Is there an intention to specify service standards and outputs required?• Will payment be reduced/alterd if service standards are not met, or additional payment be made if there are claims for additional costs incurred?• Are there opportunities for change control?• Is there a contractual obligation on both parties?• Is there an intention to have active management of the provider?
3	If you are seeking to use a supplier that is a commercial i.e., profitmaking organisation this would generally require procurement as per CPRs. If the organisation is a genuine “not for profit” organization or charity you should discuss further with the Procurement team.
4	<p>If you are seeking a service and can answer YES to ANY of the following, you can consider use of a <u>Grant as per FPRs</u></p> <ul style="list-style-type: none">• Is there an intention to broadly support an activity, with expected outcomes, but no clear obligations on the provider?• Is the intention to support parts of an existing activity?• Is the intention to provide a subsidy to existing service users• Is the council’s only ultimate remedy to withhold payment of a next phase of grant, seek clawback or to refuse to fund future activity by the provider?• Is the intention to meet a stated set of costs, and an intention that the provider should not profit from the support?

Important notes/advice

- Always remember to check with the Procurement team if unsure.
- A competition will generally be appropriate to select which parties are entitled to receive grants.
- Grants still require a grant agreement.
- Grants which involve procurement by a third party require use of competition in selection of their suppliers (broadly aligning with council CPRs)

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KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES

MAY 2023

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INTRODUCTION

These Contract Procedure Rules (CPRs) aim to promote the highest standard of probity, integrity, and impartiality in making a clear, understandable and fair selection of Suppliers and Supplies to the Council. Equally important are the delivery of best value through competitive procedures and the avoidance of practices which may restrict, prevent or distort competition.

These Contract Procedure Rules cover the Procurement of all Supplies (goods, works and services) and Income Contracts.

These Contract Procedure Rules must be complied with strictly. They are minimum requirements. A more thorough procedure may be appropriate for particular Supplies. However, when designing the Procurement within the parameters of these CPRs, the process and the Specification should be clearly proportionate and relative to the need which the Supply fulfils and should appropriately balance the value of, and risks associated with, any proposed action.

Where the council wishes to obtain the delivery of goods, works, or services, the use of procurement is the usual method. Grants should only be used to assist or support objectives of another organisation. In some instances, CPRs will apply to grants (see [Appendix 4Appendix 4](#)).

Procurement Principles:

The aim of every procurement exercise should be value for money. In pursuit of that aim, procurers shall endeavour to treat market operators equally and without discrimination, and to act in a transparent and proportionate manner. Without detracting from those principles, procurers should take every opportunity to consider how improvements to the economic, social and environmental wellbeing of the district (social value) can be generated and enhanced in contracts and procurement processes, including encouraging the participation of local businesses in Council tenders.

RULE 1 – CONDUCT AND COMPLIANCE AND WAIVER

- 1.1 All Council employees, and any person or organisation working on behalf of the Council in Procuring or managing a Supply, must comply with these CPRs.
- 1.2 Cabinet may waive any parts of these CPRs on a case by case basis following consideration of a detailed report setting out in particular: -
 - 1.2.1 the legality of the proposed non-compliant process or action; and
 - 1.2.2 the reputational and financial risks associated with the proposed non-compliant processor action.
- 1.3 Failure to comply with these CPRs without a valid waiver may result in disciplinary action against the officers concerned and may in some cases constitute a criminal offence.
- 1.4 Each Service Director must ensure:-
 - 1.4.1 compliance with these CPRs and the FPRs, using training, instruction and internal control processes;
 - 1.4.2 appropriate supervision and performance management to ensure that decisions taken are subject to authorisation and quality control procedures.
 - 1.4.3 a suitably experienced and trained officer is identified to adequately manage the Contract for every contractual relationship the Council enters into.
- 1.5 When authorising staff to procure Supplies on their behalf, each Service Director must set a financial (or other) limit on the authority vested in individual officers to procure the Supplies. Such limits must be recorded in the relevant Scheme of Officer delegations. An officer wishing to commence a procurement exercise and/or commit the council to contractual obligations must ensure that:
 - 1.5.1 they have the Cabinet authority or a written approval of the delegated decision by an authorised officer under the Scheme of Officer Delegation to incur the expenditure and provide details to the Head of Corporate Procurement.
 - 1.5.2 officer executive decisions are recorded accurately and promptly including the relevant information required, such as the context in which the decision was taken, the reasons for the decision and alternative options considered.
 - 1.5.3 all significant officer decisions taken relating to the procurement exercise (i.e. decisions which may be of interest to councillors and/or the public) are recorded
 - 1.5.4 where a Supply is a Key Decision), a Key Decision Notice (KDN) has been published in a Notice of Forthcoming Key Decisions.
- 1.6 The Head of Procurement may:-
 - 1.6.1 authorise officers who are not procurement officers under their managerial responsibility to act on their behalf in respect of any role assigned to the Head of Procurement in these CPRs;
 - 1.6.2 issue waivers in relation to the need to consult them under CPR 1.3;
 - 1.6.3 undertake a review of procurement arrangements and practices, and value for money within any service area, in consultation, as appropriate, with the Service Director, Solicitor to the Council, Chief Finance Officer and Head of Internal Audit.

- 1.7 The Head of Procurement must record the precise extent of such authorisations and the officer to which roles have been delegated and share these authorisations with the Solicitor to the Council and the Head of Internal Audit.
- 1.8 A Service Director has authority to commence any Procurement subject to:
- 1.8.1 compliance with these CPRs and FPRs; and
 - 1.8.2 having appropriate delegated authority; and
 - 1.8.3 compliance with management processes designed to ensure that proposed projects meet the Council's business needs; and
 - 1.8.4 seeking Value for Money.
- 1.9 These CPRs are a minimum standard and a more prescriptive procurement regime must be followed where this is required by UK law and agreements with Grant funding organisations.
- 1.10 The Head of Procurement, the Solicitor to the Council and the Head of Internal Audit may each issue Guidance Notes to aid the interpretation of these CPRs, with the following leading responsibilities:
- 1.10.1 the Head of Procurement – Good Procurement Practice;
 - 1.10.2 Solicitor to the Council – UK Procurement Rules and other laws and Corporate Governance;
 - 1.10.3 Head of Internal Audit – Procurement project related financial management, Best Value and Risk.
- 1.11 Any dispute concerning interpretation of these CPRs must be referred to the Head of Internal Audit who, in consultation with the Solicitor to the Council, may provide clarification and determination.
- 1.12 Subject to Part 3 of the Council's constitution and without prejudice to the role of the Monitoring Officer or the Chief Finance Officer, the Chief Executive may reassign specific duties delegated in these CPRs to the Head of Procurement, the Head of Internal Audit, and the Solicitor to the Council provided that:-
- 1.12.1 the post holders to whom these duties are assigned must hold general competencies as follows:-
 - public sector procurement in respect of duties reassigned from the Head of Procurement;
 - finance in respect of duties reassigned from the Head of Internal Audit;
 - Law and Court procedure in respect of duties reassigned from Solicitor to the Council.
 - the same degree of separation of officer responsibility for the duties is maintained.

Conflicts of Interest and Integrity¹

- 1.13 Service Directors shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures to avoid any distortion of competition and to ensure equal treatment of all economic operators.

¹ Officers should also familiarise themselves with the FPRs 17 and 18, Chapter 7 of the Employee Handbook and Part 5.6 of the Council's Constitution and Members should also refer to Part 5.1 of the Constitution.

- 1.14 Any Officer, Member or other person acting on the Council's behalf in procuring a Supply must declare any potential Conflict of Interest as soon as they become aware of a potential Conflict of Interest and update the declaration in the event of any changes.
- 1.15 Service Directors must record such declarations and in each case decide whether safeguards need to be put in place or the Officer or Member concerned should be removed from the Procurement or Disposal process.
- 1.16 In exercising the decisions delegated to them, the Head of Procurement, Head of Internal Audit and Solicitor to the Council (or any other persons undertaking their responsibilities by application of CPR 1.11 or CPR 1.6) must reach their decisions independently.

RULE 2 – PREPARATION AND PROCESS

- 2.1. Before commencing any process to obtain any Supply having an estimated cost exceeding £25,000, the Service Director must consult with the Head of Procurement. The Head of Procurement must consider if any issues relating to the procurement may create risks that require consultation with the Solicitor to the Council and/or the Head of Internal Audit, and undertake these consultations as necessary.
- 2.2. The Service Director must provide to the Head of Procurement information necessary to enable the Council to comply with UK Procurement Rules. The Head of Procurement is responsible for ensuring the appropriate placing of notices in the UK's e-notification service, Find A Tender Service (FTS) and Contract Finder. Such notices may only be placed by officers authorised to do so by the Head of Procurement.
- 2.3. Each Service Director must ensure:
 - 2.3.1. That Supplies of a similar type are procured together where it is sensible to do so. A Procurement must not be subdivided with the effect of preventing it from falling within the scope of these CPRs or the UK Procurement Rules, unless justified by objective reasons.
 - 2.3.2. Where the cost of the Supply is less than the UK Threshold and an approved Framework Agreement or Dynamic Purchasing System is not being used, there must be consultation with the Head of Procurement to see whether the value of the Supply needs to be aggregated with any other similar Supplies for the purposes of the UK Procurement Rules.
 - 2.3.3. The Head of Internal Audit is satisfied regarding the financial standing of a proposed Supplier for any contract exceeding the UK supplies and services threshold.
 - 2.3.4. The process can be adequately resourced.
 - 2.3.5. The appointment of an officer to carry out supervision of the resulting contract(s) in accordance with Financial Procedure Rule 21.8.

Compliance

2.3.6. Each Procurement complies with the following:-

- a. it is justified by a business case (that includes a risk assessment) approved by a Senior Manager with relevant authority to purchase; and
- b. a Whole Life Costing Approach underpins the specification of the Supply;

- and
- c. it aligns with the Procurement Strategy; and
- d. it complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 6.14), consortia and other suppliers (Service Director should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.12 & 6.13).

Estimated Value

2.3.7. Regard is given to Best Value and the Public Sector Equality Duty and consultations with the public have been carried out as required.

2.3.8. An estimate of the full cost of the Supply contract or Framework Agreement which is as accurate as possible is made. Valuations must:

- a. be estimated by reference to the gross value of the Supply contract (including installation, supplier maintenance, options, and any income gained by all Suppliers involved in the agreement);
- b. assess the gross value of a Framework Agreement to be the reasonably estimated value of all Supply contracts which might be made through it;
- c. where the Supply contract includes a fixed duration, cover the entire possible duration of the contract (i.e. including any options, such as for extension or renewal);
- d. where a maximum contract duration is not certain, treat the contract as if it lasts for 4 years;
- e. include any Grant funding;
- f. exclude VAT.

2.3.9. The Supply is likely to be within budgetary provision (see CPR 10.1).

Bonds and Guarantees

2.3.10. The council should always seek a parent company guarantee when such an option is available.

2.3.11. Bonds; All supply contracts relating to;

- a. capital construction works in excess of £500,000
- b. any IT contracts that involve pre operational payments in excess of £500,000
- c. any contracts with a total consideration in excess of £5m

will be bonded in the sum of 10% of the Tender value, except where the Solicitor to the Council and Head of Internal Audit agree either:-

- i. No bond is necessary; or
- ii. A different value (or percentage) is appropriate; and or
- iii. a cash bond; and or
- iv. A parent company guarantee or other form of surety can be accepted instead.

The Specification

2.4. In preparing a Specification, the Service Director should consider how the procurement activity might meet the Councils wider policy and strategy but subject always to ensuring full compliance with UK procurement legislation. Service Directors must also consider how what is proposed to be

procured might improve the economic, social and environmental wellbeing of Kirklees.

- 2.5. Consultation with suppliers in the relevant market is permitted but it must not prejudice any potential Supplier and no technical advice may be sought or accepted from any supplier in relation to the preparation of any specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers.
- 2.6. The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.10) and other procurement documentation must be created to be understandable by all reasonably well informed people in the relevant industry.

Award Criteria

- 2.7. Where a competitive process is being carried out, a transparent, unambiguous and clearly set out schedule of Award Criteria, which are objectively verifiable and non-discriminatory and are appropriately prioritised, must be prepared and advertised. These criteria must be linked to the subject matter of the contract, must not include unlawful non-commercial considerations or Suitability Criteria (which should be identified separately and must follow CPR 3.5– 3.9) and must be proportional to the contract's main objectives.
- 2.8. The Head of Procurement is consulted at the preparatory stage if conducting interviews or receiving presentations is considered to be beneficial to the process (also see CPRs 4.16-4.17).

Contracting

- 2.9. For contracts up to the UK supplies and services threshold, other than Land Contracts, the Service Director shall wherever possible use appropriate standard contract terms. Otherwise every contract for Supplies or Income Contract must set out:
- a. details of the Supply to be made or to be disposed of;
 - b. the price or prices to be paid or received and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deductions;
 - c. the time(s) within which the contract is to be performed;
 - d. termination provisions and break clauses, if appropriate;
 - e. appropriate data protection clauses where personal data is involved; and
 - f. such other matters as the Solicitor to the Council considers to be necessary (the Solicitor to the Council need not be consulted, but guidance must be followed).
- 2.10. For contracts above the UK supplies and services threshold, other than Land Contracts the Service Director must consult with the Solicitor to the Council who will prepare contract documentation appropriate for the contract.

Data Processing

- 2.11. All contracts that involve the processing or sharing of personal data must be reported to the Information Governance Team, who will keep a log of these contracts.
- 2.12. Where any Supplier is given possession of, or access to, any personal data, the Service Director must have regard to the Council's obligations as regards the Data Protection Legislation. The Service Director must follow the Council's Information Security Policy, in particular regarding contracting

with data processors, sharing data and consulting with the Information Governance Team. The Service Director must ensure that:

- 2.12.1. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
- 2.12.2. appropriate guarantees of the security of the personal data are included within a written contract;
- 2.12.3. the performance of the contract is appropriately monitored;
- 2.12.4. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
- 2.12.5. appropriate steps are taken to minimise as far as possible the impact of a breach of data security;
- 2.12.6. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.

Collaboration

- 2.13. The potential for genuine collaboration with other public bodies must be considered when planning a procurement exercise.
- 2.14. When taking any benefit from a procurement in which a third party takes any degree of control, Service Directors must ensure that appropriate due diligence steps are taken to be sure that all arrangements are appropriate and compliant. Apart from in the case of Central Purchasing Organisations (like the Yorkshire Purchasing Organisation and the Crown Commercial Service); any addition to procurements on a speculative basis (for example, where the Council is added as a user to a third party framework without a likelihood the Council will use it) must be approved by the Head of Procurement.

RULE 3 - PROCUREMENT PROCESS

3.1. Subject to complying with the law, the process for procurement must comply with the following:

Value of Supplies	Requirement		
	Procurement Process	Advertising	Min no. of Suppliers
£0 - £24,999.99	Any Reasonable Means to select are permitted. Reasons to justify the decision taken must be recorded, <ul style="list-style-type: none">Where practicable, suppliers from Kirklees (and/or West Yorkshire) area are encouraged and should be invited to submit quotes. Officers need to ensure that purchases achieve best value for the Council and an audit trail is maintained to demonstrate this.	1. Any reasonable means 2. A Contract Award notification form needs to be completed for values in excess of £5,000 and up to £24,999. This must be reported to Corporate Procurement	3
£25,000 – Threshold	One of the following:- <ul style="list-style-type: none">Quotations (CPRs 3-4)Framework Suppliers, Standing Lists, etc. (CPR 5)Exceptions (CPR 6)Internal, Consortia & Compulsory(CPR 6) In addition; Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary	As the Head of Procurement determines 1. From a standing list 2. An approved Framework Agreement 3. An approved Dynamic Purchasing System 4. Advertise on eProcurement Portal, ContractsFinder PLUS other reasonable advertising means	Below £100,000 – 3 Above £100,000 – 4
Above Threshold	One of the following:- <ul style="list-style-type: none">Tenders (CPRs 3 - 4)Framework Suppliers, Standing Lists, etc. (CPR 5)Exceptions (CPR 6)Internal, Consortia & Compulsory(CPR 6) In addition Legal, Governance, Risk, Insurance, Information Governance and Health & Safety teams must be consulted where necessary The Legal Service will perform the execution of any contract(s).	Advertise on eProcurement Portal, Contracts Finder, FTS and in other media if appropriate; or Use approved Framework Agreement; or Use approved Dynamic Purchasing System	5

- 3.2. These CPRs also apply to the selection of any nominated or named sub-contractor, product or manufacturer whose use by a supplier is a requirement of a contract specification.
- 3.3. A Service Director must invite at least the number above of suppliers to submit a written Tender, unless:-
 - 3.1.1 an **approved**² Framework Agreement or Dynamic Purchasing System is being used (and in which case the rules of the Framework Agreement or the Dynamic Purchasing System must be followed); or
 - 3.1.2 it is otherwise agreed with the Head of Internal Audit in consultation with the Solicitor to the Council.
- 3.4. The Suppliers must be reasonably capable of, or have indicated that they are willing to, submit a Tender. If it is not possible to identify the number of suitable and/or willing prospective suppliers indicated above, the Service Director must retain a record of the efforts made and reasons why an appropriate number of suppliers could not be identified.

Supplier Selection

- 3.5. Service Directors must satisfy themselves that Suppliers have relevant and proportional minimum levels of Suitability.
- 3.6. Where the procurement process has an overall value of less than the supplies and services UK threshold, a qualification stage must not be used, although key, proportional, suitability questions linked to the subject matter of the contract should, as appropriate, be used to establish the suitability of the supplier. The questions (or absence of any) must be approved by the Head of Procurement.
- 3.7. When operating a procurement process with a value above the supplies and services UK threshold, the Service Director must use the Council's standard selection questionnaire to establish suitability and/or to establish a shortlist. Any variations to this must be agreed with the Head of Procurement who will notify relevant authorities as necessary.
- 3.8. The selection of any potential Supplier to submit a Tender must be on the basis of a consistent, fair, justifiable and rational method, approved by the Head of Procurement. Selection Criteria must be transparent and financial ratios to be used as part of the evaluation must be disclosed. When conducting a procurement process which is subject to the UK Procurement Rules, minimum standard and/or pass marks must be published in the relevant FTS contract notice or invitation to confirm interest.
- 3.9. Before any self-employed supplier is awarded a contract, the supplier's details must be obtained and assessed through the HMRC Employment Status Indicator (ESI) Tool. The results of this should be reported to the Head of Procurement. The Service Director and the Head of Procurement must agree on the approach to procurement if the assessment suggests that the Council faces any risk. Any proposal to engage a self-employed person must be agreed with the Head of Procurement.

² See CPR 5.17

RULE 4 –TENDER RECEIPT & EVALUATION

- 4.1 For Procurements which are valued above £25,000, suppliers must be required to submit Tenders by electronic means of communication unless the Head of Procurement agrees otherwise. This must be through the eProcurement Portal unless the Head of Procurement agrees otherwise. (If the Head of Procurement approves another means, they will be required to agree and supervise a fair means of tender opening).
- 4.2 All invitations must state clearly the date and time of return. Electronic Tenders must be returned in accordance with the approved tendering system requirements.
- 4.3 All electronic Tenders received by the appointed time will be opened at the same time by the Head of Procurement.
- 4.4 At the Tendering opening the Head of Procurement will maintain a written record of the:
 - 4.4.1 Procurement reference and title;
 - 4.4.2 name of each supplier submitting a Tender and the time of submission;
 - 4.4.3 name of suppliers failing to submit prices/proposal for any restricted opportunities;
 - 4.4.4 prices from each supplier;
 - 4.4.5 name of opening officer;
 - 4.4.6 names of the persons present at the opening for any tenders submitted outside of the eProcurement Portal ;
 - 4.4.7 date and time of opening of Tenders;
- 4.5 Late Tenders must not be accepted unless the lateness is caused by the Council or other matters reasonably outside of the control of the tenderer AND no unfair advantage is given to the bidder which submits the late Tender. Any decision to accept a late Tender will be made by the Head of Procurement following both (a) such verification as they feel appropriate and (b) approval by the Head of Internal Audit. However, deadlines may be extended at any time prior to their arrival so long as this complies with the principle of equal treatment and non-discrimination between tenderers.
- 4.6 Suppliers must always be required to submit bids which comply with the tender documents. Variant may be permitted providing that the tender documents:
 - 4.6.1 say whether a standard or reference bid is also required;
 - 4.6.2 include the minimum requirements to be met by the variants;
 - 4.6.3 set award criteria which can be applied to the variants.
- 4.7 Any variants which are submitted must conform to the requirements of the tender documents.
- 4.8 Tenders which do not comply with the CPR 4.6 may be accepted by the Service Director, only after approval by the Head of Internal Audit.
- 4.9 The Service Director will carry out an evaluation of the Tenders received against the pre-set Award Criteria (CPR 2.7) and keep a written record of the analysis and outcome.
- 4.10 The use of or participation in e-auctions to set prices is permitted where:
 - 4.10.1 bids can be ranked automatically; and
 - 4.10.2 the mathematical formula to determine the rankings of the bids (or each variant where

4.10.4 the process is subject to supervision by the Head of Procurement.

- ## Clarifications, Presentations and Interviews

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- 4.17.1 Comprehensively recorded; and
- 4.17.2 assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and
- 4.17.3 supervised by the Head of Procurement.

RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE

- 5.1 The Head of Procurement will maintain a list of approved central purchasing organisations, purchasing consortia and Council "trading services".

Standing Lists

- 5.2 The Head of Procurement will determine for which types of Supply Council-wide Standing Lists must be kept (see CPR 6.12). The Head of Procurement will notify the relevant Service Director of such decisions where the Standing List is Service specific and be responsible for creation and maintenance of Standing Lists which will be used Council-wide by any Service Director requiring Supplies of that type.
- 5.3 Standing Lists may be used for Supplies where the aggregated value (in compliance with the UK Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant UK Threshold.
- 5.4 Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the eProcurement Portal, Contracts Finder and other appropriate media as the Head of Procurement may determine. Standing Lists will remain valid for five years from creation. During that period the Standing List will remain open to the addition of further suppliers meeting the appropriate admission requirements and will remain advertised on the Council's web site for that time. Standing Lists must be renewed every 5 years.
- 5.5 Admission to a Standing List should be on the basis of a transparent, rational, justifiable evaluation of information submitted by prospective Suppliers relating to technical, financial and any other relevant matters determined by the Head of Procurement.
- 5.6 The Head of Procurement (in consultation with the Solicitor to the Council) may delete a supplier from a Standing List only where there is appropriate evidence and a written report justifying the action.
- 5.7 If there are insufficient suppliers on a Standing List, or too few are willing to submit Tenders, to meet the CPRs Tender requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 5.8 Each Service Director must establish and advertise a set of fair, proportionate and transparent rules that reflect these CPRs which set out how Supplies will be procured through each Standing List which they are responsible for.

Council Framework Agreements and Dynamic Purchasing Systems

- 5.9 Framework Agreements and Dynamic Purchasing Systems may be used to source contracts for appropriate types of Supplies (subject to compliance with the UK Procurement Rules, as applicable).

- 5.10 Framework Suppliers will be chosen by a competitive process in accordance with these rules as if they were a Supply contract and in accordance with the UK Procurement Rules.
- 5.11 All Framework Agreements will be in the form of a written agreement detailing the method by which the Council will call off Supplies during the duration of the Framework Agreement and stating that there will be no obligation to order any Supplies of any type from a Framework Supplier.
- 5.12 Framework Agreements above the UK Threshold must be closed to new entrants and must not last longer than 4 years without this being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 5.13 Contracts created through Framework Agreements must not be greater than 4 years in duration without being justified in a written assessment of the exceptional factors present and the approval of the Head of Procurement.
- 5.14 Dynamic Purchasing Systems must:
 - 5.14.1 be set up by an advertised competitive process which is approved by the Head of Procurement; and
 - 5.14.2 remain advertised; and
 - 5.14.3 not limit the number of suppliers admitted to the system (but the system may be split into categories); and
 - 5.14.4 be set up with clear operative rules which involve obtaining Tenders from all suppliers on the system, or on the relevant category on the system, as appropriate; and
 - 5.14.5 be operated wholly electronically; and
 - 5.14.6 be open to new entrants; and
 - 5.14.7 be subject to consistent due diligence assessments of DPS participants
- 5.15 When using Framework Agreements or Dynamic Purchasing Systems, the Council must follow the procurement rules set out in the Framework Agreement or the Dynamic Purchasing System.
- 5.16 The Head of Procurement will ensure that the use of Framework Suppliers and Dynamic Purchasing Systems provide value for money, considering all procurement costs and alternative approaches.
- 5.17 The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems which Service Directors are permitted to use.

- 5.18 Supplies may be obtained through third party Frameworks Agreements (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:
- 5.18.1 are created by a public body or a private sector party as agent of a public sector body which is approved by the Head of Procurement (see also CPR 5.1);
 - 5.18.2 have valid mechanisms that exist to enable the Council to use the Framework Agreement (including appropriate transparent referencing in the procurement documents and inclusion in the framework call of conditions);
 - 5.18.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;
 - 5.18.4 where the UK procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 6 – EXCEPTIONS FROM COMPETITION

- 6.1 Subject to compliance with the UK Procurement Rules the following are exempted from the competitive requirements of these CPRs³:
- 6.1.1 where there is genuinely only one potential Supplier, such as for works of art and copyrighted material or unique technology, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;
 - 6.1.2 items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit);
 - 6.1.3 the selection of a supplier whose usage is a condition of a Grant funding approval;
 - 6.1.4 the selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party;
 - 6.1.5 where CPR 6.12 applies;
 - 6.1.6 counsel or other external legal advice, provided that the Solicitor to the Council takes steps to ensure that value for money is being obtained;
 - 6.1.7 a necessary Supply required extremely urgently, not due to any action or inaction of the Council, with the prior agreement of the Head of Internal Audit;
 - 6.1.8 direct award from an approved Framework Agreement (see CPR 5.18) which has validly been set up to be called off on a non-competitive basis and which was set up in accordance with the requirements of these CPR and the UK Procurement Rules;
- 6.2 The Service Director must make a written record of the justification for the selection of the Supplier. The Service Director must obtain the approval of the Head of Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £100,000. Value for money must be evidenced and recorded.
- 6.3 Trial Purchases**
- 6.4 Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000 without competition in order to ascertain if the Supply is of interest to the Council. Where an exception to competition in CPR 6.1 does not apply, a full competition compliant with the CPR must be held following the trial if the Service Director wishes to continue with the type of Supply.
- 6.5 Arrangements must be made to ensure that the Supplier involved in the trial has not acquired any advantage through that involvement when compared to any alternative suppliers of a similar product. The Head of Procurement must approve any proposed trial arrangement exceeding £25,000.
- 6.6 The procuring Service Director and the Head of Procurement may decide that;
- 6.6.1 An alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Internal Audit.
 - 6.6.2 Following receipt of Tenders for the Supply, it is appropriate to seek to reduce the overall cost, or change other terms of the Supply by negotiation with one or more suppliers which have submitted Tenders.

³ When the UK Procurement Rules apply, these exemptions may not be permitted (Directors must check this)

- 6.6.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
- 6.6.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the council without competition is appropriate (although subject to UK Procurement Rules).

Note in the above, in order to achieve internal check, the Head of Procurement alone cannot reach such decisions. Where the Head of Procurement is making a decision in relation to a Procurement exercise by their own Service Director, there must be consultation with the Head of Internal Audit.

Negotiated Contracts

- 6.7 Verbal negotiation must be undertaken by at least two Council Officers at least one of whom must be independent of the process and approved by (or included on a list of negotiators kept by) the Head of Procurement.
- 6.8 Written negotiation must be subject to evidenced independent check of process, calculation and overall value for money.
- 6.9 For any contract valued at above £100,000 the Service Director must obtain the approval of the Head of Internal Audit of the proposed terms of the negotiated Supply including its cost and the reason for choice before the contract is entered into.

Legal Issues

- 6.10 The Solicitor to the Council must be consulted in advance of any negotiation in respect of any contract estimated to exceed the UK threshold (except those in relation to Land where the Head for Corporate Property Management should be consulted irrespective of value).
- 6.11 Before a decision pursuant to CPRs 6.1 to 6.3 is made, the Head of Procurement will decide whether the purchase is likely to be on terms which would be acceptable to a private buyer operating under normal market economy conditions. If the Head of Procurement does not think that this is likely to be achieved, they must consult with the Solicitor to the Council about the possibility of subsidy control before approving the exemption from competition.

Mandatory suppliers, frameworks agreements or dynamic purchasing systems

- 6.12 In respect of defined categories of goods, works and services the Head of Procurement may determine (following a written risk assessment which, as appropriate, deals with the UK Procurement Rules and the possibility of state aid) that the use of one (or more) Suppliers is compulsory.
- 6.13 The Head of Procurement may also determine that Supplies of a particular type are to be obtained from Suppliers via a Framework Agreement or a Dynamic Purchasing System or Standing Lists, and set standards to be established in those arrangements.
- 6.14 Supplies must be obtained from internal Council Services (which are capable of supplying them directly) without competition except:-
 - 6.14.1 where Cabinet has determined that Supplies of a particular kind will be subject to a competitive process;
 - 6.14.2 in respect of the outsourcing of an activity having a value below £100,000;
 - 6.14.3 in respect of services provided within schools;

6.14.4 in respect of ad hoc services for the design and construction of buildings or parts of buildings.

RULE 7 - RECORD KEEPING AND REPORTING

7.1 Service Directors must keep detailed written records of the progress of all procurement or disposal procedures (including negotiation). To that end, Service Directors must ensure that they keep sufficient documentation to justify decisions taken in all stages of the procedure, such as documentation on:-

- 7.1.1 communications with economic operators and internal deliberations;
- 7.1.2 preparation of the procurement or sale documents;
- 7.1.3 the dividing large procurements into contract Lots;
- 7.1.4 consideration of social value in the commissioning and procurement process
- 7.1.5 any interviews, other dialogue or negotiation;
- 7.1.6 A risk log;
- 7.1.7 supplier vetting; and
- 7.1.8 reasons for award of the contract.

The documentation must be kept for a period as defined within the Councils relevant retention schedule.

- 7.2 A full trail of electronic Tenders received must be recorded on the eProcurement Portal or retained in a database approved by the Head of Internal Audit.
- 7.3 All contracts over £5,000 must be reported to the Head of Procurement who will arrange to publish these transactions on the statutory contracts register (also see [Appendix 2Appendix 2](#)).
- 7.4 The relevant Service Director must complete the Council's standard 'Regulation 84 Report' template by the end of each procurement process which is subject the UK Procurement Rules.
- 7.5 Each Service Director must promptly provide to the Head of Procurement the information specified in [Appendix 2Appendix 2](#).
- 7.6 The Head of Procurement must ensure that the appropriate publications are made to comply with the Local Government Transparency Requirements (and each Service Director will notify the Head of Procurement of any expenditure above £500; also see CPR 7.3 above).
- 7.7 The Service Director must keep a written record of the reasons for using a negotiated procedure

RULE 8 - INCOME CONTRACTS & CONCESSIONS

8.1 CPR 8 Includes nil value and disposal contracts but excludes Land.

8.2 CPRs 8.2 to 8.8 apply when the Council intends to derive income from:-

- 8.2.1 the disposal of property (other than Land);
- 8.2.2 the sale of a right to exploit a business opportunity;
- 8.2.3 the operation of business activity.

8.3 Where the Council is proposing to enter into an Income Contract at manifestly less than market value where the market value is estimated at £1,000 or more, the Head of Internal Audit must be

consulted and they will decide whether this amounts to a Grant (and so FPR 4 applies instead of CPR 8).

The disposal of an asset

8.4 The procedure for the disposal of assets is:-

- 8.4.1 assets valued up to £25,000 must be disposed of by a method chosen by the Service Director and a written justification of the choice retained;
- 8.4.2 assets valued above £25,000 must be disposed of following public notice either by open Tender process, closed Tender process involving at least 3 prospective purchasers or public auction. The use of the Council web site is permissible for this purpose.

8.5 Leased assets must be disposed of only in accordance with the instruction of the lessor.

The sale of a right to exploit a business opportunity

8.6 The letting of rights to exploit a business opportunity for the contractor's own benefit (for example, advertisement space on Council Land) (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process asset out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as state aid.

- 8.6.1 A business opportunity contract that will not generate income in excess of £25,000 over the duration of the contract may be sourced by any reasonable means and should be arranged and undertaken by the Service Director responsible for the activity.
- 8.6.2 The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £25,000.

The operation of business activity, beyond that normally undertaken by a local authority.

- 8.7 If an Income Contract is intended to be or become profitable or be commercial in nature, advice must be obtained from the Solicitor to the Council.
- 8.8 If an Income Contract has any potential to distort the relevant market advice must be obtained from the Solicitor to the Council.

Concession Contracts

- 8.9 Concession contracts for works or services are a type of Supply contract and the procurement of all Concessions shall follow the competitive and contracting requirements in these CPRs for Supplies.
- 8.10 Concession contracts for works or services above UK thresholds or more are subject to the Public Concessions Regulations 2016 and will be subject to such additional procurement process requirement(s) as the Head of Procurement feels are necessary to comply with these Regulations.

Valuation

8.11 The value of a Concession contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the Supplies which are the object of the Concession contract and for any ancillary Supplies.

8.12 The value of an Income Contracts is the gross income generated by the Council as a result of the

rights granted, or goods, works or services supplied by the Council.

8.13 When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account:-

8.13.1 the value of any form of option and any extension of the duration of the contract;

8.13.2 revenue from the payment of fees and fines by the users of the works or services or public other than those collected on behalf of the Council;

8.13.3 payments or any other financial advantages, in any form, from the Council or any other public authority to the contractor;

8.13.4 the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;

8.13.5 revenue from sales of any assets which are part of the contract;

8.13.6 the value of all the supplies and services that are made available to the contractor by the Council, provided that they are necessary for executing the works or providing the services;

8.13.7 any prizes or payments to candidates or tenderers.

RULE 9 - LAND

9.1 Procurement of Land will generally be by the means described in this CPR 9. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the Solicitor to the Council authorises other nominated officers to deal with tenancies or licences for specific purposes.

9.2 The Head of Corporate Property Management (and any other Director authorised so to do) will arrange the acquisition or disposal of estates or interests in land (including any buildings erected on it) either pursuant to the authority delegated to him by a Service Director in accordance with Part 3 (Section F) of the Constitution or, in the case of a decision made by Cabinet then in accordance with the authority delegated to him from the Cabinet.

9.3 Where any proposed land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between the Head of Corporate Property Management and the Solicitor to the Council, and details of the process leading to the transaction must be recorded, and the circumstances reported to Cabinet either for information, if falling within the delegated authority of officers, or in order to secure the relevant authority to give effect to the transaction.

9.4 Where Land is sold at a public auction, the Head of Corporate Property Management must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) for consideration alongside the bids submitted or made. If a successful bid is less than the reserve price then the Head of Corporate Property Management may accept a lower bid provided that such lower bid is not less than 10% below the professional valuation of the reserve price.

RULE 10 – EXECUTING CONTRACTS

Supplies

10.1 A Contract may only be awarded where the Service Director has sufficient approved budget to meet the first year costs and is satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost through the anticipated life of the Contract.

may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.

General

- 10.10 The Solicitor to the Council is entitled to sign any agreement in any way related to Procurement, Supplies, Concessions or Income Contracts or any security instrument (regardless of whether another officer including the Chief Executive may sign such things), subject to CPR 10.5 and provided that this is not subject to any contrary direction from the Council or Cabinet.
- 10.11 The Solicitor to the Council may authorise an external property auctioneer to sign as agent for the Council, a Sale Memorandum to record the property price and terms of conditions of sale.

RULE 11 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS

- 11.1 It is recognised that during the term of a Contract, modifications may be proposed, which if adopted would result in additional Works, Goods and/or Services, which were not considered when the original procurement took place, being procured or otherwise would alter the overall nature of the Contract. There are significant limitations upon the Council being able to make such modifications, especially where the Regulations apply. When considering a variation, modification or the termination of an existing Contract, advice must be sought in advance from the Corporate Procurement Service and with the Solicitor to the Council.
- 11.2 A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, but with prior consultation with the Head of Procurement if alternative Supplies would be required.
- 11.3 A Service Director, in consultation with the Solicitor to the Council, has the power to terminate any contract in the event of any breach of contract justifying termination, where in the opinion of these officers no other remedy is appropriate. Where the financial implications of a decision to terminate a contract exceed, or may exceed £100,000, the reason for termination and any consequences must be reported to the next meeting of the Cabinet.
- 11.4 The Solicitor to the Council may release any bond held by the Council, on request from the Head of Procurement.
- 11.5 The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Solicitor to the Council accept such proposed sums.
- 11.6 Service Directors may vary contracts by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract.
- 11.7 Any variation with a value above £25,000 to a contract which cannot be fulfilled by following CPR 11.6 must be subject to the approval of the Head of Procurement.
- 11.8 Any variation to a contract which cannot be fulfilled by following CPR 11.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.
- 11.9 Subject to approval of the Solicitor to the Council and the Head of Procurement contracts may be novated to another Supplier where permitted by an express provision to novate in the terms and conditions of contract; or in the event of a successor due to the original Supplier carrying out a corporate restructuring, merger, acquisition, takeover or insolvency. The new Supplier must comply with the requirements under the original contract.

RULE 12 - MISCELLANEOUS

- 12.1 A Special Purpose Vehicle (as a limited liability company or otherwise) to be wholly or partially owned or controlled by the Council, will only be formed or joined on the approval of the Cabinet, following a detailed evaluation by the Solicitor to the Council and the Chief Finance Officer. This does not apply to any purchase of shares or similar for the purpose of investment.

Approved by Council
Apply from 25th May 2023

DEFINITIONS

Award Criteria	Relate directly to the goods, services or works to be provided. Award criteria evaluate supplier's offers made in relation to fulfilling the Council's requirements for the Supply, in particular the Specification.
Chief Executive	The Chief Executive is the head of the Council's paid staff and its principal adviser on policy matters and leads the discharge of Council strategy and responsibilities.
Chief Finance Officer	Means the Service Director – Finance
Commissioning	The relationship between commissioning and procurement is described in the diagram in Appendix 3.
Concession	Is where a Supplier is remunerated mostly through being permitted to run and exploit the work or service and is exposed to a potential loss on its investment.
Conflict of Interest	Means any interest outside of the Council which may appear to an objective bystander to affect the fair judgment of an Officer or Member or any other person acting on the Council's behalf in the Procurement of a Supply or the disposal of property (including Land). The concept of conflict of interest shall at least cover any situation where the relevant person has, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a Procurement or sale procedure.
Contract	Means any form of contract, agreement for the supply of any works, goods, or services that the Council enters into (whether by purchase, lease, hire or any other arrangement).
Contract Procedure Rules (CPRs)	Means these Contract Procedure Rules.
Data Protection Legislation	Means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority.

Dynamic Purchasing System (DPS)	Is a procurement tool available for contracts for works, services and goods commonly available on the market. It has its own specific set of requirements(as set out in Regulation 34 of the Public Contracts Regulations 2015); for example, it must be run as a completely electronic process, must remain open to new entrants, all suppliers on the relevant category in the Dynamic Purchasing System must be invited to quote for all contracts and it should be set up using the restricted procedure.
eProcurement Portal (YORtender)	The on-line Supplier and Contract Management System used by the Council to operate e-tenders and for the online management of suppliers and contracts and to advertise contracts. Currently available at https://yortender.eu-supply.com
Financial Ratio	Is a pre-set method of determining a supplier's financial standing, such as turnover, net asset value, and profitability.
Find A Tender Service (FTS)	"Find a Tender" means the UK e-notification service where notices for new procurements are required to be published;
Financial Procedure Rules (FPRs)	The Financial Procedure Rules.
Framework Agreement	Means an agreement between a Contracting Authority and one or more Suppliers which operates as a Procurement tool through which contracts for Supplies can be sourced. Framework Agreements which deal with Supplies that are above, or aggregate above, the UK Threshold are subject to the Public Procurement Rules.They set out the terms for the Supply (often including the price) and the method for calling off orders. 'Framework' and 'Framework Suppliers' shall be construed accordingly.
Head of Corporate Property Management	Means the officer appointed by the Service Director who is responsible for corporate property management functions.
Head of Internal Audit	Means the officer appointed by the Chief Executive who is responsible for Internal audit.
Head of Procurement	Means the officer appointed by the Service Director – Legal, Governance & Commissioning who is responsible for Corporate Procurement.
Income Contract	An Income Contract is one where the main object of the contract is that the Council does something in relation to a Council asset ⁴ and includes situations where the Council does so at nil value (subject to this not being a Grant – see Appendix 4 Appendix 4).
Land	"Land" includes any interest in land (including buildings) and any easement or right in or over land
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as ⁵ the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.

⁴ For contracts where the Council provides services to another body, please refer to FPRs 20.4-20.6

⁵ The words "including", "include", "for example", "e.g.", and "such as" in these CPRs indicate examples and are not intended to be exhaustive. [Appendix 4](#)Appendix 4

Official Council Order	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Solicitor to the Council whether attached electronically or by paper to an order for Supplies.
Personal Data	Means data which relate to a living individual who can be identified— (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual (e.g. references) and any indication of the intentions of the data controller or any other person in respect of the individual.
Procurement	The purchase, contract hire, lease, rental ⁶ or any other form of acquisition which results in a contract for Supplies where the Council is the buyer (therefore, in the context of the CPR, this does not include the Council providing the Supply to itself or gifts). Procurement also includes the establishment of Standing Lists, Framework Agreements and Dynamic Purchasing Systems. 'Procurement' and 'Procured' shall be construed accordingly.
Public Procurement Rules	The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations).
Reasonable Means	Methods of selection or advertising which reflect reasonable trade practice. This might include informal briefs, supplier written Tenders or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet.
Senior Manager	Means an officer who reports directly to a Head of Service.
Service	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.
Service Director	Means the most senior officer responsible for the day to day functions of each Service.
Social Value	Means The Public Services (Social Value) Act 2012 ('Social Value Act') that requires the Council to consider how a procurement over the relevant thresholds could improve the economic, social and environmental wellbeing of the district
Solicitor to the Council	Means the Service Director – Legal, Governance & Commissioning in the role as legal advisor to the Council.
Special Purpose Vehicle	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with

limiting

⁶ Note: Contract hire, lease and rental agreements require the specific advance approval of the Director of Resources and their delegate [See the FPR].

	others to provide specific Supplies to the Council.
Specification	A written document detailing the Council's requirements. This can include things such as definitions, acceptance test methods, material requirements or characteristics, drawings, plans, certifications of compliance with standards, workmanship, data security measures, quality control including performance testing and KPIs, completion, delivery, safety, timing, key personnel qualities, communication requirements, returns policies and tolerances.
Standing List	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
Suitability Criteria	Relate to the assessment or vetting of suppliers' general capability, fidelity, skill, competence, etc. to carry out the contract. 'Suitability' shall be interpreted accordingly.
Supplier	Any person, partnership, company, or other organisation, which provides or contractually offers to provide any Supply to the Council or on behalf of the Council.
Supply / Supplies	Means the supply of any works, goods, or services; being provided, or to be provided, to or on behalf of the Council (whether by purchase, lease, hire or any other arrangement).
Tender	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
UK Threshold	The financial threshold from time to time at which the UK Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1 .
Value for Money	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.
Whole Life Costing Approach	Is an approach which addresses all the elements of a Supply over its life cycle such as:- <ul style="list-style-type: none"> • costs relating to acquisition, • costs of use, such as consumption of energy and other resources, • maintenance costs, • end of life costs, such as collection and recycling costs which can be used to produce a spend profile of the Supply over its anticipated lifespan.

Relevant Thresholds in Public Contract Regulations inclusive of VAT

[Microsoft Word - Procurement Policy Note 10:21 - New Thresholds Values and Inclusion of VAT in Contract Estimates.docx \(publishing.service.gov.uk\)](#)

Supply and service contracts	£213,477
Light Touch Regime Contracts (Annex XIV)	£663,540
Works contracts	£5,336,937
Concession contracts	£5,336,937

- ◆ These are current the values for the purposes of these CPRs. The threshold values to be used will be those applicable at the commencement of the procurement process. The thresholds are updated every two years with the next update due on the 1 January 2024

Appendix 2

Information to be Reported to the Head of Procurement (RULE 7 – RECORD KEEPING AND REPORTING)

	Information	When
A.	Details of all contracts awarded for Supplies of £5,000 or above following a competitive process including the name of the Supplier, and amount of the Tender and if the chosen supplier was not the cheapest, then the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.	When Requested
B.	Details of all contracts awarded for Supplies of £100,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.	When Requested
C.	Details of all contracts awarded for supplies of £5,000 or above which a Service Director considered to be exempt from the competitive requirements by virtue, including the reason for the exemption.	When Requested
D.	Contracts with a value of £5,000 or more see CPR, with the following information: 1. reference number 2. title of agreement 3. Contract Manager; name of person responsible for managing the contract 4. description of the goods and/or services being provided 5. Supplier name and details 6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract) 7. start, end and review dates, including permitted extensions 8. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and 9. whether or not the Supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number 10. whether or not the contract involves processing personal data	In All Cases on Contract Award
E.	All other information necessary to enable compliance with the Council's obligations under legislation and regulation to publish data about its contractual arrangements and payments.	In All Cases on Request
F.	Copies of Regulation 84 reports	All cases where the Public Procurement Rules apply on Contract Award

Appendix 3

Relationship between Commissioning and Procurement



Appendix 4

How to decide if a procurement or grant is applicable

- The Council obtains supplies of goods, works, and services from external suppliers and normally uses competitive processes to do so in accordance with the Contract Procedure Rules (CPRs)
- It is always appropriate to use procurement to obtain **goods** and **works**, and this is the usual preference to obtain **services**.
- There may though be some occasions when a grant may be an appropriate way to achieve the priorities of the Council. The table below aims to provide a guide to support commissioners to think about whether a grant or procurement is the most appropriate method in obtaining and/or supporting a particular **service**.

1	If you are seeking to obtain goods or works you should <u>procure as per CPRs</u>
2	<p>If you are seeking to obtain a service and can answer YES to ANY of the following, you should <u>procure as per CPRs</u></p> <ul style="list-style-type: none">• Is there an intention to specify service standards and outputs required?• Will payment be reduced/alterd if service standards are not met, or additional payment be made if there are claims for additional costs incurred?• Are there opportunities for change control?• Is there a contractual obligation on both parties?• Is there an intention to have active management of the provider?
3	If you are seeking to use a supplier that is a commercial i.e., profitmaking organisation this would generally require procurement as per CPRs. If the organisation is a genuine “not for profit” organization or charity you should discuss further with the Procurement team.
4	<p>If you are seeking a service and can answer YES to ANY of the following, you can consider use of a <u>Grant as per FPRs</u></p> <ul style="list-style-type: none">• Is there an intention to broadly support an activity, with expected outcomes, but no clear obligations on the provider?• Is the intention to support parts of an existing activity?• Is the intention to provide a subsidy to existing service users• Is the council’s only ultimate remedy to withhold payment of a next phase of grant, seek clawback or to refuse to fund future activity by the provider?• Is the intention to meet a stated set of costs, and an intention that the provider should not profit from the support?

Important notes/advice

- Always remember to check with the Procurement team if unsure.
- A competition will generally be appropriate to select which parties are entitled to receive grants.
- Grants still require a grant agreement.
- Grants which involve procurement by a third party require use of competition in selection of their suppliers (broadly aligning with council CPRs)

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Name of meeting: Annual Council

Date: 24th May 2023

Title of report: Proposed Revisions to Financial Procedure Rules

Purpose of report; To provide information on proposed changes to Financial Procedure Rules for the municipal year 2023/24

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name	J. Muscroft Service Director - Legal Governance and Commissioning
Is it also signed off by the Service Director for Finance, IT & Transactional Services?	E. Croston Service Director- Finance
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Yes
Cabinet member portfolio	Not applicable

Electoral wards affected: All

Ward councillors consulted: Not applicable

Have you considered GDPR; Yes

Public

1. Summary

- 1.1 This report sets out information on proposed changes to Financial Procedure Rules for the year 2023/24. These were considered by Corporate Governance & Audit Committee at its meeting on 12th May 2023 and approved by them (with a minor amendment) to recommend to Annual Council.
- 1.2 There are proposed changes to the revenue and capital budgeting and budgetary control arrangements and minor proposed changes regarding income, and grants. The sections affected are most of FPR2, a part of FPR3 and the first clause of FPR 11, and later clauses of section 22

2. Information required to take a decision

- 2.1 All the text changes are shown in Appendix 1 by a table showing the as now and as proposed against each paragraph. Corporate Governance & Audit Committee requested some very minor changes to wording in the introductory part of section 2 to recognise capital investment.

- 2.2 The changes proposed in this report are intended to;
- (a) Enable the implementation of revenue budget changes in line with the longer-term medium term financial plan (“MTFP”), rather than addressing these annually only, starting from the approval of the next years budget (FPR section 2)
 - (b) Enable greater flexibility in capital planning (FPR section3), and to clarify arrangements for appointment of contractors on a provisional basis (usually pending completion of a final project plan and cost)
 - (c) Enable greater flexibility in changing fees and charges, or setting new charges (FPR section 11)
 - (d) Additional reference recognising the requirements of the new Subsidy Control Act 2022.

3. Implications for the Council

- 3.1 **Working with People** – None directly
- 3.2 **Working with Partners** – None directly
- 3.3 **Place Based Working** – None directly
- 3.4 **Improving outcomes for children**– None directly
- 3.5 **Climate change and air quality**- None directly
- 3.6 **Financial Implications for the people living or working in Kirklees** – None directly
- 3.7 **Other (e.g., Legal/Financial or Human Resources)**- Although each of the sub categorisations above suggest no direct implications, these Procedure Rules cover all aspects of the councils operations.

4. Consultees and their opinions

- 4.1 The Chief Finance Officer, and relevant Heads of Service, have been involved in the drafting of these proposals.

5. Next steps & Timelines

- 5.1 If approved by Annual Council the changes to the Financial Procedure Rules would be implemented from 1st June 2023.

6. Officer recommendations and reasons

- 6.1 Annual Council is asked to approve the changes to Financial Procedure rules as shown in the attached appendix.
- 6.2 That authority be delegated to Monitoring Officer to make any consequential changes to Financial Policies and/or constitutional rules.

7. Cabinet portfolio holder recommendation

- 7.1 Not applicable.

8. Contact officer

Martin Dearnley, Head of Risk (01484 221000; x 73672)

9. Background Papers and History of Decisions

The attached document includes the proposed changes. The 2022 version of FPRs is available as a part of the council constitution.

10. Service Director responsible

Service Director- Legal Governance and Commissioning
Service Director- Finance.

Appendix 1 – proposed amendments shown by track change
Appendix 2 – proposed amended text document

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APPENDIX 1

FINANCIAL PROCEDURE RULES	
CURRENT (MAY 2022)	POSSIBLE AMENDED TEXT
2. REVENUE BUDGET PREPARATION AND MANAGEMENT	
<p>Responsibilities</p> <p>The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Strategic Directorate outcomes to provides the overarching framework for the determination of the Council's MTFP within available resources.</p> <p>The Council's Medium Term Financial Plan (MTFP) comprising a multi-year General Fund Revenue Budget Plan which will normally cover a period of up to 5 years (including the revenue consequences from the Capital Investment Plan), a multi-year capital budget plan of up to 5 years and setting the level of Council Tax for the following financial year.</p>	<p>Responsibilities</p> <p>The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Strategic Directorate outcomes to provides the overarching framework for the determination of the Council's Medium Term Financial Plan (MTFP) within available resources.</p> <p>The Council's MTFP includes the following:</p> <ul style="list-style-type: none"> i) an overall revenue balanced budget position for the following financial year; both for the general fund and the ring-fenced Housing Revenue Account (HRA), including <u>the Capital Investment Plan, and</u> making provision for the revenue consequences from the Capital Investment Plan as appropriate. ii) the level of Council Tax for the following financial year iii) general fund and HRA revenue spend and funding forecasts-, <u>including a draft Capital Investment Plan,</u> beyond the next financial year; for a period of up to 4 years; including the revenue consequences from the multi-year capital investment plan over the same period; and

<p>2.1 The Cabinet is responsible for recommending to the Council a Medium-Term Financial Plan comprising a multi-year General Fund Revenue Budget Plan and Capital Investment Plan and for implementing it when determined.</p> <p>2.2 The Cabinet is responsible for approving the setting of Council Tenant Rents, and other rents and service charges within the Housing Revenue Account (HRA), each year, within the scope of existing HRA rent and charging policies.</p>	<p>iv) an overall longer term balanced budget forecast for the HRA MTFP in the context of the ring-fenced 30-year HRA business plan</p> <p>2.1 The Cabinet is responsible for recommending a Medium-Term Financial Plan (MTFP) as set out above to Budget Council, to enable the Council to set a balanced budget for both the general fund and HRA for the forthcoming financial year. The 1992 Local Government Finance Act, Section 30 (6) states that that the billing Authority must set an amount of Council Tax before 11th March in the financial year preceding that for which it is set. To comply with this legal requirement, this effectively means that the annual date of Budget Council should be no later than 10th March each year.</p> <p>2.1A The Cabinet is responsible for implementing the Budget Council approved MTFP for the forthcoming financial year.</p> <p>2.1B On the advice of the Chief Finance Officer, Cabinet can recommend amendments to the MTFP to any meeting of Council, also recommending any related changes to the Council Plan, strategic objectives or actions.</p> <p>2.2 not amended</p>
<p>Budget Preparation</p> <p>2.3 The Cabinet will submit no later than the October meeting of the Council each year a provisional budget strategy, for a period of up to 5 years. The starting point will be the existing multi-year plans rolled forward from the previous year, including a high-level review</p>	<p>Budget Preparation</p> <p>2.3 not amended</p>

of Council funding and spend assumptions. Any resultant gap between funding and spend forecasts will inform target spending controls over the new MTFP period.	
<p>2.4 The Chief Finance Officer is responsible for establishing budget procedures, including determination of the following:</p> <ul style="list-style-type: none"> i) target spending controls for the Council budget over the MTFP, and their allocation to Strategic Directors, as appropriate, ii) the format for budget documentation, iii) a corporate budget timetable, and iv) to report on any amendments put forward as part of the Council's budget process 	2.4 not amended
2.5 The provisional budget strategy will include arrangements for wider public and key stakeholder engagement on budget options being considered.	2.5 not amended.
2.6 Strategic Directors will produce draft budget proposals to meet target spending controls for Council budgets over the MTFP, in accordance with budget procedures and the annual budget timetable as set out by the Chief Finance Officer. These draft budget proposals will show how resources are to be allocated across activities, taking into account any service changes, performance targets, and the specific requirements of any relevant legislation, including integrated impact assessments, in formulating budget options for Cabinet consideration.	2.6 not amended
2.7 The Cabinet will consider these proposals in detail and make its recommendations to the Council at least 14 days before the date	2.7 At least 14 days before the date set for the meeting of the Council which will determine the Council's Budget for the next financial year, the Cabinet will make its recommendations to the

<p>set for the meeting of the Council which will determine the Council's Budget for the next financial year.</p> <p>2.8 The Chief Finance Officer will advise the Cabinet and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need for contingency budgets, and on the risks involved in the forecasts of spending levels and income. The annual budget report must make reference to all matters required by legislation or appropriate professional guidance.</p>	<p>Council with regards to the Annual Revenue Budget, the Capital Plan, and the consequent rates for Council Tax, and the updated MTFP.</p> <p>2.8 not amended</p>
<p>Budget Management</p> <p>2.9 The Cabinet is responsible for implementing the Council Plan within the resources allocated in the Revenue Budget. The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.</p> <p>2.10 The Chief Finance Officer will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year. At least a summary of this information will be published on the council website.</p> <p>2.11 The Chief Finance Officer will determine which budgets are "controllable" by Strategic Directors and will allocate the specific budgets that each Strategic Director has responsibility to manage.</p> <p>2.12 These budgets will normally align with the Strategic Directorate structure of the Council but may also reflect the cross</p>	<p>Budget Management</p> <p>2.9 The Cabinet is responsible for implementing the Council Plan within the resources allocated in the Revenue Budget, and MTFP</p> <p>The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.</p> <p>2.10 not amended</p> <p>2.11 not amended.</p> <p>2.12 not amended</p>

<p>council (transformational) structure of the Council. The Chief Finance Officer will determine which budgets may be considered together for the purposes of delegated virement authority (per FPR 2.21 to 2.25 below).</p> <p>2.13 Service Directors are responsible for managing controllable budgets within their delegated authority and should exercise proper budgetary control in order to achieve Council Plan and service objectives.</p> <p>2.14 Service Directors are authorised to incur any expenditure included in the approved revenue budget, as amended by any virement including obtaining and accepting quotations and providing grants and loans, subject to other requirements of CPRs and FPRs.</p> <p>2.15 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Strategic Director and the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.</p> <p>2.16 Where a Service Director is reporting a projected overspend of more than £500,000 on an activity that cannot be addressed</p>	<p>2.13 not amended</p> <p>2.14 not amended.</p> <p>2.15 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Strategic Director and the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.</p> <p>2.15A A Strategic Director (in consultation with the relevant Portfolio Holder) is authorised to make such changes to service provision as are necessary; providing the proposed change is consistent with the approved Council Plan, service objectives and Council policy, to achieve spending within the approved annual budget or MTFP (as adjusted by any agreed virements)</p> <p>2.16 Where a Service Director is reporting a projected overspend on an activity that cannot be addressed either through budget</p>
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through budget virement, this will be highlighted by the Chief Finance Officer as part of the report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year, setting out the reasons for the overspending and management options for eliminating or reducing the overspending.

The Cabinet is responsible for reviewing management options and for recommending such further steps as are necessary to align activity with resources.

2.17 The Chief Finance Officer is accountable for all central budgets, which will be managed in the same way as activity budgets.

2.18 The Chief Finance Officer has delegated authority to review the requirement for existing Council Provisions and Earmarked Reserves, in-year, and to approve the proposed drawdown of earmarked reserves in-year in consultation with the relevant Strategic Director, ensuring that the proposed drawdowns are appropriate for the stated purpose of the earmarked reserve. Earmarked Reserves drawdowns in-year will also form part of the overall report to Cabinet on a quarterly basis as set out at FPR 2.10. The Chief Finance Officer will also report any new Reserves or Provisions requirements to Cabinet for approval.

2.19 Service Directors should delegate authority to commit budgets to the appropriate level of management, make arrangements to set out clearly the extent of authority of managers and review the performance of managers in managing these budgets.

virement or other in-year changes to service provision, this will be highlighted in a manner prescribed by the Chief Finance Officer as part of the report to the Cabinet on the overall management of the Revenue Budget on at least a quarterly basis through the year. The reasons for the overspending and potential management options for eliminating or reducing the overspending will be included in this report. The Cabinet is responsible for determining such further steps as are necessary to align activity consistent with the resources allocated by the MTFP

2.17 not amended

2.18 not amended.

2.19 Service Directors should delegate authority to commit budgets to the appropriate level of management, set out clearly the extent of authority and review the performance of managers in managing these budgets.

<p>Virements</p> <p>2.20 Service Directors are authorised to transfer resources within an activity budget without limit providing the corporate objectives for the activity is not changed in a material way.</p> <p>2.21 Virement which is associated with a change in the level of service must be approved by the Cabinet.</p> <p>2.22 Virement is not permitted between HRA funded and General Fund funding streams</p> <p>2.23 Strategic Directors, in consultation with the appropriate executive member(s), are authorised to transfer resources between controllable activity budgets within the Strategic Directorate budget up to £1,000,000, cumulatively in any one year.</p> <p>2.24The Cabinet is authorised to transfer resources (undertake a Virement) of more than £1,000,000 between activity budgets, subject only to the cumulative Virements on any one Strategic Directorate not exceeding £2m in any year. Cumulative Virements above these thresholds requires Council approval.</p> <p>2.25 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if:</p>	<p>Virements</p> <p>2.20 not amended</p> <p>2.21 Virement which results in a change in the level of service must be addressed as per FPR 2.15A.</p> <p>2.22 not amended</p> <p>2. 23 Strategic Directors, in consultation with the appropriate Portfolio Holder (s), are authorised to transfer resources between controllable activity budgets within the Strategic Directorate budget up to £1,000,000, cumulatively in any one year.</p> <p>2.24The Cabinet is authorised to transfer resources (undertake a Virement) without limit for the purposes of achieving budget targets and obligations</p> <p>2.25 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if there is explicit prior year approval as</p>

<p>(a) there is explicit prior year approval as part of the approved budget plans of the Council, for the following financial year; or</p> <p>(b) Service Directors can identify, from the revenue budget (up to £500,000 cumulative virement in any one financial year) to add additional resources to the capital plan, in respect of approved programmes and projects, and subject to approval by the Executive Team and the Chief Finance Officer; and compliance with FPR 3.17 and 3.18</p>	<p>part of the approved budget plans of the Council, for the following financial year</p>
<p>2.26 Virement is specifically not allowed where the transfer of resources is from budgets for capital charges, Council support functions or statutory taxes and levies.</p>	<p>2.26 not amended</p>
<p>2.27 All Virements will be recorded in a way prescribed by the Chief Finance Officer who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet.</p>	<p>2.27 not amended</p>
<p>No changes are recommended to sections 2.28 to 2.37</p>	
<p>3 CAPITAL INVESTMENT PLAN PREPARATION</p>	
<p>No changes are recommended to sections 3.1 to 3.9</p>	
<p>Plan Management</p> <p>3.10 Where the Council has allocated resources to a programme area, the Cabinet will determine the allocation of resources from the programme area to named projects.</p> <p>3.11 The Cabinet is authorised to (1) Transfer resources within a programme area without restrictions. (2) Transfer resources</p>	<p>3.10 not amended</p>

between any project or programme area up to a maximum of £2,000,000 in any financial year. (3) Transfer resources within programme areas between any year within the approved capital plan, subject to compliance with 3.14 and 3.16

3.12 Service Directors are authorised to transfer resources within a programme area up to a maximum of £1,000,000 in any financial year, subject to notification to the relevant Cabinet Member and appropriate Ward Members.

3.13 The Cabinet may delegate its authority under Financial Procedure Rule 3.11 to Service Directors. This is to be agreed on an annual basis.

3.14 Transfers under 3.10 to 3.13 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream because of the changes.

3.15 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if (a) there is explicit prior year approval as part of the approved budget plans of the Council for the following financial year; or (b) Service Directors can identify from the revenue budget (up to £500,000 cumulative virement in any one financial year) to add additional resources to the capital plan, in respect of approved programmes and projects, but subject to approval by the

3.11 The Cabinet is authorised to transfer resources without restrictions. including between any year, within the approved capital plan, subject to compliance with 3.14 and 3.16

3.12 Service Directors are authorised to (1) Transfer resources within a programme area without restrictions. (2) Transfer resources between any project or programme area up to a maximum of £2,000,000 in any financial year. (3) Transfer resources within programme areas between any year within the approved capital plan, subject to compliance with 3.14 and 3.16 subject to notification to the relevant Cabinet Member and appropriate Ward Members.

3.13 no longer required

3. 14 Transfers under 3.10 to 3.12 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream because of the changes.

3.15 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if there is explicit prior year approval as part of the approved budget plans of the Council for the following financial year.

<p>Executive Team and the Chief Finance Officer; and compliance with FPR 3.19 and 3.20.</p> <p>3.16 Transfer of resources must recognise funding arrangements. Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project (or programme) to the extent that it is funded by a project (or programme) specific third-party grant.</p> <p>3. 17 Any decision on resource allocation by Cabinet, Strategic and Service Directors (3.11 to 3.16) must recognise any policy decisions of Council. Any decision on resource allocation by Strategic and Service Directors (3.12-3.16) must recognise any policy decisions of Cabinet.</p> <p>3.18 The Chief Finance Officer will report to the Cabinet on the overall management of the Capital Investment Plan on a quarterly basis through the year (including the reporting of virements in respect of transfer of resources within or between programmes. The Cabinet will provide summary monitoring information to the Council at least twice per year</p>	<p>3.16 Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project (or programme) to the extent that it is funded by a project (or programme) specific third-party grant.</p> <p>3.17 not amended</p> <p>3.18 not amended</p>
<p>Initiating & Progressing Investment Decisions</p> <p>3.19 The Chief Executive will establish arrangements, delegated as appropriate to a lead Strategic Director in conjunction with the Chief Finance Officer, to ensure effective deployment of capital resources, ensuring that these align with council priorities and including the preparation of business cases and/or option appraisals designed to ensure project effectiveness and value for money, and to assist</p>	<p>3.19 The Chief Executive will establish arrangements, delegated as appropriate to a lead Strategic Director in conjunction with the Chief Finance Officer, to ensure effective deployment of capital resources, ensuring that these align with council priorities and including the preparation of business cases and/or option appraisals designed to ensure project effectiveness and value for money, and to assist</p>

Council to determine its Capital Investment Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purposes the Strategic Director and Chief Finance Officer may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source.

3.20 A capital outlay report will be prepared for each specific project. It will be signed off by the relevant programme manager and approved by the Chief Finance Officer, who will grant approval to each specific project when satisfied that:

a) The project appears on a schedule of named projects (approved by Council or Cabinet, or by officers under a scheme approved by Cabinet).

b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan.

OR

Where the total costs of a project exceed the amount approved in the Capital Investment Plan the appropriate additional resources has been approved; (3.10 to 3.16),

c) Any necessary external approval has been obtained.

d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.

Council to determine its Capital Investment Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purposes the Strategic Director and Chief Finance Officer may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source. This can include payment to a contractor for initial project scoping and design, provided that such costs are covered by an identified funding source.

3.20 A capital outlay report will be prepared for each specific project. It will be signed off by the relevant programme manager and approved by the Chief Finance Officer, who will grant approval to each specific project when satisfied that:

a) The project appears on a schedule of named projects (approved by Council or Cabinet, or by officers under a scheme approved by Cabinet).

b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan.

OR

Where the total costs of a project exceed the amount approved in the Capital Investment Plan the appropriate additional resources has been approved; (3.10 to 3.16),

c) Any necessary external approval has been obtained.

d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.

<p>3.21 Service Directors have authority to progress projects once the approvals at 3.20 have been given. They must ensure compliance also with Contract Procedure Rules.</p> <p>3.22 Strategic Directors are responsible for post implementation reviews of capital projects to assess the outcome of investment programmes and projects, and the extent to which these achieved the planned objectives set out in the business case, this assessment to be used in summary to Cabinet and Council as a part of the overall financial reporting and monitoring process.</p> <p>3.23 The Chief Finance Officer is permitted to make variations to capital funding as necessary in order to ensure that the council funding position is optimised, subject to reporting such actions to Cabinet and Council.</p>	<p>The Chief Finance Officer may issue a partial approval (for example to cover a design stage) provided that there are sufficient resources to cover that stage. The Solicitor to the Council may only issue a contract that aligns with this authorisation.</p> <p>3.21 not amended</p> <p>3.22 not amended</p> <p>3.23 not amended</p>
<p>Complex Projects</p> <p>3.24 Cabinet may delegate decisions in relation to complex projects or schemes of projects (which might relate to expenditure, income, the creation of subsidiary or related organisations) to the Chief Executive (who may further delegate decisions to a Strategic Director, or as appropriate the Chief Finance Officer or Service Director Legal, Governance & Commissioning. The Chief Finance Officer and Service Director Legal, Governance & Commissioning must be consulted on any decision made by such a delegated party.</p>	<p>3.24 Any capital project which involves partnership arrangements, or investment in limited companies or other separate entities must be approved by Cabinet.</p> <p>3.24A The reporting of the capital position in such cases must follow a similar arrangement to any direct asset investment</p>

No changes are recommended to sections 3.25 and 3.26	
11. INCOME	
<p>11.1 Fees and charges must be reviewed at least once per annum. Service Directors have authority to amend fees and charges to achieve budget targets and in line with the annual budget strategy and are permitted to freeze or raise charges by an amount up to the equivalent to the consumer price index. Changes to charges may also reflect reasonable rounding to relevant prices which might in some cases mean that certain prices rise by more than the consumer price index or the budget strategy</p> <p>Service Directors may make amendments to existing Fees and Charges during the financial year to account for changes in legislation, market conditions or to support the local communities or local business following the completion of an appropriate business case, in consultation with the appropriate Strategic Director, relevant Portfolio Holder and Chief Finance Officer.</p> <p>Any proposal to implement new fees or charges must be approved by Cabinet (unless the making and quantum of the charge is a statutory obligation). See also Contract Procedure Rules.</p>	<p>11.1 Fees and charges must be reviewed at least once per annum. Service Directors have authority to implement new charges and amend existing fees and charges to achieve budget targets, to account for changes in legislation and market conditions, in consultation with the appropriate Strategic Director, relevant Portfolio Holder and Chief Finance Officer.</p>
No changes are proposed to sections 11.2 to 11.17	
21. GRANTS TO AND FROM THE COUNCIL AND LOANS FROM THE COUNCIL	
Grants and Loans to Other Organisations	Grants and Loans to Other Organisations
22.17 When offering grants or other forms of assistance to entities that operate on a commercial basis Service Directors must ensure	22.17 When offering grants or other forms of assistance to entities that operate on a commercial basis Service Directors must ensure

<p>that no assistance will infringe -applicable national or international Procurement or State Aid requirements. In the event of any doubt about the matter advice must be sought from the Service Director Legal Governance & Commissioning.</p> <p>22.18 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code.</p>	<p>that no assistance will infringe -applicable national or international Procurement or State Aid or Subsidy Control Act 2022 requirements. In the event of any doubt about the matter advice must be sought from the Service Director Legal Governance & Commissioning.</p> <p>22.18 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code. Details of any subsidy under State aid rules or the Subsidy Control Act 2022 must be published as required by law.</p>
No changes are proposed to sections 22.1 to 22.16, or 22.19	

No changes are proposed this year to any other FPR section not listed above

APPENDIX 2

FINANCIAL PROCEDURE RULES	
CURRENT (MAY 2022)	POSSIBLE AMENDED TEXT
2. REVENUE BUDGET PREPARATION AND MANAGEMENT	
<p>Responsibilities</p> <p>The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Strategic Directorate outcomes to provides the overarching framework for the determination of the Council's MTFP within available resources.</p> <p>The Council's Medium Term Financial Plan (MTFP) comprising a multi-year General Fund Revenue Budget Plan which will normally cover a period of up to 5 years (including the revenue consequences from the Capital Investment Plan), a multi-year capital budget plan of up to 5 years and setting the level of Council Tax for the following financial year.</p>	<p>Responsibilities</p> <p>The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Strategic Directorate outcomes to provides the overarching framework for the determination of the Council's Medium Term Financial Plan (MTFP) within available resources.</p> <p>The Council's MTFP includes the following:</p> <ul style="list-style-type: none"> i) a revenue balanced budget position for the following financial year; both for the general fund and the ring-fenced Housing Revenue Account (HRA), including the Capital Investment Plan, and making provision for the revenue consequences from the Capital Investment Plan as appropriate. ii) the level of Council Tax for the following financial year iii) general fund and HRA revenue spend and funding forecasts, including a draft Capital Investment Plan, beyond the next financial year; for a period of up to 4 years; including the revenue consequences from the multi-year capital investment plan over the same period; and

<p>2.1 The Cabinet is responsible for recommending to the Council a Medium-Term Financial Plan comprising a multi-year General Fund Revenue Budget Plan and Capital Investment Plan and for implementing it when determined.</p> <p>2.2 The Cabinet is responsible for approving the setting of Council Tenant Rents, and other rents and service charges within the Housing Revenue Account (HRA), each year, within the scope of existing HRA rent and charging policies.</p>	<p>iv) an overall longer term balanced budget forecast for the HRA MTFP in the context of the ring-fenced 30-year HRA business plan</p> <p>2.1 The Cabinet is responsible for recommending a Medium-Term Financial Plan (MTFP) as set out above to Budget Council, to enable the Council to set a balanced budget for both the general fund and HRA for the forthcoming financial year. The 1992 Local Government Finance Act, Section 30 (6) states that that the billing Authority must set an amount of Council Tax before 11th March in the financial year preceding that for which it is set. To comply with this legal requirement, this effectively means that the annual date of Budget Council should be no later than 10th March each year.</p> <p>2.1A The Cabinet is responsible for implementing the Budget Council approved MTFP for the forthcoming financial year.</p> <p>2.1B On the advice of the Chief Finance Officer, Cabinet can recommend amendments to the MTFP to any meeting of Council, also recommending any related changes to the Council Plan, strategic objectives or actions.</p> <p>2.2 not amended</p>
<p>Budget Preparation</p> <p>2.3 The Cabinet will submit no later than the October meeting of the Council each year a provisional budget strategy, for a period of up to 5 years. The starting point will be the existing multi-year plans rolled forward from the previous year, including a high-level review</p>	<p>Budget Preparation</p> <p>2.3 not amended</p>

of Council funding and spend assumptions. Any resultant gap between funding and spend forecasts will inform target spending controls over the new MTFP period.	
<p>2.4 The Chief Finance Officer is responsible for establishing budget procedures, including determination of the following:</p> <ul style="list-style-type: none"> i) target spending controls for the Council budget over the MTFP, and their allocation to Strategic Directors, as appropriate, ii) the format for budget documentation, iii) a corporate budget timetable, and iv) to report on any amendments put forward as part of the Council's budget process 	2.4 not amended
2.5 The provisional budget strategy will include arrangements for wider public and key stakeholder engagement on budget options being considered.	2.5 not amended.
2.6 Strategic Directors will produce draft budget proposals to meet target spending controls for Council budgets over the MTFP, in accordance with budget procedures and the annual budget timetable as set out by the Chief Finance Officer. These draft budget proposals will show how resources are to be allocated across activities, taking into account any service changes, performance targets, and the specific requirements of any relevant legislation, including integrated impact assessments, in formulating budget options for Cabinet consideration.	2.6 not amended
2.7 The Cabinet will consider these proposals in detail and make its recommendations to the Council at least 14 days before the date	2.7 At least 14 days before the date set for the meeting of the Council which will determine the Council's Budget for the next financial year, the Cabinet will make its recommendations to the

<p>set for the meeting of the Council which will determine the Council's Budget for the next financial year.</p> <p>2.8 The Chief Finance Officer will advise the Cabinet and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need for contingency budgets, and on the risks involved in the forecasts of spending levels and income. The annual budget report must make reference to all matters required by legislation or appropriate professional guidance.</p>	<p>Council with regards to the Annual Revenue Budget, the Capital Plan, and the consequent rates for Council Tax, and the updated MTFP.</p> <p>2.8 not amended</p>
<p>Budget Management</p> <p>2.9 The Cabinet is responsible for implementing the Council Plan within the resources allocated in the Revenue Budget. The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.</p> <p>2.10 The Chief Finance Officer will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year. At least a summary of this information will be published on the council website.</p> <p>2.11 The Chief Finance Officer will determine which budgets are "controllable" by Strategic Directors and will allocate the specific budgets that each Strategic Director has responsibility to manage.</p> <p>2.12 These budgets will normally align with the Strategic Directorate structure of the Council but may also reflect the cross</p>	<p>Budget Management</p> <p>2.9 The Cabinet is responsible for implementing the Council Plan within the resources allocated in the Revenue Budget, and MTFP</p> <p>The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.</p> <p>2.10 not amended</p> <p>2.11 not amended.</p> <p>2.12 not amended</p>

<p>council (transformational) structure of the Council. The Chief Finance Officer will determine which budgets may be considered together for the purposes of delegated virement authority (per FPR 2.21 to 2.25 below).</p> <p>2.13 Service Directors are responsible for managing controllable budgets within their delegated authority and should exercise proper budgetary control in order to achieve Council Plan and service objectives.</p> <p>2.14 Service Directors are authorised to incur any expenditure included in the approved revenue budget, as amended by any virement including obtaining and accepting quotations and providing grants and loans, subject to other requirements of CPRs and FPRs.</p> <p>2.15 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Strategic Director and the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.</p> <p>2.16 Where a Service Director is reporting a projected overspend of more than £500,000 on an activity that cannot be addressed</p>	<p>2.13 not amended</p> <p>2.14 not amended.</p> <p>2.15 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Strategic Director and the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.</p> <p>2.15A A Strategic Director (in consultation with the relevant Portfolio Holder) is authorised to make such changes to service provision as are necessary; providing the proposed change is consistent with the approved Council Plan, service objectives and Council policy, to achieve spending within the approved annual budget or MTFP (as adjusted by any agreed virements)</p> <p>2.16 Where a Service Director is reporting a projected overspend on an activity that cannot be addressed either through budget</p>
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through budget virement, this will be highlighted by the Chief Finance Officer as part of the report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year, setting out the reasons for the overspending and management options for eliminating or reducing the overspending.

The Cabinet is responsible for reviewing management options and for recommending such further steps as are necessary to align activity with resources.

2.17 The Chief Finance Officer is accountable for all central budgets, which will be managed in the same way as activity budgets.

2.18 The Chief Finance Officer has delegated authority to review the requirement for existing Council Provisions and Earmarked Reserves, in-year, and to approve the proposed drawdown of earmarked reserves in-year in consultation with the relevant Strategic Director, ensuring that the proposed drawdowns are appropriate for the stated purpose of the earmarked reserve. Earmarked Reserves drawdowns in-year will also form part of the overall report to Cabinet on a quarterly basis as set out at FPR 2.10. The Chief Finance Officer will also report any new Reserves or Provisions requirements to Cabinet for approval.

2.19 Service Directors should delegate authority to commit budgets to the appropriate level of management, make arrangements to set out clearly the extent of authority of managers and review the performance of managers in managing these budgets.

virement or other in-year changes to service provision, this will be highlighted in a manner prescribed by the Chief Finance Officer as part of the report to the Cabinet on the overall management of the Revenue Budget on at least a quarterly basis through the year. The reasons for the overspending and potential management options for eliminating or reducing the overspending will be included in this report. The Cabinet is responsible for determining such further steps as are necessary to align activity consistent with the resources allocated by the MTFP

2.17 not amended

2.18 not amended.

2.19 Service Directors should delegate authority to commit budgets to the appropriate level of management, set out clearly the extent of authority and review the performance of managers in managing these budgets.

<p>Virements</p> <p>2.20 Service Directors are authorised to transfer resources within an activity budget without limit providing the corporate objectives for the activity is not changed in a material way.</p> <p>2.21 Virement which is associated with a change in the level of service must be approved by the Cabinet.</p> <p>2.22 Virement is not permitted between HRA funded and General Fund funding streams</p> <p>2.23 Strategic Directors, in consultation with the appropriate executive member(s), are authorised to transfer resources between controllable activity budgets within the Strategic Directorate budget up to £1,000,000, cumulatively in any one year.</p> <p>2.24The Cabinet is authorised to transfer resources (undertake a Virement) of more than £1,000,000 between activity budgets, subject only to the cumulative Virements on any one Strategic Directorate not exceeding £2m in any year. Cumulative Virements above these thresholds requires Council approval.</p> <p>2.25 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if:</p>	<p>Virements</p> <p>2.20 not amended</p> <p>2.21 Virement which results in a change in the level of service must be addressed as per FPR 2.15A.</p> <p>2.22 not amended</p> <p>2. 23 Strategic Directors, in consultation with the appropriate Portfolio Holder (s), are authorised to transfer resources between controllable activity budgets within the Strategic Directorate budget up to £1,000,000, cumulatively in any one year.</p> <p>2.24The Cabinet is authorised to transfer resources (undertake a Virement) without limit for the purposes of achieving budget targets and obligations</p> <p>2.25 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if there is explicit prior year approval as</p>

<p>(a) there is explicit prior year approval as part of the approved budget plans of the Council, for the following financial year; or</p> <p>(b) Service Directors can identify, from the revenue budget (up to £500,000 cumulative virement in any one financial year) to add additional resources to the capital plan, in respect of approved programmes and projects, and subject to approval by the Executive Team and the Chief Finance Officer; and compliance with FPR 3.17 and 3.18</p>	<p>part of the approved budget plans of the Council, for the following financial year</p>
<p>2.26 Virement is specifically not allowed where the transfer of resources is from budgets for capital charges, Council support functions or statutory taxes and levies.</p>	<p>2.26 not amended</p>
<p>2.27 All Virements will be recorded in a way prescribed by the Chief Finance Officer who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet.</p>	<p>2.27 not amended</p>
<p>No changes are recommended to sections 2.28 to 2.37</p>	
<p>3 CAPITAL INVESTMENT PLAN PREPARATION</p>	
<p>No changes are recommended to sections 3.1 to 3.9</p>	
<p>Plan Management</p> <p>3.10 Where the Council has allocated resources to a programme area, the Cabinet will determine the allocation of resources from the programme area to named projects.</p> <p>3.11 The Cabinet is authorised to (1) Transfer resources within a programme area without restrictions. (2) Transfer resources</p>	<p>3.10 not amended</p>

between any project or programme area up to a maximum of £2,000,000 in any financial year. (3) Transfer resources within programme areas between any year within the approved capital plan, subject to compliance with 3.14 and 3.16

3.12 Service Directors are authorised to transfer resources within a programme area up to a maximum of £1,000,000 in any financial year, subject to notification to the relevant Cabinet Member and appropriate Ward Members.

3.13 The Cabinet may delegate its authority under Financial Procedure Rule 3.11 to Service Directors. This is to be agreed on an annual basis.

3.14 Transfers under 3.10 to 3.13 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream because of the changes.

3.15 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if (a) there is explicit prior year approval as part of the approved budget plans of the Council for the following financial year; or (b) Service Directors can identify from the revenue budget (up to £500,000 cumulative virement in any one financial year) to add additional resources to the capital plan, in respect of approved programmes and projects, but subject to approval by the

3.11 The Cabinet is authorised to transfer resources without restrictions. including between any year, within the approved capital plan, subject to compliance with 3.14 and 3.16

3.12 Service Directors are authorised to (1) Transfer resources within a programme area without restrictions. (2) Transfer resources between any project or programme area up to a maximum of £2,000,000 in any financial year. (3) Transfer resources within programme areas between any year within the approved capital plan, subject to compliance with 3.14 and 3.16 subject to notification to the relevant Cabinet Member and appropriate Ward Members.

3.13 no longer required

3. 14 Transfers under 3.10 to 3.12 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream because of the changes.

3.15 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if there is explicit prior year approval as part of the approved budget plans of the Council for the following financial year.

<p>Executive Team and the Chief Finance Officer; and compliance with FPR 3.19 and 3.20.</p> <p>3.16 Transfer of resources must recognise funding arrangements. Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project (or programme) to the extent that it is funded by a project (or programme) specific third-party grant.</p> <p>3. 17 Any decision on resource allocation by Cabinet, Strategic and Service Directors (3.11 to 3.16) must recognise any policy decisions of Council. Any decision on resource allocation by Strategic and Service Directors (3.12-3.16) must recognise any policy decisions of Cabinet.</p> <p>3.18 The Chief Finance Officer will report to the Cabinet on the overall management of the Capital Investment Plan on a quarterly basis through the year (including the reporting of virements in respect of transfer of resources within or between programmes. The Cabinet will provide summary monitoring information to the Council at least twice per year</p>	<p>3.16 Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project (or programme) to the extent that it is funded by a project (or programme) specific third-party grant.</p> <p>3.17 not amended</p> <p>3.18 not amended</p>
<p>Initiating & Progressing Investment Decisions</p> <p>3.19 The Chief Executive will establish arrangements, delegated as appropriate to a lead Strategic Director in conjunction with the Chief Finance Officer, to ensure effective deployment of capital resources, ensuring that these align with council priorities and including the preparation of business cases and/or option appraisals designed to ensure project effectiveness and value for money, and to assist</p>	<p>3.19 The Chief Executive will establish arrangements, delegated as appropriate to a lead Strategic Director in conjunction with the Chief Finance Officer, to ensure effective deployment of capital resources, ensuring that these align with council priorities and including the preparation of business cases and/or option appraisals designed to ensure project effectiveness and value for money, and to assist</p>

Council to determine its Capital Investment Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purposes the Strategic Director and Chief Finance Officer may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source.

3.20 A capital outlay report will be prepared for each specific project. It will be signed off by the relevant programme manager and approved by the Chief Finance Officer, who will grant approval to each specific project when satisfied that:

a) The project appears on a schedule of named projects (approved by Council or Cabinet, or by officers under a scheme approved by Cabinet).

b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan.

OR

Where the total costs of a project exceed the amount approved in the Capital Investment Plan the appropriate additional resources has been approved; (3.10 to 3.16),

c) Any necessary external approval has been obtained.

d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.

Council to determine its Capital Investment Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purposes the Strategic Director and Chief Finance Officer may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source. This can include payment to a contractor for initial project scoping and design, provided that such costs are covered by an identified funding source.

3.20 A capital outlay report will be prepared for each specific project. It will be signed off by the relevant programme manager and approved by the Chief Finance Officer, who will grant approval to each specific project when satisfied that:

a) The project appears on a schedule of named projects (approved by Council or Cabinet, or by officers under a scheme approved by Cabinet).

b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan.

OR

Where the total costs of a project exceed the amount approved in the Capital Investment Plan the appropriate additional resources has been approved; (3.10 to 3.16),

c) Any necessary external approval has been obtained.

d) The project will not lead to any unexpected or unplanned costs, not envisaged by the business case or optional appraisal.

<p>3.21 Service Directors have authority to progress projects once the approvals at 3.20 have been given. They must ensure compliance also with Contract Procedure Rules.</p> <p>3.22 Strategic Directors are responsible for post implementation reviews of capital projects to assess the outcome of investment programmes and projects, and the extent to which these achieved the planned objectives set out in the business case, this assessment to be used in summary to Cabinet and Council as a part of the overall financial reporting and monitoring process.</p> <p>3.23 The Chief Finance Officer is permitted to make variations to capital funding as necessary in order to ensure that the council funding position is optimised, subject to reporting such actions to Cabinet and Council.</p>	<p>The Chief Finance Officer may issue a partial approval (for example to cover a design stage) provided that there are sufficient resources to cover that stage. The Solicitor to the Council may only issue a contract that aligns with this authorisation.</p> <p>3.21 not amended</p> <p>3.22 not amended</p> <p>3.23 not amended</p>
<p>Complex Projects</p> <p>3.24 Cabinet may delegate decisions in relation to complex projects or schemes of projects (which might relate to expenditure, income, the creation of subsidiary or related organisations) to the Chief Executive (who may further delegate decisions to a Strategic Director, or as appropriate the Chief Finance Officer or Service Director Legal, Governance & Commissioning. The Chief Finance Officer and Service Director Legal, Governance & Commissioning must be consulted on any decision made by such a delegated party.</p>	<p>3.24 Any capital project which involves partnership arrangements, or investment in limited companies or other separate entities must be approved by Cabinet.</p> <p>3.24A The reporting of the capital position in such cases must follow a similar arrangement to any direct asset investment</p>

No changes are recommended to sections 3.25 and 3.26	
11. INCOME	
<p>11.1 Fees and charges must be reviewed at least once per annum. Service Directors have authority to amend fees and charges to achieve budget targets and in line with the annual budget strategy and are permitted to freeze or raise charges by an amount up to the equivalent to the consumer price index. Changes to charges may also reflect reasonable rounding to relevant prices which might in some cases mean that certain prices rise by more than the consumer price index or the budget strategy</p> <p>Service Directors may make amendments to existing Fees and Charges during the financial year to account for changes in legislation, market conditions or to support the local communities or local business following the completion of an appropriate business case, in consultation with the appropriate Strategic Director, relevant Portfolio Holder and Chief Finance Officer.</p> <p>Any proposal to implement new fees or charges must be approved by Cabinet (unless the making and quantum of the charge is a statutory obligation). See also Contract Procedure Rules.</p>	<p>11.1 Fees and charges must be reviewed at least once per annum. Service Directors have authority to implement new charges and amend existing fees and charges to achieve budget targets, to account for changes in legislation and market conditions, in consultation with the appropriate Strategic Director, relevant Portfolio Holder and Chief Finance Officer.</p>
No changes are proposed to sections 11.2 to 11.17	
21. GRANTS TO AND FROM THE COUNCIL AND LOANS FROM THE COUNCIL	
Grants and Loans to Other Organisations	Grants and Loans to Other Organisations
22.17 When offering grants or other forms of assistance to entities that operate on a commercial basis Service Directors must ensure	22.17 When offering grants or other forms of assistance to entities that operate on a commercial basis Service Directors must ensure

<p>that no assistance will infringe -applicable national or international Procurement or State Aid requirements. In the event of any doubt about the matter advice must be sought from the Service Director Legal Governance & Commissioning.</p> <p>22.18 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code.</p>	<p>that no assistance will infringe -applicable national or international Procurement or State Aid or Subsidy Control Act 2022 requirements. In the event of any doubt about the matter advice must be sought from the Service Director Legal Governance & Commissioning.</p> <p>22.18 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code. Details of any subsidy under State aid rules or the Subsidy Control Act 2022 must be published as required by law.</p>
No changes are proposed to sections 22.1 to 22.16, or 22.19	

No changes are proposed this year to any other FPR section not listed above



Name of meeting: Annual Council

Date: 24th May 2023

Title of report: Changes to the Council's Constitution (Reference from Corporate Governance and Audit Committee (CGAC))

Purpose of report:

To seek the approval of the proposed changes to the council's constitution as described in paragraph 2 and the appendices in Appendix 1 (report to CGAC and Appendices) and as further described in paragraph 2 of this report. The report is referred from the Council's CGAC who made some proposed changes to the proposals in Appendix 1. These are set out in more detail in paragraph 2 of this report.

To note other ongoing work in relation to the constitution.

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? Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.	Not Applicable If yes give the reason why
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	Key Decision –No Private Report/Private Appendix –No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable If no give the reason why not
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?	N/A N/A 15th May 2023
Cabinet member portfolio	Give name of Portfolio Holder/s

Electoral wards affected: All

Ward councillors consulted: N/A

Public or private: Public

Has GDPR been considered? Yes

1. Summary

The Council's CGAC considered the report and appendices contained in Appendix 1 at its meeting on the 12th May 2023.

1.2 The report set out a number of proposed changes to the council's constitution which are described in paragraph 2 of Appendix 1 and in the appendices to that report.

1.3 It also set out a number of issues to note including:

- changes made to the constitution by the monitoring officer using delegated powers during the 2022/23 municipal year,
- other changes made during the year which do not require council consent,
- the ongoing work to keep the council's constitution under review: and
- the further work in relation to the member officer protocol in paragraph 2.65 of Appendix 1.

1.4 The CGAC accepted most of the proposed changes but made some suggested amendments to the changes described in the report and appendices to the council procedure rules which are described below in paragraph 2.

1.5 Paragraph 2 summarises the key changes in Appendix 1 for information and highlights where the CGAC made some proposed changes to the drafting of parts of the Council Procedures Rules (Appendix 3 of the Report which is Appendix 1 in this report).

2. Information required to take a decision

2.1 Part 2 -Articles

Changes are proposed to Article 4 and Article 14 of the council's constitution to simplify the policy framework and to allow electronic authentication of documents for legal proceedings including signature and applying the common seal respectively. This was to agree. No amendments were suggested to the proposals.

2.2 Part 3- Responsibility for functions

Minor drafting change to the third term of reference for the regulatory panel of the licencing and safety committee to clarify its purpose better. This is to agree - no amendments suggested.

Change of executive function delegations of the strategic director growth and regeneration in relation to asset management which is an executive function and is to note.

Change of the delegations to the Service Director - Legal Governance and Commissioning to enable them to authorise an external property auctioneer to

sign documents on behalf of the council in auctions. this is an executive delegation and is also to note.

2.2 Part 4 – Rules of procedure

This is the most detailed part of the report in Appendix 1 and sets out a number of proposed changes and the reasons for that to the Council Procedure Rules. The changes are described in the main body of the report and drafting is set out at appendix three of the report to CGAC.

The changes proposed are as a result of a review of the rules with learning from previous meetings, officer recommendations and consideration of experience elsewhere to ensure that meetings (in particular council meetings) are properly focused and that time is used effectively to enable robust debate and business to be conducted in a timely fashion.

The proposals include:

- changes to the time scales for submission of notice of deputations, reducing the number of deputations at anyone meeting which will allow a better opportunity of providing guidance and a response to deputations being made,
- public questions require to give greater notice
- written questions from members be limited to three per person and three working days notice is given of them
- changes to the time period for submission of motions and
- some minor amendments to reflect some of those changes

Some changes were unanimously proposed to the drafting by CGAC which are summarised below and are repeated in the recommendations to Council for clarity.

That the following amendments to the Council Procedure Rules contained in the third appendix of Appendix 1 and relevant paragraphs be made and recommended to annual council :

- (i) CPR 10 (2) para: 2.24 - Deadline for receipt of deputation to be changed to 3 clear working days notice.
- (ii) CPR 10 (4) Suitability of a Deputation shall be determined by the Chief Executive in consultation with the Mayor and redraft the second part of the paragraph below for clarity
- (iii) CPR 10 (5) Remove (5) with consequential amendment to 10 (6) (which becomes 10(5)) and the sub paragraphs to be renumbered accordingly
- (iv) CPR 10 (8) Remove as provision exists within the current constitutional arrangements and renumber accordingly
- (v) CPR 10 (9c) re-draft wording to tighten up, specifically highlighting deputations will not be heard where an issue is to be considered at committee/panel with a published agenda. In relation to planning , licensing and other regulatory matters this sub paragraph is to continue to cover the merit of application and so does not require there to have been a published agenda.

- (vi) CPR 11(1) para 2.28 - Deadline for receipt of public questions to be changed to 3 clear working days
- (vii) CPR 12 Written questions – para 2.33 be amended to 3 clear working days notice.

These proposals are for Council to agree.

Changes were also recommended to the Access to Information Procedure Rules the most significant change being to change the monetary value of the Key Decision Notice (KDN) from £250k to £500k. These are changes to agree. No changes were proposed by CGAC.

There are separate reports on the annual council agenda considering changes to the financial procedure rules and contract procedure rules. No other proposed changes were put forward to make changes to other parts of the constitution dealing with Procedure Rules.

2.3 Part 5 – Codes and protocols

No changes were proposed to the codes and protocols of the council's constitution. Members were asked to note that a piece of work continues relating to the protocol - councillors and officers in Kirklees working together effectively.

3. Implications for the Council

It is essential that the councils 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

3.2 Place Based Working

N/A

3.3 Climate Change and Air Quality

N/A

3.4 Improving outcomes for children

N/A

3.5 Financial Implications for the people living or working in Kirklees

N/A

3.6 Other (eg Integrated Impact Assessment (IIA)/Legal/Financial or Human Resources) Consultees and their opinions

N/A

4. Consultation

Various Officers as well as CGAC whose comments are noted in this report.

5. Engagement

N/A

6. Next steps and timelines

Any amendments agreed by council will be made to the constitution

7. Officer recommendations and reasons

That Council considers the report in Appendix 1 as well as the recommendations by CGAC and:

- a. Notes the changes made to the Constitution in 2022-2023 listed in the first appendix in Appendix 1.
- b. Approves the proposed changes to the Councils constitution as set out in paragraphs 2.07, 2.13, 2.15, 2.21 – 2.42, 2.44 and 2.46 and the accompanying relevant Appendices subject to the following amendments to the Council Procedure Rules contained in the third appendix of Appendix 1 and relevant paragraphs:
 - (viii) CPR 10 (2) para: 2.24 - Deadline for receipt of deputation to be changed to 3 clear working days notice.
 - (ix) CPR 10 (4) Suitability of a Deputation shall be determined by the Chief Executive in consultation with the Mayor and redraft the second part of the paragraph below for clarity.

- (x) CPR 10 (5) Remove (5) with consequential amendment to 10 (6) (which becomes 10(5)) and the sub paragraphs to be renumbered accordingly.
 - (xi) CPR 10 (8) Remove as provision exists within the current constitutional arrangements and renumber accordingly.
 - (xii) CPR 10 (9c) re-draft wording to tighten up, specifically highlighting deputations will not be heard where an issue is to be considered at committee/panel with a published agenda. In relation to planning , licensing and other regulatory matters this sub paragraph is to continue to cover the merit of application and so does not require there to have been a published agenda.
 - (xiii) CPR 11(1) para 2.28 - Deadline for receipt of public questions to be changed to 3 clear working days.
 - (xiv) CPR 12 Written questions – para 2.33 be amended to 3 clear working days notice.
- c. Notes the changes set out at paragraphs 2.16, 2.17, 2.43, 2.48 and 2.49 of Appendix 1.
 - d. Notes that work will continue to keep the Council's Constitution under review.
 - e. Notes the proposed further work in relation to the Member Officer protocol in paragraph 2.65 of Appendix 1
 - f. 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

8.

Cabinet Portfolio Holder's recommendations

N/A

9. Contact officer

Julie Muscroft
Service director - legal governance and commissioning
01484 221000
Julie.muscroft@ Kirklees.gov.uk

10. Background Papers and History of Decisions

Report to CGAC on 12th May 2012 which is appended to this report.
Various reports to Annual Council

11. Service Director responsible

Julie Muscroft

Service director - legal governance and commissioning
01484 221000
Julie.muscroft@ Kirklees.gov.uk

12. Appendices

Appendix 1

APPENDIX 1

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

Date: 12th May 2023

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.

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?	Yes – Rachel Spencer-Henshall Yes – Eamonn Croston Yes – Julie Muscroft
Cabinet member <u>portfolio</u>	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 2022, 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 20th 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 are proposed amendments to **Article 4**.
- 2.04 The Policy Framework is the list of plans, policies and strategies that require formal sign-off and adoption by Full Council. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 set out several plans and strategies that if they are produced, can only be approved or amended by Full Council. The Secretary of State at the time also recommended that local authorities should consider other significant plans and strategies for approval or adoption by Full Council.
- 2.05 In Kirklees, the Full Council's Policy Framework is the current list of strategies, policies, and plans that, if produced, require approval or adopted at Full Council and is attached at **Appendix 2**.
- 2.06 Over the last two decades, the number of strategies and plans requiring this approach has changed significantly due to changes in legislation as well as numerous pushes by successive governments to try and reduce the bureaucratic burden on local authorities through removing national targets and objectives. Therefore, the Framework has had minor amends in recent years but has been largely unchanged for eight years.
- 2.07 Taking account of the above information and context, the proposal is to refocus the Policy Framework, focusing on our highest-level strategies, policies and plans which set the context and direction for delivering Our Shared Outcomes, other strategic plans and programmes as well as continuing to include plans that by law must be adopted at Full Council (e.g., the Licensing Policy and Youth Justice Plan). The proposed new Policy Framework is set out at **Appendix 2**.
- 2.08 The reasons for the proposed amendments are to address a number of areas including accuracy, legislative requirements, pressure on the Council agenda and pressure on resources. Some of the plans are no longer produced or have been superseded by other documents, e.g. Early Learning and Childcare 2011-2014 and the Climate Change and Fuel Poverty Strategy. The current Policy Framework is therefore out of date and does not accurately describe the most important strategies, policies, and plans we produce. Legislative and national policy changes mean the number of strategies and plans requiring approval or adoption

by Full Council has reduced significantly. This means the current Policy Framework is larger than currently legally required.

- 2.09 The number of plans on the Policy Framework (currently 20 items) causes or risks unnecessary pressure on Council agendas. The proposal is to reduce the potential pressure on Council agendas and prevent plans appearing at Council by 'default'.
- 2.10 Preparing for a decision at Full Council is a significant expenditure of officer time and is not the most effective way of securing cross-party engagement. This is better done pre-decision through portfolio briefings, scrutiny, group meetings, wider consultation such as place partnerships meetings, and individual member engagement.
- 2.11 Removing an item from the Policy Framework does not mean it cannot or will not be discussed or decided at Full Council. Cabinet can still refer any strategy, policy, or plan to Full Council. The proposal is only to remove the constitutional requirement that they are approved or adopted at Full Council due to the reasons and context outlined above.
- 2.12 There are proposed amendments to **Article 14**. These amendments are to allow a future adoption of 'DocuSign', as a means of electronic sealing.
- 2.13 The proposed amendments are in red below:

14.4 Authentication of documents for Legal Proceedings or procedures

Where attestation of any document is necessary to any legal proceedings or legal procedure [contemplated by Article 14.3], it will be signed by the Service Director – Legal, Governance, and Commissioning or another person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

14.4.1 A document shall have been properly signed in accordance with Article 14.2 and Article 14.4 where it is physically signed in hardcopy format or it is signed electronically in an electronic format.

14.5 Common Seal of the council

The Common Seal of the Council will be kept in a safe place in the custody of the Service Director – Legal, Governance and Commissioning. A decision of the Council, or of any part of it made with statutory or

delegated authority, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Service Director – Legal, Governance and Commissioning should be sealed. The affixing of the Common Seal will be attested by:-

- the Service Director – Legal, Governance and Commissioning or
- any other Legal Officer nominated by the Service Director Legal, Governance and Commissioning

An entry of sealing of a document shall be made and consecutively numbered in a sealing book or an electronic sealing register.

The Common Seal shall be properly affixed in accordance with Article 14.5 whether it is physically affixed to a hard copy document or it is affixed electronically to an electronic document where the law permits in accordance with the Electronic Communications Act 2000.

The common seal may be affixed without further authority from the Council:

- a. to any mortgage, bond or other security for money advanced to the council;
- b. to any transfer of stock or bonds purchased or sold on behalf of the council;
- c. to any release or re-assignment of any mortgage or other security given to the council for any advance made by the council on repayment of the whole of the money thereby secured;
- d. to any proxy forms or transfer of any investment of funds of the council;
- e. to any grants of exclusive rights of burial and grants of exclusive rights of depositing ashes or cremated bodies in graves.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

2.14 This part details the council's cabinet, committees' and other groups' responsibilities. This section also contains each individual Cabinet Member's specific responsibilities.

2.15 It is proposed to amend the 3rd term of reference for the Regulatory Panel of the Licensing and Safety Committee to clarify and introduce a specific reference to Sexual Entertainment Venue licensing:

3. Power to issue ~~entertainment~~ licences to sexual entertainment venues

2.16 It is proposed to make some amendments to the financial limits set out in the Scheme of Delegation to Officers in Section F. As these are changes to executive powers these are for committee

and council to note.

The proposals reflect the fact that these figures have not been increased for some time and to do so will reduce the need for reporting to Cabinet.

These relate to the functions of the Strategic Director Growth and Regeneration, It is proposed to amend the functions relating to Asset Management as follows, with changes in red:

F. Asset Management

Executive Functions

Discharge of all functions and responsibilities of the Council relating to its Asset Management including, but not limited to:

- (a) Asset management;*
- (b) Corporate Landlord;*
- (c) Capital development;*
- (d) Capital construction delivery;*
- (e) Building Services.*

And not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

As specified in paragraph 3 of the General Provisions above;

- (a) Payment of disturbance payments to tenants exceeding ~~£10,000~~ 50,000;*
- (b) Approval of heads of terms for the disposal of any rights, estates or interests in land and property of the Council where the estimate of value exceeds ~~£500,000~~ 1,000,000;*
- (c) Approval of heads of terms for the acquisition of rights in and estates in land and property in cases where the purchase price or consideration exceeds ~~£500,000~~ 1,000,000;*
- (d) Disposal of any Council interests in public or quasi open space, common land or village greens where objections to the proposed disposal have been received from members of the public; and*
- (e) Decisions to submit planning applications relating to land and property owned or to be acquired by the Council in*

circumstances where ward members have been consulted and have made adverse comments.

Changes to the above will also necessitate a change to the Cabinet Local Issues Committee terms of reference to reflect the increased reporting levels. These are in Section C of the Constitution. The change to the terms of reference is in red below:

ii. To consider reports on disposals of Council assets, with a capital value not exceeding ~~£500,000~~ 1,000,000, that have previously been approved by officers.

- 2.17 Online auctions are being used more regularly and in order to facilitate online auctions for sale of property it is proposed that the Scheme of delegation to Officers in part 3.7 of the constitution is amended to add the following to the scheme of delegation of the Monitoring Officer (Service Director -Legal, Governance and Commissioning) to authorise an external property auctioneer to sign as agent for the Council. This is for committee to note.

“to authorise an external property auctioneer to sign as agent for the Council , a Sale Memorandum to record the property price and terms of conditions of sale .”

This is also added to the Contract Procedure Rules for consistency and is picked up in the report dealing with such changes on this meeting agenda.

PART 4 – RULES OF PROCEDURE

- 2.18 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters.
- 2.19 The changes are as a result of considered review of the rules with learning from previous meetings, officer recommendations and consideration of other authorities regionally to ensure the meeting is properly focused and that time is used effectively to enable robust debate and business to be conducted in a timely fashion.
- 2.20 The Council procedure rules encompass the format and procedures for Council meetings and have been updated and amended each year. Over time it has become even more important that the limited time

available for such meetings should be used in the most efficient and effective way to provide access to democracy for citizens and to ensure the business of the authority is properly debated and transacted. The proposed changes to the Council procedure rules are attached at **Appendix 3** but are described below.

The Council Procedure Rules

- 2.21 By comparison to many Councils, the Kirklees constitution is particularly permissive and open. The aim of the proposed changes is to balance access to democracy and improve outcomes for citizens whilst allowing effective and timely focus on council business at Council meetings.

Deputations

- 2.22 The changes proposed in **Appendix 3** are to ensure there is streamlining of processes to allow officers time to process and manage the business at meetings. In addition, they will continue to allow time for citizens to bring a question or deputation but also provides some additional parameters and earlier notice provision to ensure that citizens are provided with the best information available, as more time will be available to deliver a full and detailed response to questions and deputations and to provide advice/ guidance on the appropriate content of deputations. The amendments will provide for citizens to be referred to the most appropriate forum or body to ensure they are provided with the most suitable and accurate response, whether that be a different committee, scrutiny panel or complaints response.
- 2.23 This will enable citizens to have clear answers to issues raised in the relevant forum and will also allow for wider engagement across the authority and its committees including scrutiny. It will provide greater emphasis on appropriate, timely citizen engagement as part of policy development and decision-making process.
- 2.24 The proposed changes to deputations and notice requirements will require submission of the deputation in advance so this can be considered carefully to ensure they i) meet the criteria set out within the rules ii) to ensure it is the correct forum for an answer to their submission iii) to ensure they are not providing factually incorrect information and iv) to ensure they are not providing personally identifiable information, all of which has recently occurred. The 10 working days provide

additional time to manage the process, prepare and advise the public, consider against the criteria and is regionally in line with other local authorities.

- 2.25 Within West Yorkshire (and Rochdale), no authority allows both deputations and public questions at Council meetings. Bradford provides an additional requirement that all deputations must be accompanied by 20 signatures. There is also a larger amount of notice required in order to process deputations by officers which impacts on resource and capacity.

Other Local Authorities

	Kirklees	Bradford	Calderdale	Leeds	Wakefield	Rochdale
Both Deputations and Public Questions	Y	N	N	N	N	N
Notice for Deputations	24 hrs	3 working days and **	No deputations	14 days	7 days	No deputations
Notice for Public Questions	None	7 days	7 days	No Public Questions	No Public Questions	10 days
Unlimited deputations	Y	Maximum 5	—	Maximum 5	Maximum 2	-

** Must be signed by a minimum of 20 residents

- 2.26 It is proposed that **CPR10** be amended and replaced by the wording set out in the table attached at **Appendix 3**.
- 2.27 The proposed changes are to provide additional working days notice to 10 working days, add clarity to the process, and a maximum number of deputations to help manage time at meetings and the rationale set out at paragraphs 2.23 – 2.26.

Public Questions

- 2.28 Whilst some other Councils do not have both public questions and deputations we are not proposing any changes in this regard.

However, it is proposed that **CPR 11(1)** be amended by the addition of a new paragraph (d), requiring 7 working days notice, set out within **Appendix 3**:

- 2.29 This will enable the time management of the meeting and will allow a period of time for the question to be assessed in accordance with the criteria at **CPR11**, which will allow the member of the public to be given a sufficient period of notice in the event that their question cannot be accepted.
- 2.30 Allowing additional notice for submission of the question also provides citizens time to give more thought to the questions and enables them to receive a fuller response as the majority of questions received are asked on an impromptu basis.

Written Questions

- 2.31 It is proposed that **CPR 12(1)** be amended to reflect that 'Any Member of the Council may submit up to three written questions ...' and is set out within **Appendix 3**.
- 2.32 This will enable the opportunity for more Members to be able to put questions during the time available in the meeting.
- 2.33 It is also proposed that all Written Questions be submitted at least **seven** clear working days prior to the meeting.
- 2.34 This will allow more time for the questions to be processed and circulated by governance prior to the meeting.

Motions

- 2.35 It is proposed that **CPR 14(1)** be further amended to require submission of motions to Council to be made by 9:00 am on the 8th working day before the meeting of Council and is set out in **Appendix 3**.
- 2.36 This would be a change from the current requirement of the 6th working day. The current deadline is the same day as the legal

requirement for agenda publication and so provides very limited opportunity for Councillors who may submit a Motion to make any necessary changes once it has been assessed against criteria.

- 2.37 It will provide additional time for Officers to liaise with Councillors and will assist with the governance of issuing agenda papers.
- 2.38 It is proposed that **CPR 14(11)** be amended to require amendments to motions to be submitted by 10.00 am the day prior to the meeting of Council, to read:.

'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 no later than 10.00am on the day prior to the Council Meeting.'

CPR 14.11 (a) and (b) shall be deleted.

- 2.39 The current deadline is the same day as the meeting and so provides very limited opportunity for Officers to assess the content, which impacts upon the period of notice given to Councillors to make any necessary changes that may be considered to be necessary.
- 2.40 The proposed change will provide additional time for Officers to liaise with Councillors regarding the finalised wording of any amendment.
- 2.41 It is proposed to remove **CPR 51(10)**
- 2.42 This was a temporary arrangement during covid requiring the submission of written questions at remote meetings and including the process, which is no longer necessary.. The full proposed deleted paragraph is contained in **Appendix 3**.
- 2.43 There are a number of other small amendments highlighted in Appendix 3 at CPR 11, 14(1), 14(2), 35(7), which are drafting amendments to be picked up by the Monitoring officer using her delegation and to be noted by members.

Access to Information Procedure Rules

- 2.44 It is proposed that the final paragraph of **part 6** is removed. It currently reads:

‘The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.’

- 2.45 This involves printing papers that are not used and all council meeting papers are available online. If copies are requested on the day, these can be printed or access provided on a device.
- 2.46 It is proposed to amend **part 14.2** to increase the monetary KDN value from £250k to £500k.
- 2.47 The KDN value was adopted in 2002 and was the figure used by most Councils at the time as being a suitable figure. Most Councils have now changed the figure and looking regionally is between £500k and £1m.

	Current Key Decision Notice figure
Calderdale	£200k moving to £500k
Bradford	£250k
Wakefield	£275k
Rotherham	£400k
Leeds	£500K
York, Barnsley, North Yorkshire	£500k
Sheffield and Manchester	£500k
WYCA	£1 million

- 2.48 It is also proposed to move **part 14.6** up to **14.2** to add clarity.
- 2.49 It is proposed to include a further exception to **paragraph 14.2**. This does not provide any changes and is already referred to within the Financial Procedure Rules but clarifies the position in relation to Key Decisions and links the rules which should be read in conjunction. The additional wording proposed ‘*Grants to and from the Council and loans from the Council (in accordance with Financial Procedure Rules)*’.

- 2.50 Budget and Policy Framework Rules

There are no proposed amendments to these Rules

- 2.51 Executive Procedure Rules

There are no proposed amendments to these rules.

2.52 Financial Procedure Rules

A separate report is on this agenda which considers changes to the Rules.

2.53 Contract Procedure Rules

A separate report is on this agenda which considers changes to the Rules

2.54 Overview and Scrutiny Procedure Rules

There are proposed amendment to the Scrutiny panels and these will be subject to a separate report to this Committee and Council.

2.55 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

PART 5 – CODES and PROTOCOLS

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

2.57 Members Code of Conduct

There are presently no proposed amendments to the Code of Conduct.

2.58 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.59 Protocol for Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.61 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.

2.62 Officers Code of Conduct

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.64 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

2.65 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 the subject of some recent work, that involved member participation.

The work is on-going and any proposed amendments will be considered by Standards Committee, before being considered at Corporate Governance and Audit and coming back to Council (as necessary) with any amendments.

2.66 Safeguarding Protocol

There are no proposed amendments to this protocol.

2.67 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 may still be lawfully held remotely, such as Licensing Panel meetings, and it is proposed to retain this, rather than remove it. There is a current campaign aimed at persuading the government to legislate to make virtual meetings lawful and, should this happen, the protocol would be needed.

2.68 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.

3.01 Working with people

N/A

3.02 Working with Partners

N/A

3.03 N/A Place Based Working

N/A

3.04 Climate Change and Air Quality

N/A

3.04 Improving Outcomes for Children

N/A

3.06 Financial Implications for the people living or working in Kirklees

3.07 Other (eg Integrated Impact Assessment/Legal/Financial or Human Resources)

N/A

4 Consultees and their opinions

Various officers have been consulted.

5 Next steps and timelines

5.03 This will be considered by Annual Council on May 24th 2023. Any feedback, comments or recommendations from this committee will be included in the report to Annual Council.

5.04 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 2022-2023 listed in Appendix 1
- b. Approves the proposed changes to the Council's constitution as set out in paragraphs 2.07, 2.13, 2.15, 2.21 – 2.42, 2.44 and 2.46 and the accompanying relevant Appendices.
- c. Notes the changes set out at paragraphs 2.16, 2.17, 2.43, 2.48 and 2.49.
- d. Notes that work will continue to keep the Council's Constitution under review.
- e. Notes the proposed further work in relation to the Member Officer protocol in paragraph 2.65
- 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

9 Background Papers and History of Decisions

10 Service Director responsible

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

11 Appen

ndices

Appendix 1 - Amendments 2022-2023 (Information only)

Appendix 2 – Current and Proposed Article 4

Appendix 3 – Proposed Changes to Council Procedure Rules

APPENDIX 1

Constitutional amendments

2022-2023 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
PART 2 Articles of the Constitution		
Part 2 – updates to Article 4	Monitoring Officer Delegation	26 th July 2022
PART 3 Responsibility for Functions		
Part 3 Section B	Monitoring Officer Delegation	13 th July 2022
Part 3 Section B – CGA ToR	Monitoring Officer Delegation	21 st April 2023
Part 3.4 Section C Responsibility for Executive Functions	Approved at Annual Council 25 May	16 th June 2022
Part 3.4 Section C Responsibility for Executive Functions	Monitoring Officer Delegation	28 th June 2022
Part 3.4 Section C Responsibility for Executive Functions	Monitoring Officer Delegation	8 th November 2022
PART 4 Rules of Procedure		
Part 4.1 Council Procedure Rules	Monitoring Officer Delegation	29 th June 2022
Part 4.6 Financial Procedure Rules	Approved at Annual Council 25 May	26 th May 2022
Part 4.7 Contract Procedure Rules	Approved at Annual Council 25 May	25 th May 2022

Article 4 of the Council's Constitution

CURRENT ARTICLE 4 - Policy Framework (July 2022)

- Children and Young People's Plan
- Community Safety Partnership Plan
- Sustainable Community Strategy
- West Yorkshire Local Transport Plan 3
- Plans and strategies which together comprise the Development Plan
- Youth Justice Plan
- The Council Plan
- Inclusion and Diversity Strategy
- Statement of Licensing Policy under the Licensing Act 2003
- Three-year Licensing Policy under the Gambling Act 2005
- Access to Services Strategy (amended 2022, superseding customer services)
- Resources and Waste Strategy
- Joint Health and Wellbeing Strategy
- Commissioning Plans for Adult Social Care
- Inclusive Communities (amended 2022, superseding community cohesion)
- Housing Policy (to include Commissioning Housing/ wider Strategy)
- Early Learning and Childcare 2011-2014
- Economic Strategy
- Climate Change & Fuel Poverty Strategy
- Corporate Safeguarding Policy (added in 2022)

PROPOSED NEW POLICY FRAMEWORK ARTICLE 4

- Our Council Plan
- Our top-tier strategies:
 - Kirklees Health & Wellbeing Strategy
 - Environment Strategy (in development)
 - Inclusive Communities Framework
 - Inclusive Economy Strategy (in development)
- By statute:
 - Kirklees Community Partnership Plan (replacing the Community Safety Partnership Plan and Sustainable Community Strategy, including the Crime and Disorder Reduction duties)
 - Development Plan documents (the Local Plan and associated policies)
 - Licensing Authority Policy Statement (Gambling and Licensing)
 - Youth Justice Plan
 - Local Transport Plan (the duty to produce sits with WYCA but will require individual authority adoption)

PROPOSED CHANGES TO COUNCIL PROCEDURE RULES (12 MAY 2023)

The proposed amendments are set out in blue.

CPR		
10	Deputations	<p>(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.</p> <p>(2) All Any request to make a deputation should be submitted at least 24 hours five working days prior to the meeting. A copy of the deputation speech must accompany the request.</p> <p>(3) The Council will not receive more than four deputations at any ordinary meeting.</p> <p>(4) The suitability of a Deputation shall be determined by the Chief Executive. Permission to attend a meeting after consideration of the most relevant committee, forum or appropriate body for response and present a Deputation shall be issued by the Chief Executive. Eligible deputations shall be heard in the order in which permission is granted.</p> <p>(5) Where two or more deputations present opposing views on the same matter, the Council will not receive more than one of these related deputations at the same meeting. Multiple deputations on a particular subject matter or from any one person or organisation shall not be received.</p> <p>(6) The Council shall not normally receive a deputation on a matter that has been the subject of a deputation in the previous six months, except as a result of a refusal at (5).</p> <p>(7) The Council shall not debate any matter raised by a deputation when it is presented.</p>

		<p>(8) Any Member of the Council may move a motion without notice, that the deputation be or not be received, or that the subject matter be referred to the appropriate committee. The Mayor will put such a motion on being seconded, to the vote without debate.</p> <p>Deputations which will not be received</p> <p>(9) If the Chief Executive considers that it includes references to the following:</p> <p>(a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.</p> <p>(b) Information relating to complaints made under statutory provisions which have not been finally dealt with.</p> <p>(c) Information concerning the merit of applications or other matters currently before being considered by any type of Committee including but not limited to, the Council, Cabinet or a Committee, Sub-committee, Panel or Officers for determination in respect of which the Council is required to act quasi-judicially or administratively is under a duty to act quasi-judicially.</p> <p>(d) Information of a personal nature or which is defamatory, offensive, frivolous, repetitive or vexatious.</p> <p>(10) 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.</p> <p>Size of Deputation and Speech</p> <p>(11) The deputation shall not exceed five persons and the speech shall not exceed five minutes.</p> <p>(12) 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.</p> <p>(13) 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.</p>
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		<p>Referral of Subject Matter</p> <p>(14) 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</p>
11	Public Questions	<p>Amend title to include the word 'Boards'</p> <p>MO Delegation</p>
11	Public Questions	<p>Require submission at least seven working days in advance of meeting. <i>(covered in last years CGA report 22.4.22 para 2.12)</i></p> <p>It is proposed that CPR 11(1) be amended by the addition of a new paragraph (d), as follows: (d) All public questions must be submitted at least seven clear working days prior to the meeting.</p>
12	Written Questions	<p>Limit the number of questions each Councillor can submit</p>
14 (1)	Motions	<p>Change submission deadline to 8 working days <i>(covered in last years CGA report 22.4.22 para 2.16)</i></p>
14 (1)	Motions	<p>Change second para to '...will only be accepted for the next scheduled Ordinary Council meeting from 10.00am onwards following the day of the previous Council Meeting'</p> <p>MO Delegation</p>
14 (2)	Motions	<p>Change to 'Any further (new) Motions, including previous Motions that have not been resubmitted in accordance with Council Procedure Rule 14(3) will be listed after Motions submitted in accordance with Council Procedure Rule 14(3).'</p> <p>CPR 14(2)be amended to read 'Any Motions re-submitted will be listed on the agenda in the same order that they were listed for the previous meeting. Any further motions, ie, new motions or previous motions deemed withdrawn in accordance with CPR 14(3), will be listed after the re-submitted motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as</p>

		<p>appropriate. The Chief Executive will inform Group Leaders when such action is being taken.'</p> <p>MO Delegation – clarifies procedure, no changes</p>
14 (11)	Amendments	<p>Change deadline to day before Council (<i>covered in last years CGA report 22.4.22 para 2.19</i>)</p> <p>It is proposed that CPR 14(11) be amended to require amendments to motions to be submitted by 10.00 am the day prior to the meeting of Council.</p> <p>'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 no later than 10.00am on the day prior to the Council Meeting.'</p> <p>CPR 11 (a) and (b) shall be deleted.</p> <p>The current deadline is the same day as the meeting and so provides very limited opportunity for Officers to assess the content, which impacts upon the period of notice given to Councillors to make any necessary changes that may be considered to be necessary.</p> <p>It will provide additional time for Officers to liaise with Councillors regarding the finalised wording of any amendment.</p>
35 (7)	Substitutes	<ul style="list-style-type: none"> - Delete District Committees - Delete Employee Relations Sub Committee - Add in – Statutory Officer Dismissal Committee - Add in - Corporate Parenting Board <p>MO Delegation</p>
51	Remote Meetings	<p>Remove CPR 51(10) – this was a temporary arrangement during covid relating to written questions at remote meetings.</p>

Name of meeting: Annual Council

Date: 24th May 2023

Title of report: Proposed Amendments to Overview and Scrutiny (Reference from Corporate Governance and Audit Committee (CGAC))

Purpose of the report: To seek approval of the proposed amendments to the Overview and Scrutiny structure as described in paragraph 3 of Appendix 1 (report to CGAC and Appendices) and as further described in paragraph 2 of this report.

To note the update on the implementation of recommendations of the Kirklees Democracy Commission in relation to the review of governance models.

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>?	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer Henshall – 16th May 2023
Is it also signed off by the Service Director for Finance?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 16th May 2023
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: Not applicable.

Public or private: Public Report

Has GDPR been considered? Yes. The report does not include any personal data that identifies a living individual.

1. Summary

- 1.1 The Council's CGAC considered the report and appendices contained in Appendix 1 at its meeting on 12th May 2023.
- 1.2 The report to CGAC proposed changes to the current scrutiny structure described in paragraph 3 and in the appendices of that report.
- 1.3 The report set out an update on the implementation of the recommendations of the Kirklees Democracy Commission in relation to the review of governance models.
- 1.4 CGAC accepted the proposed changes described in the report and appendices described below in paragraph 2.
- 1.5 Paragraph 2 summarises the key changes in Appendix 1 for information.

2. Information required to take a decision

Proposed Structure

2.1 Dis-establish the Corporate Scrutiny Panel

2.2 Retain overarching **Overview and Scrutiny Management Committee (OSMC)** to manage the overall work programme and prioritise the work of the Scrutiny Panels. The Panel will pick up high-level performance monitoring in relation to financial management, scrutinising the performance and implementation of financial policy and the delivery of the Council Plan. The OSMC have responsibility for the Corporate portfolio and will continue to carry out the statutory requirements in relation to crime and disorder and flood risk management.

2.3 Retain the current **Health and Adult Social Care Scrutiny Panel**. This panel retains the statutory scrutiny of Health responsibilities. The power to refer concerns about proposals for significant changes to local health services to the Secretary of State is vested in the individual Joint Health Scrutiny Panels.

2.4 Retain a **Children's Scrutiny Panel**

2.5 Rename the **Economy and Neighbourhoods Scrutiny Panel** to **Environment and Climate Change Panel** (to pick up work under the Environment and wider climate change agenda in addition to highways/streetscene and culture)

2.6 Dis-establish **Ad- Hoc Regeneration Panel**

2.7 Establish a **Growth and Regeneration Panel** (remit to include skills, growth and regeneration along with housing)

2.8 Dis-establish the **Democracy Commission**

A proposed structure chart is attached at **Appendix 2 in the CGAC** report which is **Appendix 1** in this report.

It was discussed and agreed that a review of the implementation of the recommendations would be undertaken by the Democracy Commission in 2023, with enough time for the outcome to be reported to CGAC prior to Annual Council 2024.

3. Implications for the Council

Working with People

N/A

Working with Partners

N/A

Place Based Working

N/A

Climate Change and Air Quality

N/A

Improving outcomes for children and young people

The proposals within the report do not seek to change the current arrangements in respect of scrutiny of Children's Services

Financial Implications for the people living or working in Kirklees

There are no direct cost impacts on the Kirklees community.

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

The proposed structure meets with the requirements of the Local Government Act 2000 and subsequent legislation in relation to the provision of a scrutiny function.

The financial implications as set out in paragraph 4.6 of the report to CGAC in Appendix 1 indicate that the proposed structure can be supported without an increase in special responsibility allowances.

Consultation

The Chair of Overview and Scrutiny Management Committee, Chair of the Democracy Commission and CGAC have been consulted on the proposals.

4. Next steps and timelines

Any amendments agreed by Council will be made to the constitution.

5. Officer recommendations and reasons

That Council considers the report at Appendix 1 and

1. Approves the proposed changes as set out within Appendix 1, paragraph 3 and paragraph 2 of this report
2. That subject to the agreement of (1) above, authority is delegated to the Service Director Legal, Governance and Commissioning to make appropriate changes to the Constitution to reflect the agreed changes to the scrutiny arrangements.
3. To note the update on the implementation of the recommendations of the Kirklees Democracy Commission in relation to the review of governance models.

4. To note that a report reviewing the workings of the new scrutiny arrangements be submitted to CGAC in March 2024.

9. Cabinet Portfolio Holder's recommendations

Not applicable.

10. Contact officer

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

11. Background papers and History of Decisions

Report to CGAC on 12th May 2023 which is appended to this report.

12. Service Director responsible

Julie Muscroft, Service Director, Legal, Governance and Commissioning

Appendices

Insert: Appendix 1 – Report to CGAC dated 12th May 2023

Name of meeting: Corporate Governance and Audit Committee

Date: 12 May 2023

Title of report: Proposed Amendments to Overview and Scrutiny

Purpose of the report: The report sets out proposed amendments to the Overview and Scrutiny structure along with an update on the implementation of recommendations of the Kirklees Democracy Commission in relation to the review of governance models.

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>?	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer Henshall – 12th May 2023
Is it also signed off by the Service Director for Finance?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 28th April 2023
Cabinet member portfolio	

Electoral wards affected: All

Ward councillors consulted: Not applicable.

Public or private: Public Report

Has GDPR been considered? Yes. The report does not include any personal data that identifies a living individual.

1. **Summary**

- 1.1 The Council's Democracy Commission reported its findings and recommendations in respect of a review into alternative governance models to Council in January 2023. Having resolved to retain the current Leader and Cabinet model, a number of subsequent recommendations were agreed in relation to the further development of the Council's scrutiny function, including a request to review the current scrutiny panels. A copy of the full recommendations of the Democracy Commission are provided at **Appendix 3**.
- 1.2 The report proposes changes to the current structure and highlights progress in relation to the implementation of the wider recommendations of the Democracy Commission. Any changes to the scrutiny structure needs to be agreed at Annual Council.

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

Current Structure

- 2.01 The current Overview and Scrutiny structures, which have been in place since 2017, have allowed Scrutiny the flexibility to respond to the priority issues facing the Council and develop a focussed and constructive approach. The following themed committees are in place to scrutinise decisions and issues falling within their respective remits:
- Corporate Scrutiny Panel
 - Children's Scrutiny Panel
 - Economy and Neighbourhoods Scrutiny Panel
 - Health and Adult Social Care Panel
- 2.02 An overarching Overview and Scrutiny Management Committee (OSMC) manages and co-ordinates the work programmes and the use of Scrutiny resources. In addition, OSMC is also responsible for the statutory Scrutiny requirements in relation to scrutiny of crime and disorder and flood risk management.
- 2.03 Statutory joint committees, relating to health, along with ad-hoc panels, undertaking time limited task-based pieces of work also form part of the current structure which is set out at **Appendix 1**.
- 2.04 Within the current structure a Regeneration Ad-hoc Panel was constituted in April 2022 to scrutinise a number of regeneration projects in Kirklees. This Panel has met throughout the year and its work is ongoing.

3. **Proposed Structure**

- Dis-establish the **Corporate Scrutiny Panel**
- Retain overarching **Overview and Scrutiny Management Committee** (OSMC) to manage the overall work programme and prioritise the work of the Scrutiny Panels. The Panel will pick up high-level performance monitoring in relation to financial management,

scrutinising the performance and implementation of financial policy and the delivery of the Council Plan. The OSMC have responsibility for the Corporate portfolio and will to continue to carry out the statutory requirements in relation to crime and disorder and flood risk management.

- Retain the current **Health and Adult Social Care Scrutiny Panel**. This panel retains the statutory scrutiny of Health responsibilities. The power to refer concerns about proposals for significant changes to local health services to the Secretary of State is vested in the individual Joint Health Scrutiny Panels.
- Retain a **Children's Scrutiny Panel**
- Rename the **Economy and Neighbourhoods Scrutiny Panel** to **Environment and Climate Change Panel** (to pick up work under the Environment and wider climate change agenda in addition to highways/streetscene and culture)
- Dis-establish **Ad- Hoc Regeneration Panel**
- Establish a **Growth and Regeneration Panel** (remit to include skills, growth and regeneration along with housing)
- Dis-establish the **Democracy Commission**

A proposed structure chart is attached at **Appendix 2**

4. Rationale

- 4.1 Reviewing the operation of the current panels has provided the opportunity to examine the workloads and remits of the existing panels. The setting up of the current Ad-hoc Regeneration Panel was partly as a result of the wide remit of the Economy and Neighbourhoods Panel which had resulted in capacity issues when it came to undertaking in depth scrutiny of a number of ongoing major regeneration projects.
- 4.2 The proposal to formally constitute a standing Regeneration and Housing Panel will reduce the remit of the Economy and Neighbourhoods Panel and allow for a dedicated Panel to scrutinise the wider regeneration and skills agenda in Kirklees. Furthermore, the inclusion of housing will align the remit of the new Panel more closely with the current Directorate structure.
- 4.3 With regard to the dis-establishment of the Corporate Panel, it is proposed that the main corporate strategic items relating to Council finance, and performance monitoring be transferred to the OSMC in their scrutiny role of holding the executive to account and ensuring they scrutinise the performance and implementation of the financial policy. This will allow for high level scrutiny oversight from the Management Committee on these critical areas. It is envisaged that performance monitoring will enable OSMC to offer constructive challenge and refer issues of concern to individual panels or other appropriate forums for in depth consideration where appropriate.
- 4.4 In conclusion, the proposed changes outlined in the report seeks to ensure that remits across the themed Panels are more balanced and more closely aligned with current work areas and portfolios. Strategic oversight of critical areas of corporate focus will fall within the remit of the Management Committee (OSMC).

- 4.5 Where there are cross cutting issues/items, the Chair of Scrutiny will continue to determine which Panel will consider the item in consultation with the respective Lead Member.
- 4.6 The proposed structure retains the same number of standing Panels and can be delivered within existing resources which makes the best use of resources within the financial challenge the Authority faces, with no change to the number and level of allowances paid through the Members Allowance Scheme.
- 4.7 It is also proposed the Democracy Commission is dis-established following the review of the proposal and the approval of the recommendations from Council on 11 January 2023.

5. Wider Scrutiny Development

- 5.1 A number of wider recommendations from the Democracy Commission relate directly to improving the Council's scrutiny function. Set out below is progress in relation to delivery of the recommendations to date.

Pre-Decision Scrutiny

- 5.2 The Democracy Commission outlined 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.
- 5.3 To assist the delivery of more effective pre-decision scrutiny a draft protocol is being developed in consultation with the Chair of Scrutiny and the Chair of the Democracy Commission/Cabinet Member for Democracy and Housing will operate within the authority. The pre-decision protocol, will provide a framework to ensure good lines of communication between Lead Members, Cabinet Members and Strategic Directors and will be implemented in the new municipal year. The protocol aims to ensure potential items are identified in a timely manner which allows time for scrutiny to influence and add value to the decision-making process.

Member Training

- 5.4 Arrangements are underway to provide scrutiny training to all Members in advance of the first meeting of the Scrutiny Panels in the 2023/24 Municipal Year. The training will include:
- Scrutiny Structure in Kirklees
 - Relevant Legislation and powers
 - Call-In guidance
 - Meeting Preparations
 - Questioning Techniques
 - Work Programme prioritisation

A finalised programme will be developed in consultation with the Chair of Scrutiny, with a separate additional session being developed for Lead Members.

Progress in relation to the implementation of all the recommendations of the Democracy Commission is set out at **Appendix 3**.

6. Implications for the Council

Working with People

N/A

Working with Partners

N/A

Place Based Working

N/A

Climate Change and Air Quality

N/A

Improving outcomes for children and young people

The proposals within the report do not seek to change the current arrangements in respect of scrutiny of Children's Services

Financial Implications for the people living or working in Kirklees

There are no direct cost impacts on the Kirklees community.

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

The proposed structure meets with the requirements of the Local Government Act 2000 and subsequent legislation in relation to the provision of a scrutiny function.

The financial implications as set out in paragraph 4.6 of the report indicate that the proposed structure can be supported without an increase in special responsibility allowances.

Consultation

The Chair of Overview and Scrutiny Management Committee, Chair of the Democracy Commission have been consulted on the proposals.

7. Next steps and timelines

Any recommendations from the Committee in respect of changes to the Council's Scrutiny structures would need approval from full Council.

8. Officer recommendations and reasons

1. That Corporate Governance and Audit committee recommends to Annual Council the changes as set out in paragraph 3 of the report

2. That subject to the agreement of (1) above, the Committee recommend to Council that the Service Director Legal, Governance and Commissioning be delegated with authority to make appropriate changes to the Constitution to reflect the agreed changes to the scrutiny arrangements.

9. Cabinet Portfolio Holder's recommendations

Not applicable.

10. Contact officer

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

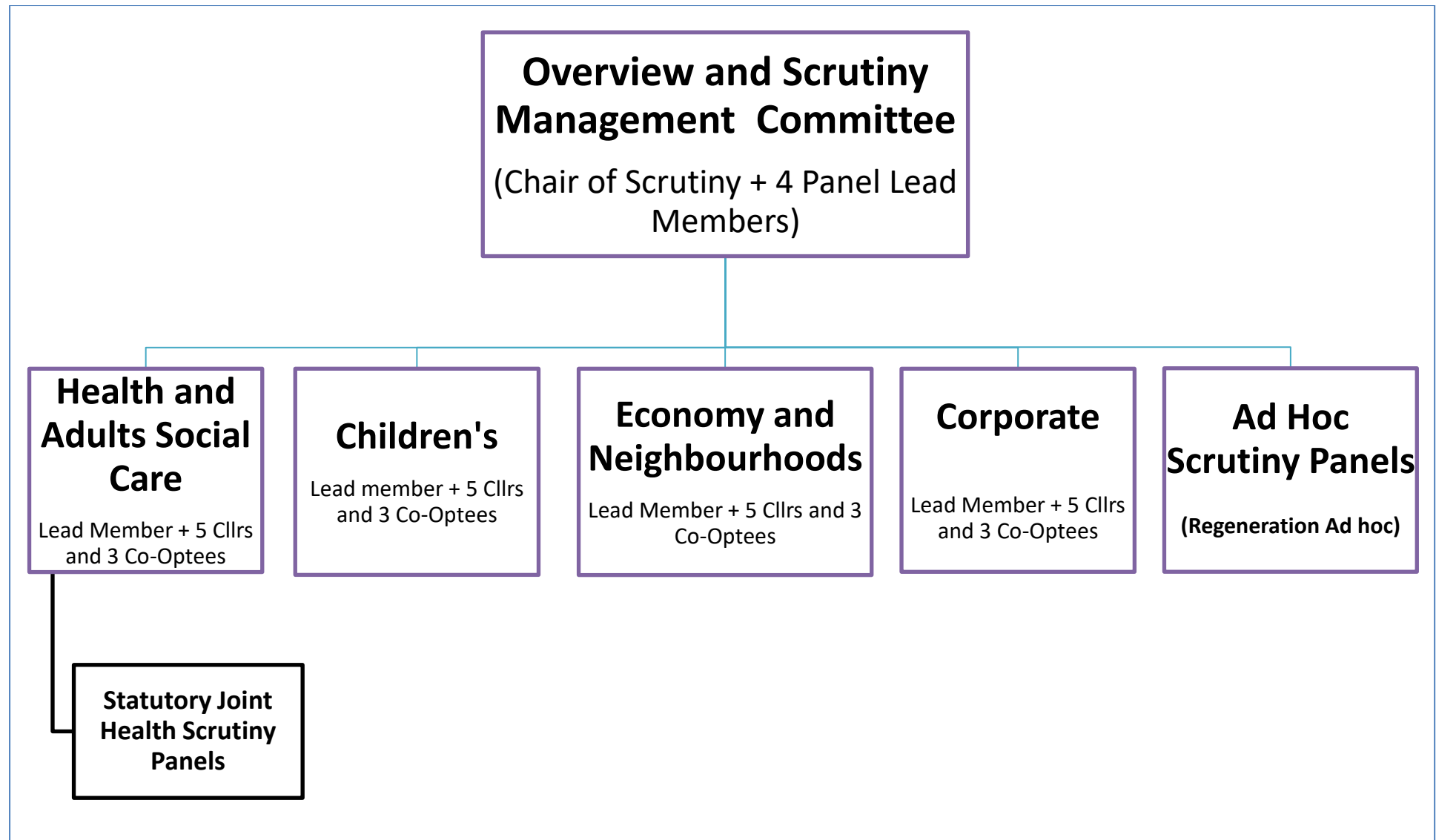
11. Service Director responsible

Julie Muscroft, Service Director, Legal, Governance and Commissioning

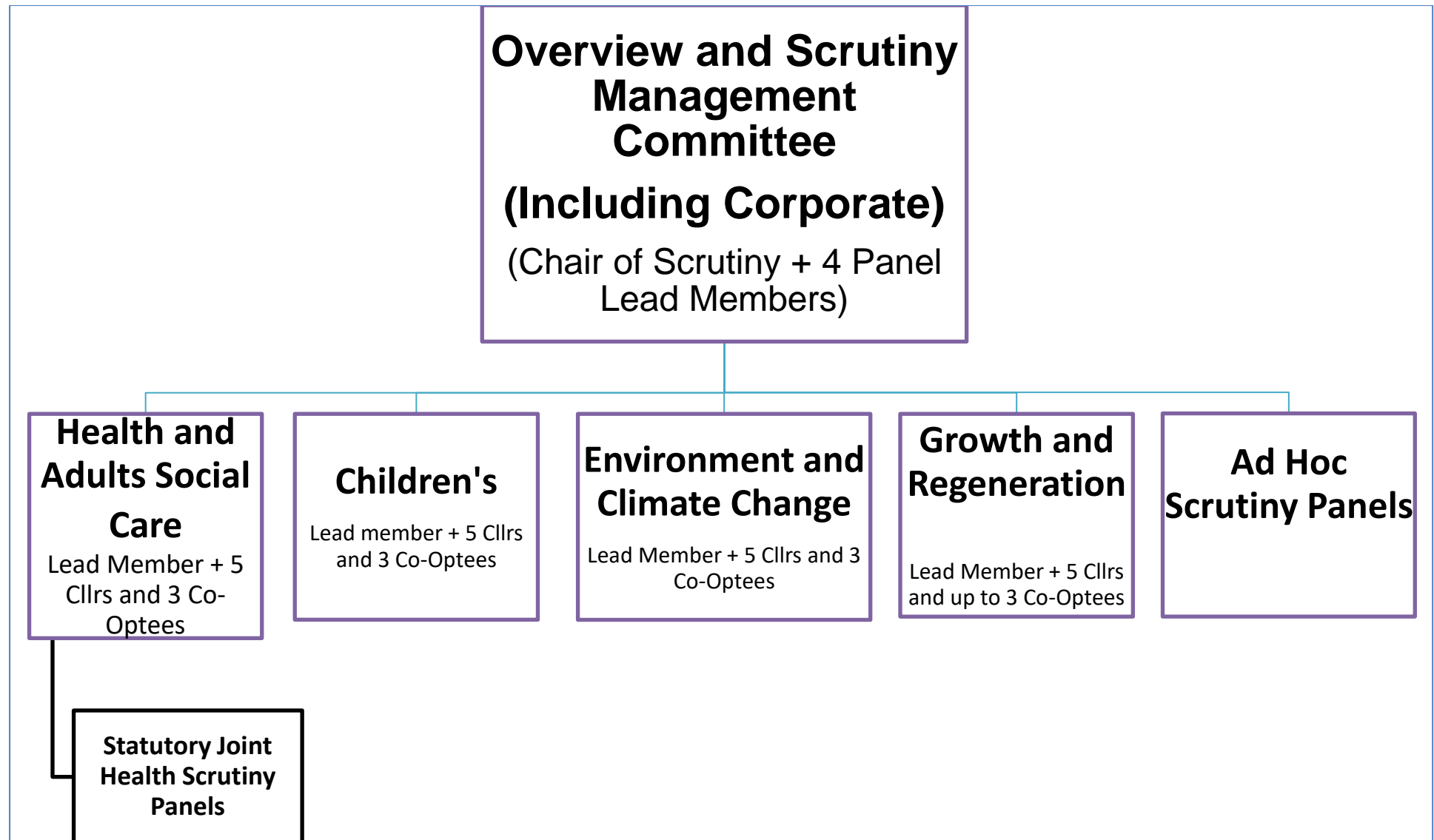
Appendices

Insert: Appendix 1 – Current Scrutiny structure
Appendix 2 – Proposed Scrutiny structure
Appendix 3 – Democracy Commission recommendations and update

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APPENDIX 3

Democracy Commission Recommendation Proposals – Update

Key

	Actioned/In progress
	In development
	Longer term

Recommendation	Current Position	Rating
(i) Improvements to enhance and improve pre-decision scrutiny to include reviewing the current scrutiny panels	<ul style="list-style-type: none"> Review of panels Actioned <p>Report to CGA and Annual Council for approval 12th May 2023 and 24th May 2023</p> <ul style="list-style-type: none"> Enhanced Scrutiny training Actioned <p>Programme in place for municipal year 23/24</p> <ul style="list-style-type: none"> Consequential updates to O & S Procedure rules (constitution) 	
(ii) Clear guidance as far as reasonably practicable in defining pre-decision scrutiny and associated timelines	<ul style="list-style-type: none"> Pre-decision protocol and agreed approach Actioned - Work ongoing Wider communication 	

		and website updates/briefings (TBC once approved)	
(iii)	Annual training and work programme briefings provided to all Members of the Council's Scrutiny Panels.	<p>Programme developed and enhanced to include for lead members</p> <p>Actioned – in place from May/Jun 23</p> <p>Digital training offer</p>	<p>In progress</p> <p>Ongoing - longer term</p>
(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	Actioned – see above	
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.	Ongoing	
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.	Ongoing	
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.	<p>In development</p> <p>TBC Summer 23</p>	

<p>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.</p>	<p>In development</p>	
<p>7. That work is considered to explore enhancing training and development for Councillors to help understand and carry out their roles.</p>	<p>Training being developed within governance and scrutiny to address areas outlined above</p> <p>Actioned – in place May/June 2023</p>	

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Name of meeting: Annual Council

Date: Wednesday 24 May 2023

Title of report: Appointment of Committees, Boards and Panels

To determine the appointment of the Committees, Boards and Panels of Council for the 2023/2024 Municipal Year.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by Strategic Director & name	N/A
Is it also signed off by the Service Director for Finance IT and Transactional Services?	N/A
Is it also signed off by the Service Director for Legal, Governance and Commissioning Support?	Julie Muscroft – 16.5.23
Cabinet member portfolio	N/A

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

(Have you considered GDPR?)

Yes – no individuals have been identified in this report.

1. **Summary**

Council is asked to determine the appointment of the Committees, Boards and Panels of Council for the 2023/2024 Municipal Year.

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

Council Procedure Rule 35 (1) requires the Council to establish Regulatory Committees and any other Committees which it considers to be necessary in order to discharge the functions of the Local Authority.

The structure proposed for the 2023/2024 Municipal Year is in line with the Council/Executive/Overview and Scrutiny Arrangements, as described within the Council's Constitution (as amended).

All Committees, the Appeals Panel and Health and Wellbeing Board Council require approval by Council in accordance with Council Procedure Rule 35 (1).

Any Sub-Committees of these Committees and Panels are established/approved by their parent Committee or Panel.

Appeals Panel
Corporate Governance & Audit Committee
Corporate Parenting Board
Health & Wellbeing Board
Licensing & Safety Committee
Overview & Scrutiny Management Committee
Personnel Committee
Standards Committee
Strategic Planning Committee
Statutory Officer Disciplinary Committee

The Primary Care Network and Local Health Improvement Leads will not be appointed to for the 2023/24 Municipal Year.

3. **Implications for the Council**

3.1 **Working with People**

Not applicable

3.2 **Working with Partners**

Not applicable

3.3 **Place-based working**

Not applicable

3.4 **Climate Change and Air Quality**

Not applicable

3.5 Improving outcomes for Children

Not applicable

3.6 Financial implications for people living/working in Kirklees

Not applicable

3.7 Other (eg Legal/Financial or Human Resources)

Not applicable

4. Consultees and their opinions

Not applicable

5. Next steps

The Committees, Boards and Panels will be established in accordance with the decision of Council.

6. Officer recommendations and reasons

That approval be given to the establishment of the Committees, Boards and Panels as listed within this report, in accordance with the Council's Constitution.

7. Cabinet portfolio holder's recommendation

Not applicable

8. Contact officer

Samantha Lawton, Head of Governance

9. Background Papers and History of Decisions

Not applicable

10. Service Director responsible

Julie Muscroft – Legal, Governance and Commissioning

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AGENDA ITEM 12

Committees/Panels/Boards	Total No. of members	Labour 39	Cons 18	Lib Dem 8	Green 3	Independent 1	
Appeals Panel	15	9	4	1	1	0	
Statutory Officer Dismissal Committee	5	3	1	1	0	0	
Licensing and Safety Committee	15	9	4	1	1	0	
Standards Committee	7	4	2	1	0	0	
Personnel Committee	9	5	3	1	0	0	
Strategic Planning Committee	7	4	2	1	0	0	
Planning Sub-Committee (Heavy Woollen)	13	7	3	2	1	0	
Planning Sub-Committee (Huddersfield)	13	7	3	2	1	0	
Corporate Governance & Audit Committee	7	4	2	1	0	0	
Overview and Scrutiny Panels x 4	24	14	6	3	1	0	
Overview and Scrutiny Management Committee	5						(Non-proportional - Chair + 4 Lead Members)
Health and Wellbeing Board	5	3	1	1	0	0	(Non-proportional)
Corporate Parenting Board	4	1	1	1	1	0	(Non-proportional)

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KIRKLEES COUNCIL - CALENDAR OF MEETINGS 2023/2024

Day	Date	Time	Meeting
Monday	22 May 2023		
Tuesday	23 May 2023		
Wednesday	24 May 2023	12:30 PM	Annual Council
Thursday	25 May 2023		
Friday	26 May 2023		
Saturday	27 May 2023		
Sunday	28 May 2023		
Monday	29 May 2023		Bank Holiday
Tuesday	30 May 2023		
Wednesday	31 May 2023		
Thursday	01 June 2023		
Friday	02 June 2023		
Saturday	03 June 2023		
Sunday	04 June 2023		
Monday	05 June 2023	10:00 AM	Licensing Panel
Tuesday	06 June 2023		
Wednesday	07 June 2023		
Thursday	08 June 2023	1:00 PM	Strategic Planning Committee
Friday	09 June 2023		
Saturday	10 June 2023		
Sunday	11 June 2023		
Monday	12 June 2023		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Tuesday	13 June 2023		
Wednesday	14 June 2023		
Thursday	15 June 2023	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	16 June 2023	10:00 AM	Corporate Governance and Audit Committee
Saturday	17 June 2023		
Sunday	18 June 2023		
Monday	19 June 2023		
Tuesday	20 June 2023	2:00 PM	Overview and Scrutiny Management Committee
Wednesday	21 June 2023	10:00 AM	Cabinet Committee - Local Issues
Thursday	22 June 2023	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	23 June 2023		
Saturday	24 June 2023		
Sunday	25 June 2023		
Monday	26 June 2023	2:30 PM	Personnel Committee
Tuesday	27 June 2023	2:00 PM	Cabinet
Wednesday	28 June 2023	10:00 AM	Licensing and Safety Committee
Thursday	29 June 2023	2:15 PM	Health and Wellbeing Board
Friday	30 June 2023		
Saturday	01 July 2023		
Sunday	02 July 2023		
Monday	03 July 2023	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	04 July 2023	10:15 AM	Corporate Parenting Board
Wednesday	05 July 2023	10:00 AM	Licensing Panel
Wednesday	05 July 2023	2:00 PM	Scrutiny Panel - Health and Adult Social Care

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Thursday	06 July 2023	1:00 PM	Strategic Planning Committee
Friday	07 July 2023		
Saturday	08 July 2023		
Sunday	09 July 2023		
Monday	10 July 2023	2:00 PM	Scrutiny Panel - Children's
Tuesday	11 July 2023	3:00 PM	Cabinet
Wednesday	12 July 2023	5:30 PM	Council
Thursday	13 July 2023		
Friday	14 July 2023	10:00 AM	Corporate Governance and Audit Committee
Saturday	15 July 2023		
Sunday	16 July 2023		
Monday	17 July 2023		
Tuesday	18 July 2023		
Wednesday	19 July 2023	2:00 PM	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	20 July 2023	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	21 July 2023		
Saturday	22 July 2023		
Sunday	23 July 2023		
Monday	24 July 2023		
Tuesday	25 July 2023		
Wednesday	26 July 2023	10:00 AM	Cabinet Committee - Local Issues
Thursday	27 July 2023	2:15 PM	Health and Wellbeing Board
Friday	28 July 2023		
Saturday	29 July 2023		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Sunday	30 July 2023		
Monday	31 July 2023		
Tuesday	01 August 2023	2:00 PM	Overview and Scrutiny Management Committee
Wednesday	02 August 2023	10:00 AM	Licensing Panel
Thursday	03 August 2023	1:00 PM	Strategic Planning Committee
Friday	04 August 2023		
Saturday	05 August 2023		
Sunday	06 August 2023		
Monday	07 August 2023		
Tuesday	08 August 2023		
Wednesday	09 August 2023		
Thursday	10 August 2023	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	11 August 2023		
Saturday	12 August 2023		
Sunday	13 August 2023		
Monday	14 August 2023	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	15 August 2023	3:00 PM	Cabinet
Wednesday	16 August 2023	2:00 PM	Scrutiny Panel - Health and Adult Social Care
Thursday	17 August 2023		
Friday	18 August 2023		
Saturday	19 August 2023		
Sunday	20 August 2023		
Monday	21 August 2023	2:00 PM	Scrutiny Panel - Children's
Tuesday	22 August 2023	10:15 AM	Corporate Parenting Board

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Wednesday	23 August 2023	10:00 AM	Cabinet Committee - Local Issues
Thursday	24 August 2023		
Friday	25 August 2023		
Saturday	26 August 2023		
Sunday	27 August 2023		
Monday	28 August 2023		Bank Holiday
Tuesday	29 August 2023		
Wednesday	30 August 2023	2:00 PM	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	31 August 2023	1:00 PM	Strategic Planning Committee
Friday	01 September 2023		
Saturday	02 September 2023		
Sunday	03 September 2023		
Monday	04 September 2023		
Tuesday	05 September 2023	2:00 PM	Overview and Scutiny Management Committee
Wednesday	06 September 2023	10:00 AM	Licensing and Safety Committee
Thursday	07 September 2023	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	08 September 2023		
Saturday	09 September 2023		
Sunday	10 September 2023		
Monday	11 September 2023		
Tuesday	12 September 2023		
Wednesday	13 September 2023	5:30 PM	Council
Thursday	14 September 2023		
Friday	15 September 2023		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Saturday	16 September 2023		
Sunday	17 September 2023		
Monday	18 September 2023		
Tuesday	19 September 2023	3:00 PM	Cabinet
Wednesday	20 September 2023	10:00 AM	Standards Committee
Wednesday	20 September 2023	10:00 AM	Licensing Panel
Thursday	21 September 2023	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	22 September 2023		
Saturday	23 September 2023		
Sunday	24 September 2023		
Monday	25 September 2023	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	26 September 2023		
Wednesday	27 September 2023	10:00 AM	Cabinet Committee - Local Issues
Wednesday	27 September 2023	2:00 PM	Scrutiny Panel - Health and Adult Social Care
Thursday	28 September 2023	2:15 PM	Health and Wellbeing Board
Friday	29 September 2023	10:00 AM	Corporate Governance and Audit Committee
Saturday	30 September 2023		
Sunday	01 October 2023		
Monday	02 October 2023	2:00 PM	Scrutiny Panel - Children's
Tuesday	03 October 2023		
Wednesday	04 October 2023		
Thursday	05 October 2023	1:00 PM	Strategic Planning Committee
Friday	06 October 2023		
Saturday	07 October 2023		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Sunday	08 October 2023		
Monday	09 October 2023		
Tuesday	10 October 2023		
Wednesday	11 October 2023	10:00 AM	Licensing Panel
Thursday	12 October 2023		
Friday	13 October 2023		
Saturday	14 October 2023		
Sunday	15 October 2023		
Monday	16 October 2023		
Tuesday	17 October 2023	3:00 PM	Cabinet
Wednesday	18 October 2023	5:30 PM	Council
Thursday	19 October 2023	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	20 October 2023	10:00 AM	Cabinet Committee - Local Issues
Saturday	21 October 2023		
Sunday	22 October 2023		
Monday	23 October 2023		
Tuesday	24 October 2023	10:15 AM	Corporate Parenting Board
Tuesday	24 October 2023	2:00 PM	Overview and Scrutiny Management Committee
Wednesday	25 October 2023	2:00 PM	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	26 October 2023		
Friday	27 October 2023		
Saturday	28 October 2023		
Sunday	29 October 2023		
Monday	30 October 2023		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Tuesday	31 October 2023		
Wednesday	01 November 2023	10:00 AM	Licensing Panel
Thursday	02 November 2023	1:00 PM	Strategic Planning Committee
Friday	03 November 2023		
Saturday	04 November 2023		
Sunday	05 November 2023		
Monday	06 November 2023		
Tuesday	07 November 2023	2:00 PM	Scrutiny Panel - Children's
Wednesday	08 November 2023		
Thursday	09 November 2023	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	10 November 2023		
Saturday	11 November 2023		
Sunday	12 November 2023		
Monday	13 November 2023		
Tuesday	14 November 2023	3:00 PM	Cabinet
Wednesday	15 November 2023	5:30 PM	Council
Thursday	16 November 2023		
Friday	17 November 2023		
Saturday	18 November 2023		
Sunday	19 November 2023		
Monday	20 November 2023	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	21 November 2023		
Wednesday	22 November 2023	10:00 AM	Cabinet Committee - Local Issues
Wednesday	22 November 2023	2:00 PM	Scrutiny Panel - Health and Adult Social Care

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Thursday	23 November 2023	2:15 PM	Health and Wellbeing Board
Friday	24 November 2023	10:00 AM	Corporate Governance and Audit Committee
Saturday	25 November 2023		
Sunday	26 November 2023		
Monday	27 November 2023		
Tuesday	28 November 2023		
Wednesday	29 November 2023	2:00 PM	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	30 November 2023	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	01 December 2023		
Saturday	02 December 2023		
Sunday	03 December 2023		
Monday	04 December 2023		
Tuesday	05 December 2023	10:15 AM	Corporate Parenting Board
Tuesday	05 December 2023	2:00 PM	Overview and Scrutiny Management Committee
Wednesday	06 December 2023	10:00 AM	Licensing Panel
Thursday	07 December 2023	1:00 PM	Strategic Planning Committee
Friday	08 December 2023		
Saturday	09 December 2023		
Sunday	10 December 2023		
Monday	11 December 2023		
Tuesday	12 December 2023	3:00 PM	Cabinet
Wednesday	13 December 2023	5:30 PM	Council
Thursday	14 December 2023	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	15 December 2023	10:00 AM	Cabinet Committee - Local Issues

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Saturday	16 December 2023		
Sunday	17 December 2023		
Monday	18 December 2023		
Tuesday	19 December 2023		
Wednesday	20 December 2023		
Thursday	21 December 2023		
Friday	22 December 2023		
Saturday	23 December 2023		
Sunday	24 December 2023		
Monday	25 December 2023		Bank Holiday
Tuesday	26 December 2023		Bank Holiday
Wednesday	27 December 2023		
Thursday	28 December 2023		
Friday	29 December 2023		
Saturday	30 December 2023		
Sunday	31 December 2023		
Monday	01 January 2024		Bank Holiday
Tuesday	02 January 2024		
Wednesday	03 January 2024		
Thursday	04 January 2024		
Friday	05 January 2024		
Saturday	06 January 2024		
Sunday	07 January 2024		
Monday	08 January 2024		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Tuesday	09 January 2024		
Wednesday	10 January 2024	10:00 AM	Licensing Panel
Wednesday	10 January 2024	14:00	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	11 January 2024		
Friday	12 January 2024		
Saturday	13 January 2024		
Sunday	14 January 2024		
Monday	15 January 2024	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	16 January 2024	3:00 PM	Cabinet
Wednesday	17 January 2024	5:30 PM	Council
Thursday	18 January 2024	2:15 PM	Health and Wellbeing Board
Friday	19 January 2024	10:00 AM	Corporate Governance and Audit Committee
Saturday	20 January 2024		
Sunday	21 January 2024		
Monday	22 January 2024	2:00 PM	Scrutiny Panel - Children's
Tuesday	23 January 2024	10:15 AM	Corporate Parenting Board
Wednesday	24 January 2024	2:00 PM	Scrutiny Panel - Health and Adult Social Care
Thursday	25 January 2024	1:00 PM	Strategic Planning Committee
Friday	26 January 2024		
Saturday	27 January 2024		
Sunday	28 January 2024		
Monday	29 January 2024		
Tuesday	30 January 2024	2:00 PM	Overview and Scutiny Management Committee
Wednesday	31 January 2024	10:00 AM	Cabinet Committee - Local Issues

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Thursday	01 February 2024	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	02 February 2024		
Saturday	03 February 2024		
Sunday	04 February 2024		
Monday	05 February 2024		
Tuesday	06 February 2024	3:00 PM	Cabinet
Wednesday	07 February 2024	5:30 PM	Council
Thursday	08 February 2024	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	09 February 2024		
Saturday	10 February 2024		
Sunday	11 February 2024		
Monday	12 February 2024		
Tuesday	13 February 2024	3:00 PM	Cabinet (Budget)
Wednesday	14 February 2024	10:00 AM	Licensing and Safety Committee
Thursday	15 February 2024		
Friday	16 February 2024		
Saturday	17 February 2024		
Sunday	18 February 2024		
Monday	19 February 2024		
Tuesday	20 February 2024		
Wednesday	21 February 2024	10:00 AM	Licensing Panel
Wednesday	21 February 2024	2:00 PM	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	22 February 2024	1:00 PM	Strategic Planning Committee
Friday	23 February 2024		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Saturday	24 February 2024		
Sunday	25 February 2024		
Monday	26 February 2024	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	27 February 2024		
Wednesday	28 February 2024	10:00 AM	Cabinet Committee - Local Issues
Wednesday	28 February 2024	2:00 PM	Scrutiny Panel - Health and Adult Social Care
Thursday	29 February 2024		
Friday	01 March 2024		
Saturday	02 March 2024		
Sunday	03 March 2024		
Monday	04 March 2024	2:00 PM	Scrutiny Panel - Children's
Tuesday	05 March 2024	10:15 AM	Corporate Parenting Board
Tuesday	05 March 2024	2:00 PM	Overview and Scutiny Management Committee
Wednesday	06 March 2024	5:30 PM	Council - Budget
Thursday	07 March 2024		
Friday	08 March 2024	10:00 AM	Corporate Governance and Audit Committee
Saturday	09 March 2024		
Sunday	10 March 2024		
Monday	11 March 2024		
Tuesday	12 March 2024	3:00 PM	Cabinet
Wednesday	13 March 2024	10:00 AM	Standards Committee
Thursday	14 March 2024	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	15 March 2024		
Saturday	16 March 2024		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Sunday	17 March 2024		
Monday	18 March 2024		
Tuesday	19 March 2024		
Wednesday	20 March 2024	10:00 AM	Licensing Panel
Thursday	21 March 2024	1:00 PM	Strategic Planning Committee
Friday	22 March 2024	10:00 AM	Cabinet Committee - Local Issues
Saturday	23 March 2024		
Sunday	24 March 2024		
Monday	25 March 2024	11:00 AM	Scrutiny Panel - Corporate*
Tuesday	26 March 2024		
Wednesday	27 March 2024	2:00 PM	Scrutiny Panel - Economy and Neighbourhoods**
Thursday	28 March 2024	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	29 March 2024		Bank Holiday
Saturday	30 March 2024		
Sunday	31 March 2024		
Monday	01 April 2024		Bank Holiday
Tuesday	02 April 2024		
Wednesday	03 April 2024		
Thursday	04 April 2024	2:15 PM	Health and Wellbeing Board
Friday	05 April 2024		
Saturday	06 April 2024		
Sunday	07 April 2024		
Monday	08 April 2024		
Tuesday	09 April 2024	3:00 PM	Cabinet

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Wednesday	10 April 2024	10:00 AM	Licensing Panel
Thursday	11 April 2024		
Friday	12 April 2024		
Saturday	13 April 2024		
Sunday	14 April 2024		
Monday	15 April 2024		
Tuesday	16 April 2024	10:15 AM	Corporate Parenting Board
Tuesday	16 April 2024	2:00 PM	Overview and Scrutiny Management Committee
Wednesday	17 April 2024	2:00 PM	Scrutiny Panel - Health and Adult Social Care
Thursday	18 April 2024	1:00 PM	Strategic Planning Committee
Friday	19 April 2024	10:00 AM	Corporate Governance and Audit Committee
Saturday	20 April 2024		
Sunday	21 April 2024		
Monday	22 April 2024		
Tuesday	23 April 2024		
Wednesday	24 April 2024		
Thursday	25 April 2024	1:00 PM	Planning Sub-Committee - Huddersfield Area
Friday	26 April 2024	10:00 AM	Cabinet Committee - Local Issues
Saturday	27 April 2024		
Sunday	28 April 2024		
Monday	29 April 2024		
Tuesday	30 April 2024		
Wednesday	01 May 2024	10:00 AM	Licensing Panel
Thursday	02 May 2024		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Friday	03 May 2024		
Saturday	04 May 2024		
Sunday	05 May 2024		
Monday	06 May 2024		Bank Holiday
Tuesday	07 May 2024		
Wednesday	08 May 2024		
Thursday	09 May 2024	1:00 PM	Planning Sub-Committee - Heavy Woollen Area
Friday	10 May 2024		
Saturday	11 May 2024		
Sunday	12 May 2024		
Monday	13 May 2024		
Tuesday	14 May 2024		
Wednesday	15 May 2024		
Thursday	16 May 2024	1:00 PM	Strategic Planning Committee
Friday	17 May 2024		
Saturday	18 May 2024		
Sunday	19 May 2024		
Monday	20 May 2024		
Tuesday	21 May 2024		
Wednesday	22 May 2024	12:30 PM	ANNUAL COUNCIL
Thursday	23 May 2024		
Friday	24 May 2024		
Saturday	25 May 2024		
Sunday	26 May 2024		

* Scrutiny Panel - Growth and Regeneration **Scrutiny Panel - Environment and Climate Change
(subject to Council approval of proposed amendments to Overview and Scrutiny arrangements)

Day	Date	Time	Meeting
Monday	27 May 2024		Bank Holiday
Tuesday	28 May 2024		
Wednesday	29 May 2024		
Thursday	30 May 2024		
Friday	31 May 2024		
Saturday	01 June 2024		
Sunday	02 June 2024		

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Name of meeting: Annual Council

Date: Wednesday 24 May 2023

Title of report: Appointment of Members to Joint Authorities

Purpose of report: To consider and determine the membership of Joint Authorities in 2023/2024.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <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?	Not applicable Not applicable Julie Muscroft – 16.5.23
Cabinet member portfolio	Not applicable

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

Has GDPR been considered?

Yes – no individuals have been identified in this report.

1. Summary

To consider and determine the membership of Joint Authorities in 2023/2024.

2. Information required to take a decision

West Yorkshire Fire & Rescue Authority

The Council is entitled to appoint four Members, on a ratio of 3:1, under the Local Government Act 1985 to West Yorkshire Fire and Rescue Authority.

In making the appointments the Council is reminded of the provisions of Section 15 of the Local Government and Housing Act 1989, which sets out the principles for ensuring that the majority of the seats on this body are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership. Council is asked to delegate authority to Group Business Managers to determine the appointments in accordance with these principles.

West Yorkshire Combined Authority

The Elected Members of the West Yorkshire Combined Authority (WYCA) are drawn from the five district authorities. Under the current legislation appointments have to reflect the balance of parties for the time being prevailing among the Members of the relevant Councils taken as a whole.

Council is asked to:

- (1) Appoint the Leader as Kirklees Council's Elected Member for the WYCA, with the Deputy Leader as the WYCA Substitute Member and to note that these members will also be automatically appointed to the WYCA Governance and Audit Committee and the WYCA Finance, Resources and Corporate Committee.
- (2) Delegate authority to the Chief Executive, in consultation with Group Leaders, WYCA's Managing Director and other West Yorkshire Chief Executives, to appoint 3 additional Members to WYCA and their substitutes, so that the 8 constituent council members taken as a whole reflect the balance of political parties for the time being among members of WYCA's constituent councils so far as reasonably practicable.
- (3) Delegate authority to Group Business Managers to nominate members to WYCA's Transport Committee, 4 members; 2 ordinary, 1 Transport Engagement Lead, 1 Transport Portfolio Holder.
- (4) Delegate authority to Group Business Managers to nominate three members to each of the three WYCA Scrutiny Committees; Corporate Overview and Scrutiny Committee, Economy Overview and Scrutiny Committee and Transport Overview and Scrutiny Committee, as far as possible in accordance with the political balance of Kirklees Council. (Any nominated member may act as a substitute for another member, from the same party and district, on any of the three

committees. If any member does not have another member from the same party and district then they may nominate a named substitute).

(5) Delegate authority to the Chief Executive, in consultation with Group Business Managers to:

- confirm any relevant Portfolio Holder to be appointed, or
- make any additional nomination

to any WYCA Committee or Panel, as requested by WYCA after this Council's annual meeting.

Kirklees has 1 place (for the Portfolio Holder or most appropriate Member) on each of the five WYCA Committees:

- (i) Business, Economy and Innovation Committee
- (ii) Climate, Energy and Environment Committee
- (iii) Place, Regeneration and Housing Committee
- (iv) Employment and Skills Committee
- (v) Culture, Arts and Creative Industries Committee

Leeds City Region Enterprise Partnership (LEP) Board

Council is asked to delegate authority to the Chief Executive to appoint a local authority representative and substitute to the LEP Board.

Leeds City Region Partnership Committee

Council is asked to delegate authority to the Chief Executive to appoint a substitute to the LCR Partnership Committee.

West Yorkshire Police and Crime Panel

The 12 Elected Members of the West Yorkshire Police and Crime Panel are drawn from the five district authorities. Under the current legislation appointments have to reflect the balance of parties, for the time being prevailing, among the Members of the relevant Councils taken as a whole.

Council is asked to delegate authority to Group Business Managers to determine the appointments once the Authority has received notice of the number of places available, having regard to the need to reflect overall political balance.

Other Joint Authorities

Council is asked to delegate authority to Group Business Managers to determine the appointment of Elected Members/Representatives to the remaining Joint Authorities not otherwise set out in this report.

3. Implications for the Council

3.1 Working with People Not applicable

- 3.2 **Working with Partners**
Not applicable
- 3.3 **Place Based Working**
Not applicable
- 3.4 **Climate Change and Air Quality**
Not applicable
- 3.5 **Improving outcomes for children**
Not applicable
- 3.6 **Financial implications for people living/working in Kirklees**
Not applicable
- 3.6 **Other (eg Legal/Financial or Human Resources) Consultees and their opinions**
Not applicable

4. Next steps and timelines

Subject to approval, the relevant organisations will be informed of the appointments.

5. Officer recommendations and reasons

That;

- (1) Council appoint the Leader as Kirklees Council's Elected Member for the WYCA, with the Deputy Leader as the WYCA Substitute Member and notes that these members will also be appointed to the WYCA Governance and Audit Committee and the WYCA Finance, Resources and Corporate Committee.
- (2) Council delegate authority to the Chief Executive, in consultation with Group Leaders, WYCA's Managing Director and other West Yorkshire Chief Executives, to appoint the 3 additional Members to WYCA and their substitutes, so that the 8 constituent council members taken as a whole reflect the balance of political parties for the time being among members of WYCA's constituent councils, so far as reasonably practicable.
- (3) Council delegate authority to Group Business Managers to nominate members to WYCA's Transport Committee, 4 members; 2 Ordinary, 1 Transport Engagement Lead, 1 Transport Portfolio Holder.
- (4) Council delegate authority to Group Business Managers to nominate three members to each of the three WYCA Scrutiny Committees; Corporate Overview and Scrutiny Committee, Economy Overview and Scrutiny Committee and Transport Overview and Scrutiny Committee. (Any nominated member may act as a substitute for another member, from the same district and party, on any of

the three committees. If any member does not have another member from the same party and district then they may nominate a named substitute).

(5) Council delegate authority to the Chief Executive, in consultation with Group Business Managers to:

- a. confirm any relevant Portfolio Holder to be appointed, or
- b. make any additional nomination

to any WYCA Committee or Panel, as requested by WYCA after this Council's annual meeting. Kirklees has 1 place (for the Portfolio Holder or most appropriate Member) on each of the five-WYCA Committees:

- (i) Business, Economy and Innovation Committee
- (ii) Climate, Energy and Environment Committee
- (iii) Place, Regeneration and Housing Committee
- (iv) Employment and Skills Committee
- (v) Culture, Arts and Creative Industries Committee

(6) Council delegate authority to the Chief Executive to appoint a local authority representative and substitute to the LEP Board.

(7) Council delegate authority to the Chief Executive to appoint a substitute to the Leeds City Region Partnership Committee.

(8) In order to fill places on (i) West Yorkshire Fire and Rescue Authority, and its Committees and (ii) West Yorkshire Police and Crime Panel, Council delegate authority to Group Business Managers for determination.

(9) Council delegate authority to Group Business Managers to determine the appointment of Elected Members/Representatives to the remaining Joint Authorities not otherwise set out in this report.

6. Cabinet Portfolio Holder's recommendations

Not applicable

7. Contact officer

Samantha Lawton, Head of Governance

8. Background Papers and History of Decisions

Not applicable

9. Service Director responsible

Julie Muscroft – Service Director for Legal, Governance and Commissioning

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Name of meeting: Annual Council

Date: Wednesday 24 May 2023

Title of report: Appointment to Outside Bodies/Other Committees

Purpose of report: To determine the appointment of representatives to Outside Bodies/Other Committees for the 2023/2024 Municipal Year.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Key Decision - Is it in the <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?	Not applicable Not applicable Julie Muscroft – 16.5.23
Cabinet member portfolio	Not applicable

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

Has GDPR been considered?

Yes – no individuals have been identified in this report.

1. Summary

To consider and determine the allocation of places/ratios, as appropriate, to the Outside Bodies as detailed within this report, for the 2023/2024 municipal year.

2. Information required to take a decision

The Council's representation on the various **Outside Bodies/other Committees** is comprised of three elements:

- (i) Representation on Joint Authorities and Major Bodies (see previous report)
- (ii) Representation on Other Outside Bodies and
- (iii) Representation on Charities.

This report relates to (ii) and (iii) above, representation on outside bodies and charities.

The Council is responsible for overall allocations/ratios, as appropriate, for bodies within its remit, and Cabinet is responsible for nominations to bodies concerned with executive functions. The Service Director – Legal, Governance and Commissioning has delegated authority, in consultation with Group Business Managers, to receive and process nominations. **Appendix 1** sets out the list of bodies to which the Council is asked to make nominations.

Yorkshire Purchasing Organisation Management Committee

The Council (along with the other constituent Authorities) is requested to pass a resolution to waive the applicability of political balance rules, and the Leader (in consultation with Group Business Managers) will nominate one nominee (and a substitute) to the YPO Management Committee.

The Council is also asked to nominate a Director to the associated Limited Company: YPO Procurement Holdings Ltd. This position can be held by the main nominee.

In relation to **Kirklees Active Leisure**, Council is asked to delegate to Group Business Managers to determine which of the two appointed Members will be authorised for the purposes of Member meetings (distinct from Director meetings) to exercise a vote, pursuant to Section 323 of the Companies Act 2006.

3. Implications for the Council

3.1 Working with People

Not applicable.

3.2 Working with Partners

Not applicable.

3.3 Place Based Working

Not applicable.

3.4 Climate Change and Air Quality

Not applicable

3.5 Improving outcomes for children

Not applicable

3.6 Financial implications for people living/working in Kirklees

Not applicable

3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Not applicable.

4. Next steps and timelines

Subject to approval, the relevant organisations will be informed of the appointments

5. Officer recommendations and reasons

- 1) That Council notes that Group Business Managers will put forward nominations to the Service Director – Legal, Governance and Commissioning to fill places or make any adjustments to nominees, as appropriate, following Council.
- 2) That those bodies with executive functions be referred to the Leader of the Council to put forward nominations.
- 3) That, in relation to Yorkshire Purchasing Organisation Management Committee, Council agrees to waive political balance rules which apply in accordance with Section 17 of the Local Government and Housing Act 1989 (this requires approval with no Member voting against);
- 4) That, Council agrees to delegate authority to the Leader to nominate one nominee and a substitute (in consultation with Group Business Managers); and the Leader (in consultation with Group Business Managers) will nominate a Director to the associated Limited Company: YPO Procurement Holdings Ltd.
- 5) That one of the Council Trustees on Kirklees Active Leisure, to be determined by the Group Business Managers, be authorised to represent the Council for the purposes of Member meetings pursuant to Section 323 of the Companies Act 2006, to exercise a vote.

6. Cabinet Portfolio Holder's recommendations

Not applicable

7. Contact officer

Samantha Lawton, Head of Governance

8. Background Papers and History of Decisions

Not applicable

9. Service Director responsible

Julie Muscroft – Legal, Governance and Commissioning

Appendices

Appendix 1 – Schedule of Outside Bodies

APPENDIX 1

Outside Body	Number of Nominees
Parking and Traffic Regulations Outside London Adjudication Joint Committee (PATROL)	1
Yorkshire and Humber Strategic Migration Group	1
West Yorkshire Adoption Joint Committee (One Adoption)	1 + sub
West Yorkshire Joint Services Committee	2 + 2 subs
Yorkshire Purchasing Organisation Management Committee	1 + sub
YPO Procurement Holdings Limited Company Board	1
Yorkshire and Humber (Local Government) Employers Association	1
Migration Yorkshire Board	1
C&K Careers Limited Holding Company	3
Calderdale and Kirklees Careers Limited	3
Calderdale and Huddersfield NHS Foundation Trust - Council of Governors (formerly known as Membership Council)	1
Children's Partnership Board (formerly Children's Trust)	4 + Ch of CSP
Environment Agency - Yorkshire Regional Flood and Coastal Committee	1 + Dep
Kirklees Communities Partnership Board (formerly Community Safety Partnership Executive)	4
Kirklees Theatre Trust (Lawrence Batley Theatre)	3
Peak District National Park Authority	1
Pennine Prospects (formerly South Pennine Rural Regeneration Company)	1
QED (KMC) Limited (Special Schools)	1
SUEZ (Kirklees) Limited	1
Special Interest Group of Metropolitan Authorities (SIGOMA)	1
Trans Pennine Trail Members' Steering Group	2

South West Yorkshire Partnership NHS Foundation Trust - Members' Council	1
West Yorkshire One Adoption - Adoption Panels	2
West Yorkshire Pension Fund Advisory Group - Joint Advisory Group	3
West Yorkshire Pension Fund Advisory Group - Pension Fund Investment Panel	2
Creative Media Centres Limited	1
Dewsbury Endowed Schools Foundation Trust Advisory Working Party	8
North Huddersfield Trust	1
Dewsbury Learning Trust	1
Globe Innovation Centre Ltd	1
Huddersfield Industrial Advisory Panel	1
Kirklees Active Leisure	2
Kirklees Community Association	6
Kirklees Community Fund Grants Panel	2
Kirklees Historic Buildings Trust Ltd	6
Kirklees Schools Services Ltd	1
Kirklees Stadium Development Ltd	3
Locala Community Partnership Members' Council	1
Musica Kirklees	2
National Association of British Market Authorities	3
National Coal Mining Museum for England Trust Ltd - Liaison Committee	2
Reserve Forces and Cadets Association for Yorkshire and the Humber	1
School Organisation Advisory Group	6

Spenborough Co-operative Trust	1
Kirklees Henry Boot Partnership	1
Standing Advisory Council for Religious Education	4
Laneside Landfill Community Trust	1
Batley Cricket, Athletic and Football Club (formerly Batley Bulldogs)	3
Batley Girls (Rae, Taylor, Hirst and Talbot) Leaving Scholarship Fund	1
Batley Grammar School Trustees	1
Charles Brook Convalescent Fund	1
Dewsbury Guild of Help / Whittuck Charity	2
Fletcher Charity	6
George Beaumont Foundation	1
Golcar Township Lands Charity	2
Holly Bank Trust	1
Huddersfield Education Trust	2
Longwood Grammar School Foundation	1
Mirfield Educational Charity	3
Mitcheson Bequest	2
R J Whitehead Almshouses	1
Roebuck Memorial Homes and Gardens	2
Sam Whitehead Trust	3
The Thurstonland School with Ludlum and Horsfall Foundation	1
Thornhill Poors Estate Charity	5

Walker and Greenwood Educational Charity	6
Whitcliffe Mount School Scholarship Trust	1
King James School Foundation	1
Wheelwright Old Boys War Memorial Fund	1
William Greenwood Homes	2
Fostering Panel	2
Community Learning Trust	1
Adult Learning Advisory Board	1
Armed Forces Covenant Board	1
Veterans Advisory & Pensions Committees, Yorkshire and the Humber	1

Name of meeting: Annual Council

Date: Wednesday 24 May 2023

Title of report: Spokespersons of Joint Committees and External Bodies

To appoint spokespersons of Joint Committees and External Bodies for the 2023/24 Municipal Year.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by Strategic Director & name	N/A
Is it also signed off by the Service Director for Finance IT and Transactional Services?	N/A
Is it also signed off by the Service Director for Legal, Governance and Commissioning Support?	Julie Muscroft - 16.5.23
Cabinet member portfolio	N/A

Electoral wards affected: Not applicable

Ward councillors consulted: Not applicable

Public or private: Public

(Have you considered GDPR?)

Yes – no individuals have been identified in this report.

1. **Summary**

To consider the appointment of spokespersons for Joint Committees/External Bodies for the 2023/2024 Municipal Year.

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

In accordance with Council Procedure Rules, oral questions may be asked at Council meetings of Council Members appointed to the undermentioned Joint Committees/External Bodies, namely;

- Kirklees Active Leisure
- West Yorkshire Adoption Joint Committee (One Adoption)
- West Yorkshire Combined Authority (and its Committees)
- West Yorkshire Fire and Rescue Authority
- West Yorkshire Police and Crime Panel
- West Yorkshire Joint Services Committee

For this purpose, spokespersons are appointed to respond to oral questions on behalf of each body.

3. **Implications for the Council**

3.1 **Working with People**

Not applicable

3.2 **Working with Partners**

Not applicable

3.3 **Place Based Working**

Not applicable

3.4 **Climate Change and Air Quality**

Not applicable

3.5 **Improving outcomes for children**

Not applicable

3.6 **Financial implications for people living/working in Kirklees**

Not applicable

3.7 **Other (eg Legal/Financial or Human Resources) Consultees and their opinions**

Not applicable

4. **Next steps**

The appointed spokespersons will act as the organisations' representatives in terms of responding to questions at meetings of Council throughout the municipal year.

5. **Officer recommendations and reasons**

- 1) That the nomination of spokespersons to reply to oral questions at meetings of Council on behalf of Kirklees Active Leisure and West Yorkshire Police and Crime Panel, be delegated to Group Business Managers for determination.
- 2) That it be noted that the spokespersons for the West Yorkshire Combined Authority (and its Committees); West Yorkshire Fire and Rescue Authority, and West Yorkshire Joint Services Committee will be notified by those bodies.
- 3) That the appointed spokesperson for the West Yorkshire Joint Adoption Committee be the relevant Cabinet Portfolio Holder.

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

Not applicable

8. **Contact officer**

Samantha Lawton, Head of Governance

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

Not applicable

10. **Service Director responsible**

Julie Muscroft – Legal, Governance and Commissioning

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