

# Public Document Pack



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

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Thursday 6 July 2023

## Notice of Meeting

Dear Member

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

The **Corporate Governance and Audit Committee** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **10.00 am** on **Friday 14 July 2023**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

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

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

**The Corporate Governance and Audit Committee members are:-**

## **Member**

Councillor James Homewood (Chair)  
Councillor Yusra Hussain  
Councillor Harry McCarthy  
Councillor Melanie Stephen  
Councillor John Taylor  
Councillor Kath Pinnock  
VACANCY-Labour  
Chris Jones (Co-Optee)

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

## **Substitutes Panel**

### **Conservative**

B Armer  
D Bellamy  
A Gregg  
D Hall  
R Smith  
M Thompson

### **Green**

K Allison  
A Cooper  
S Lee-Richards

### **Labour**

B Addy  
A Anwar  
S Hall  
Moore  
M Sokhal E Firth  
T Hawkins

### **Liberal Democrat**

PA Davies  
J Lawson  
A Munro  
A Marchington  
A Smith  
A Pinnock

## **Ex Officio Members**

Councillor Paul Davies  
Councillor Elizabeth Smaje  
Councillor Moses Crook

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

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

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**2: Minutes of Previous Meeting**

1 - 4

To approve the Minutes of the meeting of the Committee held on 16 June 2023.

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**3: Declarations of Interest**

5 - 6

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

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**4: Admission of the Public**

Most debates take place in public. This only changes where there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the agenda which are to be discussed in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

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**5: Deputations/Petitions**

The Committee will receive any petitions and/or deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also submit a petition at the meeting relating to a matter on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10, Members of the Public must submit a deputation in writing, at least three clear working days in advance of the meeting and shall subsequently be notified if the deputation shall be heard. A maximum of four deputations shall be heard at any one meeting.

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## **6: Public Question Time**

To receive any public questions.

In accordance with Council Procedure Rule 11, the period for the asking and answering of public questions shall not exceed 15 minutes.

Any questions must be submitted in writing at least three clear working days in advance of the meeting.

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## **7: Corporate Emergency Planning and Business Continuity Annual Report** 7 - 18

To receive an overview of Emergency Planning and Business Continuity.

Contact: Sean Westerby, Corporate Safety and Resilience Manager

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## **8: Kirklees Auditors Annual Report 2021/22 - Interim Report** 19 - 54

To receive an interim report for 2021/2022 from the Council's External Auditors.

Contact: Aaron Gouldman – Grant Thornton.

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## **9: Audit Plan 2022/2023** 55 - 84

To receive the Audit Plan 2022/2023 from the Council's External Auditors.

Contact: Aaron Gouldman – Grant Thornton.

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- 10: Draft Annual Governance Statement 2022/23** 85 - 106
- To consider the Draft Annual Governance Statement 2022-23.
- Contact: Simon Straker, Audit Manager
- 
- 11: Planning Scheme of Delegation (SoD) and Planning Committees (Reference to Council)** 107 - 160
- To consider proposed changes to the Planning Committee Scheme of Delegation and Planning Committees.
- Contact: Mathias Franklin, Head of Planning and Development
- 
- 12: Quarterly Report of Internal Audit 2023/24 Quarter 1 April 2023 to June 2023** 161 - 164
- To receive information relating to internal audit work in Quarter 1 of 2023/24.
- Contact: Martin Dearnley, Head of Risk.
- 
- 13: Exclusion of the Press and Public**
- To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act
- 
- 14: Quarterly Report of Internal Audit Quarter 1 April 2023 to June 2023** 165 - 174
- To receive information in relation to internal audit work in quarter 1 of 2023/24.
- Contact: Martin Dearnley, Head of Risk.
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Contact Officer: Leigh Webb

## KIRKLEES COUNCIL

### CORPORATE GOVERNANCE AND AUDIT COMMITTEE

**Friday 16 June 2023**

Present: Councillor James Homewood (Chair)  
Councillor Harry McCarthy  
Councillor Kath Pinnock  
Councillor Mel Stephen

In attendance: Julie Muscroft – Service Director, Legal, Governance and Commissioning  
Martin Dearnley – Head of Internal Audit  
James Anderson – Head of Accountancy (Virtual)  
Rachel Firth – Finance Manager (Virtual)  
Chris Read – Corporate Customer Standards Officer  
Councillor Moses Crook (Ex-Officio)

Apologies: Councillor John Taylor  
Councillor Yusra Hussain  
Chris Jones (Independent Member)  
Councillor Paul Davies (Ex-Officio)  
Councillor Elizabeth Smaje (Ex-Officio)

**1 Membership of the Committee**

Apologies for absence were received on behalf of Councillor John Taylor, Councillor Yusra Hussain, Chris Jones (Independent Member), Councillor Paul Davies (Ex-Officio) and Councillor Elizabeth Smaje (Ex-Officio).

**2 Minutes of Previous Meeting**

**RESOLVED** – That the Minutes of the meeting held on 12 May 2023 be approved as a correct record.

**3 Declarations of Interest**

No interests were declared.

**4 Admission of the Public**

It was noted that all agenda items would be considered in public.

**5 Deputations/Petitions**

There were no deputations or petitions received.

**6 Public Question Time**

No questions were asked under this item.

**7 Annual Report on Treasury Management 2022/23**

The Committee received the annual report on Treasury Management activities for the previous financial year. The report reviewed borrowing and investment performance.

Investments averaged £61.1 million and were largely deposited in instant access accounts earning an average interest rate of 1.92%. Total external borrowing at 31 March 2023 increased by £144.9 million to £613.8 million (£468.9 million as at 31 March 2022). The Council took £70 million new Government long term loans from the Public Works Loan Board (PWLB) and an additional £35 million Local Authority medium term loans (2-3 years). Temporary borrowing increased for the year by £60.5 million to £82 million (£21.5 million 31st March 2022). The average borrowing rate for 2022/23 relating to all long-term debt on the balance sheet was 3.67%, with short-term borrowing rates averaging 1.34%.

Following approval within the 2018/19 Treasury Management Strategy there was a further increase in the un-winding in the General Fund MRP for 2022/23. The maximum amount of un-wind in any one year cannot be more than the overall annual MRP calculation, as otherwise the Council would end up in a negative MRP position, which is not allowable under accounting rules. The calculation estimated for 2022/23 was £13.7 million. The actual MRP calculation for 2022/23 was £17.2 million and hence the maximum unwind allowable. However, in 2022/23 the actual unwind was in-line with the budget at £13.7 million.

It was reported that treasury management costs incurred in the year include £10.8 million on net interest payments and confirmed that the Council complied with its treasury management prudential indicators in the year.

**RESOLVED** – That the Committee note the treasury management performance as set out in the report.

**8. Corporate Customer Standards Interim Report 2022/23**

The Committee received an interim report on Corporate Customer Standards 2022-23. The report provided a commentary on ongoing performance and covered other areas of interest.

The report included statistical information from across West Yorkshire relating to the number of Ombudsman complaints received which highlighted that Kirklees had the lowest proportion of complaints received where the Ombudsman identified fault and error. The report set out detail of complaints by service area and provided a breakdown of third stage and pre-third stage complaints. In 2022/23 there were approximately 55 complaints at third stage of the internal complaints process, and it was reported that work was ongoing to support services at first and second stage to actively remedy complaints and prevent them from escalating to becoming a third stage complaint.



## **Corporate Governance and Audit Committee – 16 June 2023**

During discussion of this item Members of the Committee welcomed the work being undertaken with the Restorative Practice Team to improve the approach to complaint handling.

### **RESOLVED**

- 1) That the report be noted.
- 2) That the next report to this Committee provide further information in relation to restorative practices and provide comparative statistical information from further afield than West Yorkshire.

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

Signed: ..... Dated: .....

## NOTES

### Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

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



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

**Date:** 14 July 2023

**Title of report:** Corporate Emergency Planning and Business Continuity Annual Report

**Purpose of report:** To provide the Committee with an overview of the work of the Emergency Planning Team

<b>Key Decision - Is it likely to result in spending or saving £500k 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.</b>	<b>Not Applicable</b>
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?</b>	<b>No</b> <b>Private Report/Private Appendix – No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not Applicable</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Rachel Spencer-Spencer Henshall</b>
<b>Is it also signed off by the Service Director for Finance?</b>	<b>Dean Langton</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Julie Muscroft</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Mussarat Khan</b>

**Electoral wards affected:** All

**Ward councillors consulted:** None

**Public or private:** Public

**Has GDPR been considered?** No GDPR Implications.

## **1. Summary**

The emergency planning and business continuity annual report provides a snapshot of the work of the Emergency Planning Team and provides assurance to the committee that we are compliant with the core duties in the Civil Contingencies Act.

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

N/A

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

### **3.1 Working with People**

N/A

### **3.2 Working with Partners**

N/A

### **3.3 Place Based Working**

N/A

### **3.4 Climate Change and Air Quality**

N/A

### **3.5 Improving outcomes for children**

N/A

### **3.6 Financial Implications for the people living or working in Kirklees**

N/A

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

N/A

## **4. Consultation**

N/A

## **5. Engagement**

N/A

## **6. Next steps and timelines**

N/A

## **7. Officer recommendations and reasons**

Members are asked to discuss the report at the forthcoming Corporate Governance and Audit Committee meeting on 14 July 2023 and ask questions relating to the content of the report.

## **8. Cabinet Portfolio Holder's recommendations**

Members are asked to discuss the report at the forthcoming Corporate Governance and Audit Committee meeting on 14 July 2023 and ask questions relating to the content of the report.

## **9. Contact officer**

Sean Westerby Corporate Safety and Resilience Manager

Tel 01484 221000

E-mail [sean.westerby@kirklees.gov.uk](mailto:sean.westerby@kirklees.gov.uk)

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

Previous business continuity reports

## **11. Service Director responsible**

Rachel Spencer-Henshall, Strategic Director Corporate Strategy, Commissioning and Public Health

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**PURPOSE OF REPORT**

This report provides an overview of resilience matters pertinent to the Council. The report covers the period from 1 April 2022 to 31 March 2023.

**PERFORMANCE HEADLINES**



**Incident Response**

**79**

Incidents responded to.

Including evacuations, severe weather events, utility failures, death of the Queen, demonstrations, police incidents' etc.



**Hazard Warnings**

**153**

New hazards entered on the database.

Residents and properties that pose a potential risk to Council Officers working in the district.



**Exercises Delivered**

**21**

Exercises planned, delivered and attended.

Themes such as emergency planning, business continuity, terrorism, lockdown, evacuation, health, etc.

**Training Delivered**

**16**

Training sessions delivered.

Themes including lockdown, Resilience Direct, school offsite visits, role specific training, etc.



**Advice to Schools**

**500+**

Responded to over 500 calls/emails from schools relating to emergency planning, response and recovery

Schools and other settings provided with emergency planning advice and support **(in and out of hours).**



**Educational Visits**

**342**

Educational visits approved.

Schools continue to run safe off-site educational visits, delivering high quality outcomes for pupils.

## KIRKLEES LOCAL CONTEXT

CORE  
DUTY  
01

### RISK ASSESSMENT

- Reviewed the Kirklees risk assessments in line with the National Security Risk Assessment.
- Reviewed template risk assessments to assist schools planning educational offsite visits.
- Consulted on the risk assessments for both schools delivering offsite educational visits and event organisers delivering community events in the Kirklees District.
- Undertook dynamic risk assessments at single and multi-agency levels in the response to emergencies.

CORE  
DUTY  
02

### CO-OPERATION

- Worked with Council Services and multi-agency partners, 24/7, in the response to and recovery from emergencies and planned events impacting health, communities, education, the environment, council service delivery, etc.
- Continued to support Locala in accordance with the long standing EPPR service contract (on both emergency planning and business continuity).
- Arranged and facilitated the Pre-Winter Assurance Meeting (Council and local partners).
- Worked with Council services and wider partnership across Kirklees to roll out the Martyn's Law pilot linked to Publicly Accessible Locations. This work programme is now fully established and will continue to be progressed.
- Worked with WYRF reviewing multi-agency plans, delivering exercises, responding to emergencies, etc.

CORE  
DUTY  
03

## INFORMATION SHARING

- Active use of ResilienceDirect to share information during incident response and in the planning stage. Also used actively to share information linked to the new workstreams around Martyns Law.
- Coordination and facilitation of regular Kirklees Emergency Planning Group meetings to share risk and planning information with key Council Teams and partners.
- Reviewed and circulated plans and policies relating to emergency planning, business continuity and school offsite visits.
- Co-ordinate the business continuity resilience reporting process, which provides a mechanism for the strategic level of the organisation to maintain an oversight of and assist with the management of service delivery issues and pressures across the organisation.
- Chair, and are active members of several Kirklees Council and multi-agency meetings, including the Kirklees Severe Weather Board, Safety Advisory Group and WYRF meetings.
- Coordination of Martyns Law workstreams and circulation of national and regional updates to member organisations, and local businesses.
- Regularly share best practice and learning from incidents and exercise with appropriate Council Teams and partner organisations.

CORE  
DUTY  
04

## EMERGENCY PLANNING

- Provided a 24/7 emergency response function, responding to a range of incidents, including severe weather events, fires, power outages, fuel issues, etc. Where appropriate, emergency plans were activated, and command and control structures put in place.
- Responded to Operation London Bridge (Death of the Queen).
- Facilitated planning and staff for planned events, including Remembrance Sunday.
- EPRR assurance submitted with substantial compliance.
- Maintained the Kirklees Major Incident Plan and its' associated chapters.
- Ran and attended several exercises to test Council, and partners plans and procedures (themes included terrorism, death of the Queen (Operation London Bridge), EPRR, evacuation and rest centres, national power outage, ResilienceDirect, COMAH, business continuity, severe weather, lockdown, etc.).
- Delivered several training sessions to Council Officers and partners (themes included ResilienceDirect, evacuation, emergency planning, business continuity, lockdown, educational visits, role specific training etc.).
- Team members are qualified drone pilots and continue to maintain flight logs to retain this response capability.
- Debriefed incidents that required an enhanced response (including, Operation London Bridge, suspected Avian influenza, high profile 'Police incidents', etc.).
- Assisted partner agencies around risk management and mitigation at key sites around Kirklees (e.g., John Smith Stadium).

CORE  
DUTY  
05

## BUSINESS CONTINUITY MANAGEMENT

- Continued to tactically advise and support the Corporate Business Continuity Team and facilitate its processes (such as the monthly resilience reporting process that collates information around service delivery and pressures across the organisation).
- Continued to advise and assist Council Teams and partner organisations to develop, review, maintain, and exercise their Business Continuity Plans and arrangements.
- Reviewed the Corporate Business Continuity Framework.
- Continue to progress the roll out a revised business continuity programme across the organisation. The revised programme includes learning from the Covid-19 pandemic and features shorter plan templates and an electronic database that will improve the response to incidents that activate the Corporate Business Continuity Framework.
- Provided business continuity advice and assistance to services and partners on a range of business disruptions, including utility loss, IT disruptions, staffing issues, and resourcing issues.

CORE  
DUTY  
06

## COMMUNICATING WITH THE PUBLIC

- Worked with the Council and partners communication teams to ensure timely and appropriate messages were cascaded during emergencies and business disruptions.
- Maintained Kirklees Emergency Alert. This service provides a text message to warn and inform businesses of emergencies that are happening in their area.
- Delivered resilience and emergency planning lessons to educational establishments (mainly schools) to promote the importance of emergency procedures to deal with threats/incidents.
- Reviewed the emergency planning pages on the public facing Kirklees website, and on the intranet.
- Reviewed the suite of community resilience literature (on themes including evacuation, flooding, winter driving and business continuity, etc.).

CORE  
DUTY  
07

## ADVICE TO BUSINESSES

- Continued to promote Kirklees Emergency Alert across the district.
- Martyns Law workstreams established a quarterly newsletter to local businesses to keep them up to date with Martyns Law progress locally and nationally.

CORE  
DUTY  
08

## OTHER

- Advised and assisted schools planning educational visits, trained visit leaders and Educational Visit Coordinators (EVC's), and authorised higher risk visits.
- Supported multi-agency exercises as required.
- Supported other Council Teams to debrief planned events such as the Green Day concert at the John Smith Stadium.
- Developed a Remembrance Plan jointly with the Civic Office.
- Created a draft Council Security Culture Plan that brings together the different workstreams associated with security both within the Council and Kirklees place.
- Created a toolkit and continuing to plan for the response to a national power outage or rolling power outages.

FL

## FORWARD LOOK

- Maintain an oversight of Kirklees Council resilience and response capabilities during the current 'cost of living crisis' and amend plans and arrangements accordingly.
- Roll out the revised business continuity programme across the organisation.
- Chair the Kirklees Safety Advisory Group (SAG).
- Deliver an emergency planning and lockdown workshop for school senior leadership teams.
- Continue to strengthen the link between emergency planning, business continuity and cyber.
- Continue to roll out Martyns Law and focus on local relationships to help bridge gaps and needs for local businesses impacted by the Law once ratified.
- Continue to support Locala, under contract, with their emergency preparedness role.
- Continue to review risk assessments and emergency plans.
- Create and test a plan for the response to a National Power Outage.
- Continue to develop the use of ResilienceDirect to support information sharing and joint working.
- Continue to deliver training and exercising with Council staff and partner organisations.
- Develop and test lockdown procedures for Kirklees Council buildings.
- Complete the 2023 Emergency Preparedness, Resilience and Response (EPRR) assurance under the NHS England framework.
- Live Exercise of Batley Sports and Tennis Centre Evacuation Centre site.
- Work with the Communications Team to improve community resilience (particularly during the 30 days 30 ways campaign, and at specific times of year such as summer and winter).
- Continue to maintain the EVOLVE system for offsite educational visits, support schools and train their staff.
- Maintain an overview of upcoming Civil Contingencies Act amendments and ensure Council arrangements and procedures are compliant.
- Review the Plan for Operation London Bridge once new guidance is released.
- Annual IIA assurance of plans and arrangements in place.

WY  
NC

## WEST YORKSHIRE/NATIONAL CONTEXT

- Continue as active members of the West Yorkshire Resilience Forum (the Team Chair, and Deputy chair 3 sub-groups).
- Complete national EPRR assurance.
- Continue to develop plans and arrangements for the response to a National Power Outage.
- Maintain an oversight of the resilience and response capabilities of partner organisations during the current 'cost of living crisis' and amend plans and arrangements accordingly.



# Auditor's Annual Report on Kirklees Council

2021/22

Interim Report

July 2023

# Contents

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We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our commentary relating to proper arrangements.

We report if significant matters have come to our attention. We are not required to consider, nor have we considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.



The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed for the purpose of completing our work under the NAO Code and related guidance. Our audit is not designed to test all arrangements in respect of value for money. However, where, as part of our testing, we identify significant weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose all irregularities, or to include all possible improvements in arrangements that a more extensive special examination might identify. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Securing economy, efficiency and effectiveness in the use of resources

All Councils are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. The Council's responsibilities are set out in Appendix A.

Councils report on their arrangements, and the effectiveness of these arrangements as part of their annual governance statement.

Under the Local Audit and Accountability Act 2014, we are required to be satisfied whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The National Audit Office's Auditor Guidance Note (AGN) 03, requires us to assess arrangements under three areas:



## Financial Sustainability

Arrangements for ensuring the Council can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years).



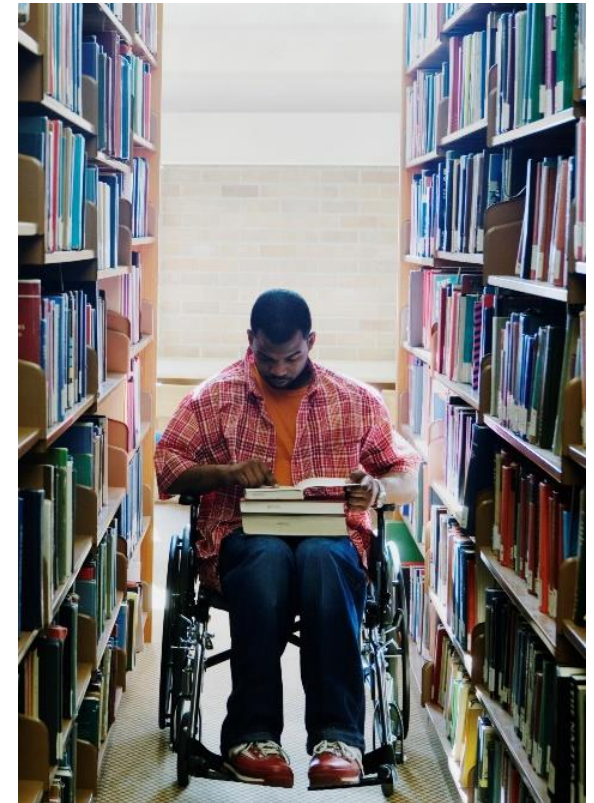
## Governance

Arrangements for ensuring that the Council makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the Council makes decisions based on appropriate information.



## Improving economy, efficiency and effectiveness

Arrangements for improving the way the Council delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



Our commentary on the Council's arrangements in each of these three areas, is set out on pages 8 to 26. Further detail on how we approached our work is included in Appendix B.

# Executive summary



## Value for money arrangements and key recommendation(s)

Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Auditors are required to report their commentary on the Council's arrangements under specified criteria and 2021/22 is the second year that we have reported our findings in this way. As part of our work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. Our conclusions are summarised in the table below.

Criteria	Risk assessment	2020/21 Auditor Judgment	2021/22 Auditor Judgment	Direction of travel
Financial sustainability	Risk identified on the Council's DSG overspend	No significant weaknesses in arrangements identified, but improvement recommendations made	Significant weakness on financial sustainability identified.	↓
Governance	Risk identified on decision-making related to potential governance change from Leader and Cabinet model to Committee model	No significant weaknesses in arrangements identified, but improvement recommendations made	No significant weaknesses in arrangements identified, but improvement recommendations made	↔
Improving economy, efficiency and effectiveness	No risk of significant weakness identified.	No significant weaknesses in arrangements identified, but improvement recommendations made	No significant weaknesses in arrangements identified, but improvement recommendations made	↔

- No significant weaknesses in arrangements identified or improvement recommendation made.
- No significant weaknesses in arrangements identified, but improvement recommendations made.
- Significant weaknesses in arrangements identified and key recommendations made.

# Executive summary



## Financial sustainability (Significant Weakness)

Our work indicates that the Council's future financial sustainability is at risk in the medium term if prompt action is not taken to rebalance the cost of services with the income that is expected to be available over the next 3-5 years. The Council's financial position has become significantly more challenging due to increased demands and complexity of service provision, along with the impact of inflation and the cost-of-living crisis, combined with workforce pressures. Any failure to properly develop and risk assess savings schemes with appropriate contingencies in place will further intensify this pressure. The greatest risk is around the Council's use of reserves in the short to medium term. Reserves are a one-off resource and once consumed are not available to manage future pressures. Robust plans need to be put in place to replenish reserves or the Council may be forced to take emergency measures to cut non-statutory activities in order to mitigate any further funding pressures. Whilst this need to build up reserves has been acknowledged in the most recent MTFS published in February 2023, no provision to do so has been included in the current financial projections. We note that although the Council has delivered significant savings in the past, it has not had to do so for the last 3-4 years and now faces a significant shift of focus back towards restoring financial sustainability. The lack of maturity of the new arrangements to develop and monitor savings over the next year poses a significant challenge to the Council. It must ensure that rigorous monitoring of savings development takes place, with robust risk assessment and prompt mitigating action to monitor and manage slippage.

Whilst in 2021/22 the Council's overspend was a marginal £41k, the extremely challenging financial pressures on the budget in 2022/23 and 2023/24 mean that a deficit position can only be managed through the significant depletion of reserve balances. The depletion of reserves and the need to deliver significant savings in 2023/24, when considered together, present a significant weakness in financial sustainability. We have raised a key recommendation in regard to this matter on the following page. Further details can be seen on pages 8-11 of this report.



## Governance

The Council has appropriate arrangements for ensuring that it makes informed decisions and properly manages its risks. Our work this year has focussed on continuing to develop our knowledge and understanding of the governance arrangements in place at the Council building on our work in the prior year. We have not identified any significant weaknesses in arrangements, but we have made three improvement recommendations for the Council to enhance its arrangements in regard to risk management processes, members' declarations of interests and counter fraud.

Further details can be seen on pages 12-17 of this report.



## Improving economy, efficiency and effectiveness

The Council has demonstrated that appropriate arrangements are in place to secure economy, efficiency and effectiveness in its use of resources. We note that the Council is striving to strengthen its procurement arrangements and this remains a priority of the Council's improvement agenda. We also note that our benchmarking analysis of unit costs compared to other similar councils indicates that the Council's services are generally delivered at low to medium cost, following earlier phases of service transformation between 2010 and 2019. Whilst this does not prevent the Council from driving out further efficiency, it does indicate that the opportunity for further top slicing of budgets is reduced and that savings will need to come from genuine transformation of service delivery and consideration of local priorities, which is likely to take a number of years to implement. Our work identified no further risk of significant weaknesses in arrangements but we have made two further improvement recommendations to highlight the need for the Council to continue to strengthen its procurement processes.

Further details can be seen on pages 18-23 of this report.

The range of recommendations that external auditors can make is explained in Appendix C.



# Key recommendation



## Key Recommendation

The members and senior officers of the Council must recognise the severity of the Council's medium term financial outlook and the need to take prompt, effective and far-reaching action to restore a sustainable financial position in the medium term. The Council should take the following steps to help this process:

- Review the process of setting savings schemes and monitoring these throughout the financial year to build a greater element of contingency and allowance for slippage. This should include the clear separation of recurrent and one-off savings (e.g. holding staff vacancies) within the savings programme.
- Ensure corporate and member oversight and challenge of proposed savings is robust, with responsible managers held to account, to make sure savings are credible, accurately valued, have realistic timing and phasing of delivery, and have been properly assessed for quality impact and risk.
- Ensure corporate and member monitoring of savings delivery is sufficiently regular and robust to drive delivery in line with plan and help to develop mitigating actions as soon as possible when delays or risks are met.
- Demonstrate a realistic plan for replenishment of reserves where one-off use is expected to cover budget gaps, to ensure medium term financial plans, demonstrate a realistic prospect of financial sustainability
- Focus financial planning on reducing reliance on one-off measures over the medium term and consider opportunities to review service delivery, particularly in regard to the analysis and prioritisation of statutory vs discretionary spend and modern ways of working (such as early intervention).
- Ensure that savings plans for future years of the MTFP are developed and discussed with members as soon as possible to ensure that delivery activities can be started as close to the beginning of the financial year as possible.

## Why/impact

The Council's financial position is becoming significantly more challenging due to increased demands and complexity of service provision, along with the impact of inflation and the cost-of-living crisis, combined with workforce pressures. A failure to properly develop and risk assess savings schemes with appropriate contingencies in place will further intensify this pressure. The greatest risk is around the Council's use of reserves in the short to medium term. Reserves are a one-off resource therefore developed plans need to be in place to replenish these or the Council may be forced to curtail non-statutory activities. Whilst this need to build up reserves, has been acknowledged in the most recent MTFP published in February 2023, no active measures appear to have been refined.

## Auditor judgement

The Council has not had in place large savings schemes in recent years, so now has a large shift of focus needed in order to achieve planned savings targets to bridge budget gaps. The infancy of the arrangements to develop and monitor savings going forward poses challenges to the Council and they must ensure rigorous monitoring of the position of savings going forward, with key risk assessments and development of mitigating actions on a regular basis. Whilst in 2021/22 the Council's overspend was a marginal £41k, the extremely challenging financial pressures on the budget in 2022/23 and 2023/24 mean that a deficit position appears inevitable without significant use of reserve balances. These two layers of financial risk considered simultaneously present serious concerns with regards to financial sustainability.

## Management Comments

The Council acknowledges the severity of its financial position and has put in place arrangements to both deliver a balanced budget in 2023/24, including the delivery of savings, and to develop a range of savings options to reduce its net expenditure to a sustainable level and to replenish its reserves for financial resilience (see Page 11 for further details of these arrangements).

# Opinion on the financial statements and use of auditor's powers

We bring the following matters to your attention:

## Opinion on the financial statements

Auditors are required to express an opinion on the financial statements that states whether they : (i) present a true and fair view of the Council's financial position, and (ii) have been prepared in accordance with the CIPFA/LASAAC Code of practice on local authority accounting in the United Kingdom 2021/22

We have completed our audit of your financial statements and issued an unqualified audit opinion on **TBC**, following the Corporate Governance and Audit Committee meeting on **TBC**. Our findings are set out in further detail on page 27.

## Statutory recommendations

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors can make written recommendations to the audited body which need to be considered by the body and responded to publicly

We did not issue statutory recommendations.

## Public Interest Report

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors have the power to make a report if they consider a matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency, including matters which may already be known to the public, but where it is in the public interest for the auditor to publish their independent view.

We did not issue a Public Interest Report.

## Application to the Court

Under Section 28 of the Local Audit and Accountability Act 2014, if auditors think that an item of account is contrary to law, they may apply to the court for a declaration to that effect.

We did not make an Application to the Court.

## Advisory notice

Under Section 29 of the Local Audit and Accountability Act 2014, auditors may issue an advisory notice if the auditor thinks that the authority or an officer of the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
- is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
- is about to enter an item of account, the entry of which is unlawful.

We did not issue an Advisory Notice.

## Judicial review

Under Section 31 of the Local Audit and Accountability Act 2014, auditors may make an application for judicial review of a decision of an authority, or of a failure by an authority to act, which it is reasonable to believe would have an effect on the accounts of that body.

We did not apply for Judicial Review.

# Financial sustainability



## We considered how the Council:

- identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds them into its plans
- plans to bridge its funding gaps and identify achievable savings
- plans its finances to support the sustainable delivery of services in accordance with strategic and statutory priorities
- ensures its financial plan is consistent with other plans such as workforce, capital, investment and other operational planning which may include working with other local public bodies as part of a wider system
- identifies and manages risk to financial resilience, such as unplanned changes in demand and assumptions underlying its plans.

## Background

The Council has a track record of strong financial and budgetary management. The 2021/22 outturn was a marginal overspend of £41k.

The Council has had a number of years in which savings were not at the forefront of members' minds. Following the end of the COVID-19 pandemic, the focus of the Council will need to return to handling financial pressures, which have significantly worsened during 2022 with inflationary pressures on energy, a pay award that was significantly higher than budgeted and increasing demand for services, particularly Adult Social Care.

At the end of 2021/22 the Dedicated Schools Grant ("DSG") deficit was £22.3m following receipt of £13.5m from central government during the financial year. This receipt arose from the "Safety Valve" agreement, which will contribute a further £4m per annum for the following five years.

The Council has previously had a strong level of reserves, but that is now reducing. General Fund Balances at 31 March 2022 were £166.8 million, a net decrease of £30.6 million over the year. These balances include £156.8 million that has been earmarked for particular purposes, including £37.1 million Financial Resilience Reserves covering a range of potential unfunded risks and pressures (including budget savings risks highlighted in the Council's corporate risk assessment).

Our review of the CIPFA Financial Resilience Index 2021/2022 has shown that Kirklees Council has some high indicators of financial stress particularly around the sustainability and level of reserves. The data indicates that Kirklees ratio of unallocated reserves to net expenditure were the lowest compared to CIPFA statistical neighbours in 2021/22. Whilst many councils are expected to struggle with increased inflationary costs and demand in future years, Kirklees will have proportionally less financial resilience, as reserves are comparatively lower.

The 2022/23 budget was balanced by a planned transfer of £5.5m from reserves. Budget forecasts for the following four years indicated a forecast budget gap of £16.4m in 2023/24, £31.4m in 2024/25, £33.5m in 2025/26 and £38.2m in 2026/27.

However, an update to the financial position at the end of the first quarter of 2022/23 indicated an estimated budget gap of £18.8m for the financial year (net of a further transfer from reserves of £10m) and an updated budget gap of £41.3m for 2023/24. We understand that this latter value is likely to be closer to £55m.

## The original 2022/23 budget

The approved budget which was published in February 2022 was a balanced one. It was set using (at the time) realistic assumptions including:

- A return to pre-pandemic level of business rates;
- Council tax increase of 2.99%, including the 1% adult social care precept.
- A 2% pay award
- £3m extra for Children's Services
- A net £2m extra for Adults and Health
- £3.1m for the interim waste contract
- £1.5m for legal services.

Detailed worksheets for each directorate were included in the approved budget.



# Financial sustainability

## The 2022/23 financial position

On 5 September 2022, the Cabinet received a report on the updated Medium Term Financial Plan, based on the first quarter of the 2022/23 financial year. It showed the following cost pressures for 2022/23:

	£m
Energy	13.4
Pay award	8.6
Other cost of living	2.0
School transport	2.4
Other cost pressures	2.4
Less transfer from reserves	(10.0)
Net total General Fund overspend	18.8

The updated budget gap for 2023/24 increased as a result of these cost pressures from £16.4m in the MTFP that accompanied the 2022/23 budget in February to £41.3m, with a worst-case scenario of £55.2m. At the time our discussions with staff at the Council suggested that £55m was a truer reflection of the actual shortfall.

The third quarter of 2022/23, which was reported to Cabinet in March 2023, showed an increased overspend for 2022/23 of £29.4m. Taking into account the forecast overspend for 2022/23 the value of useable reserves at 31 March 2023 was at that point estimated to be £82.7m. We note that some of the reserves denoted as "Earmarked" (for example the insurance reserve) may not be available to be used to cover the 2022/23 shortfall.

If the Council does not act to address the £55.2m shortfall in 2023/24, the useable reserves will be exhausted before the end of 2024/25, a situation exacerbated by the current use of the release of a Minimum Revenue Provision (MRP) prepayment to support the ongoing revenue position (see next page for details).

## Actions taken by the Council

As a response to the financial situation the Chief Executive of the Council implemented a number of short-term measures including:

- A short-term freeze on recruitment;
- Reduction in agency staff;
- Rationalising use of Council buildings;
- Increased scrutiny on all new expenditure; and
- Reductions in non-essential expenditure across services.

This was in addition to ongoing work to review in-year demand forecasts, continued exploration of external funding opportunities, ongoing review of fees and charges and a corporate led capital plan review. A high-level estimate of the impact of these measures is approximately £4m for the current financial year (2022/23).

Despite this the current 2022/23 outturn of a £30m deficit combined with the 2023/24 budget deficit of £24.6m within the 2023/24 MTFS, reflects a higher level of reduction in reserves than we consider prudent and will leave the Council with limited capacity to absorb further shocks in 2023/24 or beyond. Whilst there is an acknowledgement within the latest MTFS paper presented to Council on 21st February 2023, of the need to replenish reserves, there appears to be limited capacity to do so. Even a relatively small further utilisation of unallocated reserves to manage the position in 2023/24 would take the Council below the minimum level of reserves it needs to manage financial risks. Additionally, the Council's sensitivity analysis indicates that should the 'Pessimistic' scenario occur, the Council will struggle to cover the additional gap with reserves.

The Council's savings requirement of £18.6m may be achievable if sufficient energy and focus from senior management is applied, but it could be highly challenging to deliver, considering the relatively low level of savings which have been made over the last 3 years and the lack of recent experience and embedded governance structures to support savings delivery.

At this stage we are aware that work had begun on developing savings, but governance arrangements in this area appear to still be in their infancy. We are therefore concerned that there is a significant weakness because even if there is a relatively small amount of slippage on the savings plan, the Council will then be dependent on a potentially unsustainable use of reserves to support its revenue position. A significant proportion of the savings that have been developed are still at an early stage of development and will require significant effort and focus in order to be achieved in full.

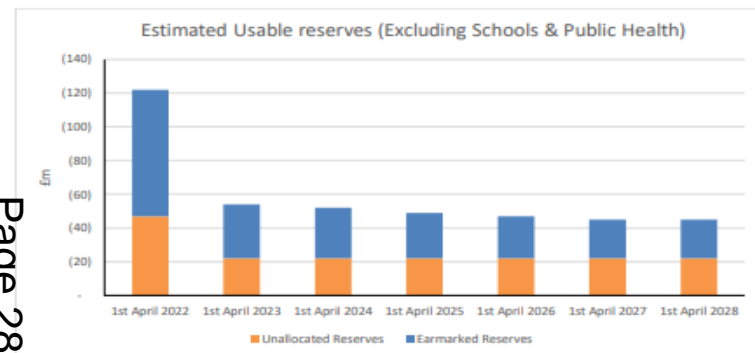
# Financial sustainability

## The 2023/24 budget and revised MTFP (Feb 2023)

As the Council goes into the new 2023/24 financial year, it has been able to set a balanced budget in line with statutory requirements. However, the reduction in reserves that this has required has dramatically reduced its ability to manage future unplanned financial shocks, pressures in excess of those predicted by the MTFP or any slippage in the proposed savings plan in 2023/24 or in future years. The current MTFP does not set out how reserves will be replenished.

The net overspend on budget in 2022/23 is projected to lead to a drawdown on reserves of c. £30m. A further £24.6m has been required to bridge the remaining funding gap in the 2023/24 budget, meaning that that almost £55m of reserves have been consumed. These reserves have primarily been raised from a review of Earmarked Reserves, and the remaining balances are those against which there are existing financial commitments that need to be covered. While the unallocated reserves are assessed to remain above the minimum 5% of the net cost of services, any significant encroachment on these is likely to tip the Council into a position where it can no longer demonstrate financial sustainability. Such a large reduction in earmarked reserves is a major risk as these are held to manage future financial risks and support specific projects, some of which have now had to be re-prioritised. Having already reviewed existing balances to manage the 2021/22 position, the opportunity for freeing up further reserves is now highly limited. Crucially, earmarked reserves also provide the basis for managing strategic financial risk, over and above unallocated reserves. The significant depletion of earmarked reserves has therefore significantly impaired the Council's ability to manage further unplanned costs or pressures in future, such as a failure to deliver savings plans in full or in year budget overspends.

The drawdown in reserves is reflected in the revised MTFP and budget paper as follows:



The projected funding gap over the medium term is presented in the current budget and MTFP as follows:

	23/24	24/25	25/26	26/27	27/28
	£m	£m	£m	£m	£m
<b>Budget Gap (MTFP 22-27)</b>	<b>16.4</b>	<b>31.4</b>	<b>33.5</b>	<b>38.2</b>	<b>38.2</b>
Funding Changes	(10.5)	(10.5)	(10.5)	(10.5)	(10.5)
Spending Changes	35.4	37.7	41.3	41.5	41.5
<b>Budget gap (23/24 MTFP Update report)</b>	<b>41.3</b>	<b>58.6</b>	<b>64.3</b>	<b>69.2</b>	<b>69.2</b>
Funding Changes	1.1	(9.3)	(10.3)	(11.4)	(24.4)
Spending Changes	0.8	6.0	10.4	13.0	26.6
<b>Budget gap (Post-Financial Settlement 2023/24)</b>	<b>43.2</b>	<b>55.3</b>	<b>64.4</b>	<b>70.8</b>	<b>71.4</b>
Savings proposals	(18.6)	(30.1)	(39.6)	(42.9)	(40.6)
Use of unallocated reserves	(24.6)				
<b>Balanced Budget position 2023/24</b>	<b>-</b>	<b>25.2</b>	<b>24.8</b>	<b>27.9</b>	<b>30.8</b>

The 2023/24 position also depends on the delivery of £18.6m of savings, which is a significant increase in comparison to prior years. Further significant savings will be required throughout the MTFP period to cover a cumulative funding gap of £71.4m by 2027/28. Under the current plan, a further £30.8m of savings will be required, over and above the £40.6m identified by 2027/28.

We note that detailed savings proposals are in place to cover the £18.6m in 2023/24. However, we also note that a significant proportion of these are with one off measures (e.g. the holding of vacant posts below the current required establishment of the service, or are aspirational in that they are targeted savings from service review or other activities yet to take place. We note that in many cases, the service impact assessment for these proposals has not yet been completed and they still require member approval. There are also significant savings arising from reductions in the revenue impact from the capital programme, which again may put pressure on important infrastructure development in the medium term. These factors add to the risk of slippage in the savings programme. This in turn, would increase the Council's reliance on unplanned underspends or windfalls, as yet unsecured additional funding from government, or the consumption of the limited remaining reserves. This is not reflective of a financially sustainable position.

The level of savings that are now required in the medium can only be delivered through a fundamental review of service priorities and it is likely that difficult decisions will need to be made around priorities. Members and senior officers will need to work closely together to remedy this situation.

# Financial sustainability

Given the passage of time since the initial preparation of this report, management have been given the opportunity to describe the steps that have been taken to address the significant medium term financial challenges it faces. The remaining text on this page represents management's submission. The updated additional arrangements described have not been reviewed in detail by the auditor, as they relate to developments outside the year of audit but will be considered as part of the 2022/23 annual value for money reporting.

## Management update- July 2023

The Council recognises the seriousness of its financial position and has put in place arrangements to both ensure delivery of the budget in 2023/24 and to ensure the Council remains financially sustainable over the medium term.

Recognising the need to both manage in-year spending and the delivery of agreed savings for 2023/24, robust monitoring arrangements have been put in place so that the Council understands what its financial position is, what progress is being made on savings and what early actions can be implemented to ensure the Council's budget remains in balance. This includes, for example:-

- Putting in place a Programme Governance Framework to oversee the delivery of the budget in 2023/24 and the development of budget options over the medium term. The Executive Team is meeting at least on a monthly basis (and often in between) as a Budget Delivery Programme Board (BDPB) to review in detail progress on the delivery of the 2023/24 budget and the development of savings options for 2024/25. The BDPB is supported by various Delivery Groups including a Budget Delivery Group (chaired by the Service Director Finance), a Capital Assurance Board (also chaired by the Service Director Finance) and a People Panel (chaired by Head of People Services);
- Detailed monitoring of the implementation of budget savings. This comprises a RAG-rated analysis of implementation along with detailed analysis outlining progress and, where progress is not as expected, what other options are being considered and implemented;
- Monitoring of a series of Demand and Capacity Indicators that allow the Executive Team and Leading Councillors to understand emerging pressures and how these might influence the Council's expenditure and income. These indicators are used as an 'early warning system' that allow action to be taken on mitigation measures to control and reduce net spending as required;
- Undertaking a monthly (beginning in Month 2) monitoring position to both understand emerging issues, to correlate the progress on delivery of savings and to prompt actions necessary to control net spending as required. This includes tracking the assumption upon which the budget was based and assessing the impact of actual performance against those assumptions;

- Reviewing the Council's Balances and Reserves to understand commitments and determine the scope for freeing up reserves to both support the Council's budget in the short to medium term and to provide funds towards the transformation of services. This will also include a plan for the replenishment of reserves to ensure the Council achieves a balance between financial resilience and sustainability;
- Bringing forward a review of the Council's Fees and Charges (and the related Policy Framework) with a view to taking early decision on increases in fees and charges and reiterating the policy on achieving full cost recovery for chargeable services;
- Undertaking a review of the Council's Medium Term Capital Programme with a view to further re-phasing of projects as a means of reducing the cost of the Council's borrowing. This is being complemented by an Asset Rationalisation (and Disposals) Programme aimed at both generating capital receipts and reducing the revenue costs of the Council's Estate.
- Reviewing the strength of the Council's Balance Sheet so that, in conjunction with the broader issues faced by the Council, there is a clearer understanding of the financial risks that may impact on the Council's financial position.

Acknowledging the need to reduce the Council's net expenditure as early as possible, some savings proposals earmarked for future years are being brought forward for implementation earlier than planned.

As part of the Programme Governance Framework, progress on the delivery of savings is reported to and monitored by Leading Councillors and ultimately by Cabinet through regular monitoring reports and by a Cross Party Budget Working Group (comprising membership from each of the Council's Political Groups). And fulfilling the Council's scrutiny function, the Overview and Scrutiny Management Committee is providing challenge and oversight on financial matters as part of its overall work programme.

Looking ahead, work is underway to review and update the Council's Medium Term Financial Plan. In conjunction with this, early action has been taken to establish Budget Planning Totals for each Directorate for 2024/25 which are being used to develop savings options for consideration by Councillors. These proposals are currently being developed in line with a clear timeline setting out how plans will be processed through the Council's normal governance processes and with a view to implementing Equally, the development of savings options is being undertaken by Services in conjunction with Finance Leads who are providing appropriate support to ensure savings are robust, ie credible, accurately reflect the change in the agreed base budget and are deliverable in a timely manner, are either sustained or one-off.

# Financial sustainability

## Minimum Revenue Provision

The Minimum Revenue Provision (MRP) is the method by which local authorities charge their revenue accounts over time with the cost of their capital expenditure which is funded by borrowing. In our report last year, we referred to the fact that as a result of a revision to the Council's Treasury Management policy regarding MRP it has had the benefit of the release of a £91m "overpayment" since 2017/18. This was originally planned to be released over a ten-year period (£9.1m per annum), but the release was accelerated in 2020/21 to £13.7m per annum such that the benefit now expires in 2024/25, with a commensurate cost pressure in that financial year. We recommended last year that the use of the MRP prepayment be transparent in the Council's MTFP and we can see that it is shown separately in the budget workbook.

## Capital Strategy

The Council's capital strategy is included in the Council Budget report, along with capital financing and treasury management activity. The Council's capital programme for 2021/22 was £157.4m but was underspent by £29.2m owing to the lack of resources available to deliver projects. These have been rolled over into future years. For 2022/23 the capital programme is £261.4m. However, we understand that as a result of the financial pressures encountered by the Council, including increasing interest rates, the multi-year capital programme has been rephased. This includes the significant investment in the 'Cultural Heart' programme which will now be subject to a phased implementation given the scale of the financial challenge facing the Council. Management have indicated that this has resulted in estimated annual revenue savings of c£3.5m each year over the life of the Programme. A subsequent review of the Programme is underway as part of the refresh of the Medium Term Capital Programme. We will review management's arrangements around this area as part of our 2022/23 work programme.

## Financial Risk management

Risks are incorporated into the budget and MTFP which is agreed annually by the Council. The budget report includes a summary of the corporate risk register, is updated regularly and included in the quarterly finance reports presented to Cabinet. We note the high risks ascribed in the quarter two financial report to matters relating to inflationary pressures. Not only on the Council directly, but also on residents and their consequent demands for Council services.

Sensitivity analysis is undertaken as part of the budget setting process with specific consideration of government funding levels, council tax and NNDR collection rates, pay awards, energy costs, fuel inflation, food inflation and increasing interest rates.

In "normal" years sensitivities would be expected broadly to even each other out. However the current financial year is exceptional, with the result that many of the sensitivities' worst cases have turned out to be understated, and most have moved adversely. For example, the total worst-case scenario presented in the original budget for 2023/24 was an increase in financial pressures of £11.3m. The estimate of the updated budget gap for 2023/24 presented in September 2022 showed a base position estimate of financial pressures (in addition to the baseline gap of £16.4m) of £24.9m, with an updated worst case of a further £13.9m.

## Conclusion

Our work indicates that the Council's future financial sustainability is at risk in the medium term is prompt action is not taken to rebalance the cost of services with the income that is expected to be available over the next 3-5 years. The Council's financial position has become significantly more challenging due to increased demands and complexity of service provision, along with the impact of inflation and the cost-of-living crisis, combined with workforce pressures.

A failure to properly develop and risk assess savings schemes with appropriate contingencies in place will further intensify this pressure. The greatest risk is around the Council's use of reserves in the short to medium term. Reserves are a one-off resource therefore developed plans need to be in place to replenish these or the Council may be forced to curtail non-statutory activities. Whilst this need to build up reserves, has been acknowledged in the most recent MTFP published in February 2023, no active measures appear to have been refined. The Council has not had in place large savings schemes in recent years, so now has a large cultural shift in order to achieve planned savings targets to bridge significant budget gaps. The infancy of the arrangements to develop and monitor savings going forward poses challenges to the Council and they must ensure rigorous monitoring of the position of savings going forward, with key risk assessments and development of mitigating actions on a regular basis.

Whilst in 2021/22 the Council's overspend was a marginal £41k, the extremely challenging financial pressures on the budget in 2022/23 and 2023/24 mean that a deficit position appears inevitable without significant use of reserve balances. These two layers of financial risk considered simultaneously present serious concerns with regards to financial sustainability.

# Governance



## We considered how the Council:

- monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- approaches and carries out its annual budget setting process
- ensures effective processes and systems are in place to ensure budgetary control; communicate relevant, accurate and timely management information (including non-financial information); supports its statutory financial reporting; and ensures corrective action is taken where needed, including in relation to significant partnerships
- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/audit committee
- monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of staff and board member behaviour (such as gifts and hospitality or declaration/conflicts of interests) and where it procures and commissions services.

## Risk Management

The Council has a well-established risk management system in place, which is embedded in the governance structure of the organisation. The risk management arrangements incorporate service and directorate risk registers, which are informed by an assessments of the key risks impacting each area. The latest iteration of the Corporate Risk Register and Risk Management Action plan was released in January 2022, clarifying roles and responsibilities and incorporates risk appetite and tolerance into the organisational knowledge.

The Council documents its risks through risk registers, which apply a risk score both before and after mitigations measures, enabling the Council to manage the risk actively and act where necessary. The assessment and scoring of the risks is based on the likelihood of the risk being realised and the impact it would have.. This document ensures that the Council is committed to providing the highest standard of services and recognises the role that risk management in enabling this.

The risk management process within the Council, clearly sets out the risk strategy in a clear and detailed format, providing members and Council officers with sufficient and appropriate detail. The report includes relevant management actions, control opportunities and trends in a digestible format.

Changes have been made to the risk management process within the Council, in line with the risk management statement. This includes a more structured approach to Risk Panel meetings and assessments. It has been noted from our key stakeholder meetings that there is a more consistent approach needed when reporting risk to the Leadership Management team.

It has been noted with the Annual Governance Statement that for the 2022/23 financial year, the Council will need to improve the quality of directorate-based risk arrangements and elevation process. The Council has developed an initial corporate assurance framework in connection with all key and emerging business risks. The Council must continue to embed the changes made, fostering a risk-based focus to understand appetite and options in order to navigate an ever changing political and financial environment.

## Budget setting process

The annual budget setting process at the Council is led by the Service Director – Finance (s151 Officer) who engages with the Executive Team at numerous staging posts during the budget process. Leadership Management Team (LMT) are also engaged by s151 officer at various points during the process along with discreet Scrutiny sessions.

The Council's annual budget for 2022/23 was approved at Budget Council in February 2022, which is also informed by the current approved Council plan to March 2023. This allows for the Council to incorporate both financial and strategic outcomes in its reporting function.

Once the annual budget has been agreed, the financial performance monitoring reports of the Council are presented to senior managers, and Cabinet for approval on a quarterly basis. This enables appropriate scrutiny and oversight of financial performance and any spending pressures that may arise.

# Governance

## Partnership governance

Partnership working plays a significant part in the Council's operating model. The Council has in place partnership working boards as part of its committee structure, which feedback through the governance structure via the Council. The Council is associated in many partnership to facilitate its activities, with oversight and challenge being provided by the Health and Wellbeing Board, Integrated Care Board and Communities Partnerships Board.

It has been noted within the Annual Governance Statement that partnership governance has improved within key public and private sector partners at an executive level. It was noted that during the year, new uncertainties associated with new ways of working have occurred, impacting the form of relationship the Council has with its partners. The Council must further develop its understanding of these relationship in order to maximise both influence and integration, and work closer with its partners to improve the effectiveness to provide the require outcomes. The Council has committed to producing six-monthly assurance reports to assess its governance regarding key partnerships and associated partners. These must be further developed within the financial year 2022/23. Additionally during 2022 the Internal Audit team has undertaken reviews of associated parties and companies, the recommendations from these reports should be considered and actioned as soon as possible in order to strengthen these governance arrangements and reduce risk to the Council.

## Change in structure

It was noted within our last Value for Money review that the Council was considering a transition towards a Committee structure of governance. The Council was engaging with the Local Government Association (LGA) to ensure its decision regarding this matter was properly informed for the needs of the organisation.

The Democracy Commission, which is formed of a cross-party group of Kirklees councillors, has been engaging in a knowledge building activity with other authorities who have made the transition. After this, the Council considered evidence from stakeholders within Kirklees.

In the Council meeting in January 2023 the Democracy Commission's report on the Committee System Proposal was considered. The Council agreed to adopt for the retention of the current Cabinet Strong Leader Model of governance, along with a series of improvements to engage non-Cabinet members in the decision-making process.

## Council decision making and oversight

Within the Council, arrangements are in place to ensure that all relevant information is provided to decision makers before making major decisions. Directors commission head of service and their teams to produce reports related to the major decision, which are supported where necessary by professional experts. Draft proposals are review by the responsible directorate senior leader teams. All investment decisions within the Council are assessed and approved internally prior to the revenue or capital allocations provided, through the annual budget, which then is signed off by Cabinet. This system allows for segregation of duties regarding financial decisions and enables healthy deliberation and challenge to be incorporated into the decision-making process.

The Council's decision-making arrangements are established in the Council's constitution, which is publicly available on the Council's website. Decisions are either made by members (Council, cabinet or other decision-making committees) or delegated to Cabinet portfolio leads, or officers. Prior to decision making, the Overview and Scrutiny committees provide evidence-based recommendations regarding a decision, which provides oversight to the policy making process. This Committee has oversight of the key services lines (Health and Adults Social Care, Children, Economy and Neighbourhoods, Corporate) and also has an ad-hoc function to carry out focussed initiatives to influences the best options for the Council. The key principles are to proactively and constructively provide 'critical friend' challenge and maximise the use of pre decision scrutiny to influence important decisions before they are made.

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# Governance

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## Investigation of fraud and corruption

From our review of the Council's central resources, it is clear that there are arrangements in place in respect of the prevention and detection of fraud. These are covered within the Council's constitution, code and conduct and whistleblowing policy. Furthermore, employees must observe the employee handbook which includes fraud and corruption items, setting out learning on best practice examples and remedies.

From our conversation with key stakeholders, it has become apparent that the Council's current arrangements for understanding and detecting fraud and corruption are outdated. The Exchequer team was responsible for this role, which has recently been handed over to the Internal Audit function. There was shared understanding within the Council that management of fraud and corruption cases was inadequate, and the Council was in need of the development of new systems, training, workstreams and programmes that would run alongside the Council's strategic risk processes. At the time of writing, the Council has developed a draft 'Fraud Risk strategy' that will come into implementation within FY22/23. We recommend the Council should focus on finalising this strategy, along with a clear plan of action including appropriate milestones and take to Cabinet for approval.

It was also noted within our conversations with key stakeholders that alongside the need of a newly developed 'Fraud Strategy', and Fraud Workplan, there is also a need for enhanced fraud risk training and risk assessment training for employees. In navigating through the current turbulent economic and political environment, employees will need to better understand the role they play in the risk process and identify roles and responsibilities throughout day-to-day operations. This will help the Council to develop richer business cases, bids and better management of the Council's financial and strategic priorities.

## Gifts, hospitality and declaration of interests

A satisfactory gifts and hospitality policy is set out in the Councils' constitution. It was noted however that within our previous Value for Money assessment, declarations of interest of members are not readily available for public inspection within the Council's website. This is still the case, and the Council should update the documents in a timely manner, as it may obstruct accountability and hinder public inspection.

## Conclusion

The Council has appropriate arrangements for ensuring that it makes informed decisions and properly manages its risks. Our work this year has focussed on continuing to build our knowledge and understanding of the governance arrangements in place at the Council building on our work in the prior year. We have not identified any significant weaknesses in arrangements, but we have made three improvement recommendations for the Council to enhance its arrangements in regards to risk management process, members declarations of interests and counter fraud.

# Improvement recommendations



## Governance

### Improvement Recommendation 1

The Council should take a more proactive and committed approach to improving risk management with a particular focus on improving directorate and project-based risk management. The Council should enhance the current level of training and use of better practice to aid the organisations knowledge and practise.

### Why/impact

From conversations with key stakeholders at the Council, it has become apparent that there is need for the organisation to develop a more robust approach and culture regarding risk below the strategic level. This will help to enhance the management of risk at every level of the organisation, aiding them to navigate the turbulent political and economic environment which it is currently posed with.

### Auditor judgement

From our assessment of the Council's documents and conversations with key stakeholders, it is clear that the current understanding of risk needs to be developed at the directorate level.

### Summary findings

The Council needs to improve the quality of directorate-based risk arrangement and elevation. The Council has developed an initial corporate assurance framework in connection with all key and emerging business risks. The Council must continue to embed the changes made, fostering a risk-based focus to understand appetite and options in order to navigate an ever changing political and financial environment. This would be aided by updated training.

### Management Comments

Work is being progressed on improving the approach to risk management and increasing engagement, and embedding progress already made in this area, including a clearer approach to identifying risk appetite, and ensuring that established processes are followed, through training and other engagement.

The range of recommendations that external auditors can make is explained in Appendix C.



# Improvement recommendations



## Governance

### Improvement Recommendation 2

The Council should focus on updating a centralised version of the declaration of interests in a timely manner. This will aid transparency within the Council and improve ability for public inspection and accountability.

### Why/impact

The aim of the Gifts and Hospitality policy is to guard against the risk of allegations of impropriety undertaken by the Council. Under the Bribery Act 2010, it is a criminal offence for employees in an official capacity to accept any gift or consideration as an inducement or reward for doing or not doing anything or showing favour or disfavour to any person. By adopting a process of publishing the register in a timely manner, transparency and integrity are built into the reporting process, allowing public inspection to occur and increasing public accountability.

### Auditor judgement

This improvement recommendation has been carried forward from last year's Value for Money assessment. Whilst the declaration of interest are available individually, this makes it more difficult to review in full and a central version would be useful, in line with the register for Gifts & Hospitality.

### Summary findings

The Council's declaration of interests for its members are not centrally held for public inspection. Although information can be obtained through searching each member, this should be centrally held for ease of public inspection.

### Management Comments

A revised corporate approach for declarations of interest and gifts and hospitality is under development. Consideration will be given to centralising the member declarations, although, as the text acknowledges, the member information is already present.

The range of recommendations that external auditors can make is explained in Appendix C.

# Improvement recommendations



## Governance

### Improvement Recommendation 3

The Council should focus on creating a revised 'Fraud Strategy' that helps to rebuild the processes and policies in place at the Council, alongside a clear Fraud Work Plan to focus their work. This should include improved training for fraud awareness and prevention.

#### Why/impact

It has been noted from our assessment of the Council's documents and key stakeholder interviews that there is need to improve the centralised fraud strategy to run alongside the wider corporate risk strategy. This should be combined with a clear work plan for the fraud team including a roll out of updated fraud awareness training. Without actioning this, the Council could be susceptible to increased financial losses from both internal and external threats.

#### Auditor judgement

From our judgement, there has been a lack of ownership of responsibilities regarding fraud management. The Council's current policies and procedures are not established or robust with no clear work plan in place.

#### Summary findings

Throughout our assessment, we have noted that ownership of the Fraud Management and the wider strategy is now the responsibility of the Internal Audit team. Whilst there is a revised 'Fraud Strategy' in development, the Council must enact to approve this and roll out as soon as possible.

#### Management Comments

The Fraud Strategy was approved by Cabinet in January 2023, and its implementation is in progress.

The range of recommendations that external auditors can make is explained in Appendix C.

# Improving economy, efficiency and effectiveness



## We considered how the Council:

- uses financial and performance information to assess performance to identify areas for improvement
- evaluates the services it provides to assess performance and identify areas for improvement
- ensures it delivers its role within significant partnerships and engages with stakeholders it has identified, in order to assess whether it is meeting its objectives
- where it commissions or procures services assesses whether it is realising the expected benefits.

## Performance Management

The Council Plan outlines the Council's vision, priorities and values, and it is against these that the Council manages performance against its stated key outcomes. During the 2021/22 financial year the plan was updated which saw the addition of a new shared outcome, 'Shaped by People'. This was developed in conjunction with directorates, members and citizens.

The Council's performance in delivering its key outcomes is reviewed by Cabinet on a biannual basis, via production of a mid-year and year-end performance report. These set out progress against each of the outcomes and summarise key successes and risks for each.

The year-end report for 2021/22 highlighted progress against all 95 deliverables across all the key outcomes, providing a concise overview of the Council's performance. This indicated that as of August 2022, 82% of these had been fully or partly completed within the published timescales.

The report uses a new format in comparison to previous years with a focus on greater transparency and clarity. However, the Council should consider whether twice yearly reporting is frequent enough to provide assurance to members and the public that the Council plan is being delivered as intended and to ensure that mitigating action is taken in areas of under performance. Additionally, some data in the year-end report is out of date and not reflective of 2021/22 performance.

We noted some examples within the performance reports which indicated that the Council have shown significant improvement or high achievement, as well as areas that were behind target. For example, there has been improvement in placement stability for Looked After Children (85.6%) where performance was better than both statistical neighbours and England (70%). Other indicators included recycling rate, which saw 26.9% of household waste recycled in 2021/22, up slightly from 25% the year before and the highest rate in 4 years.

Other areas have struggled post-pandemic, such as library services which whilst visits and new member numbers have increased since 2020/21 they are still below pre-pandemic figures. Additionally, the Council are in the bottom quartile of all local authorities for school readiness.

In the last few years, the Council has shifted the emphasis of its performance management to focus more on measurable outcomes that demonstrate value to service users, as opposed to focussing solely on traditional KPIs based on output metrics. Whilst this is welcomed, the depth and breadth of how outcomes are being measured remains uneven across the different aspects of service and a broader range of metrics used to measure progress should be developed to ensure that all outcomes are covered with an equal degree of clarity and transparency. This would provide stronger evidence of the impact of improvement actions on service delivery and aid transparency.

Work is also being undertaken to increase data sharing with other organisations, as well as looking to categorise data in order to deliver efficiencies, gain a grip on, and recognise high value data, and prevent data silos. Whilst this is clearly a work in progress, it is, however not out of sync with the wider sector. The Council has plans in place in to realise improvements in this area.

# Improving economy, efficiency and effectiveness

## Managing performance against the DfE Safety Valve

We note that the Council has been managing an accumulated deficit on the Dedicated Schools Grant (DSG) budget, due to shortfalls in the funding of services provided to young people categorised as 'High Needs.' We note that the Secretary of State for Education confirmed, on 24 March 2022, the Council's successful participation in Round 2 of its deficit reduction (Safety Valve) Programme. This included an initial 2021/22 Government funding contribution of £13.5m made on 31 March 2022. The balance of agreed £20m government funding contribution to the Council's DSG deficit over the next 5 years is dependent on delivery of in-year DSG High Needs savings target. We note that as at Quarter 3 2022/23 there is a forecast in-year spend on High Needs spend in excess of the Dedicated Schools Grant (DSG) funding allocation of £12.8m and the overall DSG Deficit is forecast to be £27.1m by 31 March 2023. This is off track with Safety Valve modelled projections by £3.6m. Quarterly reports are submitted to the Education and Skills Funding Agency (ESFA) Safety Valve team to highlight the progress towards the safety valve planned position and the management plan also allows for some flexibility to review spend and funding profiles over its lifetime. Following the Quarter 3 submission that highlighted the slippage against the plan, an initial dialogue between the ESFA and Council Senior officers began to review plans further to address the current issues being faced with rising High Needs costs, alongside future opportunities to bring the Plan back into alignment over the 5-year period. At present, we are satisfied that the Council is taking appropriate steps to address the slippage but will continue to monitor the Council's progress towards eliminating the deficit and have made it clear that there is still work to be done before the Council has fully implemented the recommendation we made in the last audit.

## Procurement and Contract Management

Kirklees Council's procurement strategy was dated 2013-2017. Throughout 2021/22, the Council has been developing an updated Procurement Strategy, and Social Value Policy with a final version agreed by Cabinet in November 2022. The strategy is also supported by the Contract Procedure Rules, which were updated in May 2022. It is also supported by a procurement action plan to monitor delivery of the strategy and the social value policy. The Council should seek as part of this plan to regularly monitor and report on procurement key performance indicators, including the use of waivers, spend without purchase orders, and contracts renewals outside tender processes.

Alongside the updated strategy, the Council has established a procurement action plan to monitor delivery of the strategy and the social value policy. Whilst progress has been made to update these documents the Council should prioritise agreeing timelines and lead officers for progressing delivery of the actions identified in order to ensure this is robust and achievable within the life of the strategy. Additionally, a key element of both the procurement and social value strategies is focussed on the performance measures which do not yet have corporate resources for tracking progress. The Council should seek as part of this plan to regularly monitor and report on procurement key performance indicators, including the use of waivers, spend without purchase orders, and contracts renewals outside tender processes to ensure transparency.

Despite there being improvements identified in the Council's procurement actions plans, the Procurement function has been in receipt of awards at the National Public Procurement GoAwards, most recently as 2022 finalists for the Individual Achievement & Social Value Award. It is clear that the Council has been working to transform the procurement processes over the last few years, which has resulted in recognition nationally.

As part of monitoring of contract management, the Council has set up a Contract Assurance and Resilience Board. This is used to discuss approaches to contract variations and to ensure standardised practices across the Council. The function of this Board is particularly important given the recent changes in market dynamics as a result of inflationary pressures and should help to aid more robust monitoring in future.

Whilst the updates to the strategy, development of the action plan and publication of pipelines are welcome, there is further work needed. We consider that there needs to be a wider understanding of the importance of a robust procurement and contract management process, with particular focus on those areas with higher levels of temporary staffing or large infrastructure projects. The Council should ensure that contract management training is rolled out across the Council and that all contract managers are aware of their roles and responsibilities, with regular reporting to directorate management teams.

# Improving economy, efficiency and effectiveness

## Unit cost benchmarking

Our CFOi benchmarking data indicates that for 2021-22 Kirklees unit costs are mainly average for metropolitan districts across a range of service lines. This includes education, adult social care, culture services, planning and development and housing services. There are some areas where spend is below average including Children's Social Care and Public Health.

Our conversations with Children's Social Care indicate that the comparatively low cost of the service is a result of service transformation, that were initially driven by the Council's response to the Inadequate Ofsted rating in 2016. A commissioner was brought in at that point and a formal partnership developed with Leeds City Council to help aid service improvement. In 2019 the service was found to no longer be inadequate.

One of the main strategies which has helped to reduce costs is to move away from reliance on an agency workforce and there are now very low numbers of agency workers in Kirklees' Children's Services. Environmental & Regulatory Services' outturn has been identified as a very high spender in relation to other metropolitan districts in 2021/22. This means that for this service line the Council was in the top 20% of spenders (within metropolitan councils). However, when we benchmarked 2021-22 budget against other metropolitan councils, the unit costs for this service line were not in the top 20%, leading us to conclude that this may have been due to an overspend in this directorate in that year and that budgeted costs were not an outlier.

Our review of the financial outturn report for 2021-22 indicated there was an overspend of £8.6m (26%) during the year. £5.7m of this related to COVID-19 pressures, made up of £2m of additional COVID-19 spend and £3.6m of COVID-19 income loss. Overspends are linked to Schools Transport due to increased number of routes to out of area schools along with loss of income on parking due to site closures. In relation to bereavement costs there have been income shortfalls due to a cremator replacement and capacity reductions.

Waste services were also impacted by additional spend on vehicles and staff during COVID-19 and backlog and recovery work post-COVID-19 on estate street cleaning and parks. The Council also includes catering under this directorate, which includes school catering, this resulted in large income losses (£1.7m) due to reduced pupil numbers. Car parking fees were reduced due to increased home working and local measures to increase footfall which led to free parking for all key workers in towns. Q1 2021-22 financial reports show that pressures continue in this directorate with overspends of £2m estimated on schools' transport along with continued pressures on catering and car park income. These pressures continue in Q2 with the transport pressure rising to £2.4m and £1.2m on parking, along with a waste services pressure of £0.7m due to extra vehicles and staff hires.

Our review of the Council's Corporate Performance and Impact report for 2021/22 showed that key success in this directorate included pandemic recovery activity. In regard to reported challenges, recruitment was flagged as a key issue. The issues around staff capacity in environment were reviewed as a priority for 2022-23 as per the Council's Overview and Scrutiny Management Committee meeting in July 2022.

Kirklees Council	2021/22 (£000's)	Unit	Unit Cost (£)	Unit Cost Score
TOTAL EDUCATION SERVICES (RA) £/aged 0-18	297,287.00	105,192.00	2,826.14	Low
TOTAL HIGHWAYS ROADS AND TRANSPORT SERVICES (RA) £/head	9,646.00	441,290.00	21.86	Low
TOTAL CHILDRENS SOCIAL CARE (RA) £/aged 0-17	72,295.00	100,020.00	722.81	Very Low
TOTAL ADULT SOCIAL CARE (RA) £/aged 18+	140,881.00	341,270.00	412.81	Average
TOTAL CULTURAL AND RELATED SERVICES (RA) £/head	16,646.00	441,290.00	37.72	Average
TOTAL PLANNING AND DEVELOPMENT SERVICES (RA) £/head	3,468.00	441,290.00	7.86	Very Low
TOTAL HOUSING SERVICES (GFRA only) (RA) £/head	11,656.00	441,290.00	26.41	High
TOTAL ENVIRONMENTAL AND REGULATORY SERVICES (RA) £/head	31,622.00	441,290.00	71.66	High
TOTAL CENTRAL SERVICES (RA) £/head	17,029.00	441,290.00	38.59	Low
TOTAL PUBLIC HEALTH (RA) £/head	26,434.00	441,290.00	59.90	Very Low
TOTAL OTHER SERVICES (RA) £/head	157.00	441,290.00	0.36	Low

# Improving economy, efficiency and effectiveness

## Partnership working

Kirklees Council is aware of the importance of partnership working, and with the recent changes in the wider system, with the establishment of the ICB and Kirklees Health & Care Partnership, along with new leadership of local organisation such as local NHS Trusts and West Yorkshire Police there has been a renewed focus on partnerships and related strategies.

The Council has in place a cross-cutting Kirklees Partnership Executive, chaired by the Chief Executive. This is focussed on strategic partnerships with key organisations such as health and social care bodies, the University of Huddersfield, schools representatives and Chamber of Commerce. There are also partnership boards for Kirklees Communities, the Children and Young People's Partnership, and a Joint Health and Wellbeing Board. The Council has also begun to reform partnerships in the economic space through the newly established Kirklees Inclusive Economic Partnership. Currently the Council is also developing an Environment Partnership in order to help progress key environmental outcomes and build a local Environmental Strategy.

Additionally the Council has in place partnership arrangements focussed around themes such as employment and skills and digital inclusions and is beginning to form arrangements for a social value partnership. These partnerships are built around desired sets of outcomes which are codified within strategies, all of which can be found on the Council website.

Examples of successful partnership working throughout 2021/22 have included the continuation of the Kirklees Top 100 Companies, the Iroko Project and the Kirklees Better Outcomes Partnership. The former is a local joint venture between the University of Huddersfield, Kirklees Council, the Huddersfield Examiner, and the 3M Buckley Innovation Centre, to help raise the profile of local businesses.

Additionally, the Council was highly commended in the Community Project of the Year category at the British Diversity Awards for their partnership with the Black African and Caribbean community for their work on the Iroko project (a community-led initiative to uncover inequalities and understand experiences of services).

The Kirklees Better Outcomes Partnership is a local partnership of social sector organisations commissioned by the Council to support people in the community who face increased risks of homelessness. The Partnership has supported thousands of residents and was a finalist for the Local Government Chronicle's Public/Private Partnership Award.

It is clear that there are some positive examples of the Council's engagement in partnership working, alongside a real drive to expand this further through development of the Economic and Environment Partnerships. Additionally, the Council has recently updated a range of partnership strategies such as the Health & Wellbeing Strategy 2022-2027. The Children and Young People Partnership Plan will be updated in 2023.

In order to ensure continued success, it is important that given the current financial context the Council continues to engage with partnerships to identify opportunities for efficient and effective working. This will be particularly important in terms of considering the wider impact of both the Council's and partners' savings plans across the system for 2023 and beyond.

## Conclusion

The Council has demonstrated that appropriate arrangements are in place to secure economy, efficiency and effectiveness in its use of resources. We note that the Council is striving to strengthen its procurement arrangements and this remains a priority of the Council's improvement agenda. We also note that our benchmarking analysis of unit costs, compared to other similar councils, indicates that Kirklees Council's services are generally delivered at low to medium cost, following significant work on driving out cost efficiency since 2010. While this does not prevent the Council from driving out further efficiency, it does indicate that the opportunity for further top slicing of budgets is reduced and that savings will need to come from genuine transformation of service delivery and consideration of local priorities, which is likely to take a number of years to implement. Our work identified no further risk of significant weaknesses in arrangements but we have made two further improvement recommendations to highlight the need for the Council to continue to strengthen its procurement processes.

# Improvement recommendations



## Governance

- Improvement Recommendation 4** The Council has in place a Procurement Action Plan. However in order to ensure this is fully achieved, this needs to be developed further. The Council should:
- Agree timelines for progressing delivery of the actions identified
  - Appoint lead officers to manage and carry out actions identified
  - Develop key procurement performance metrics
  - Identify corporate resource for tracking relevant procurement performance measures
  - Report on the use of waivers, spend without PO, contracts renewed without tendering to members

### Why/impact

In order to successfully implement the strategic vision and operational improvements outlined in the Procurement Strategy, Social Value Policy and associated action plan it is important that the Council allocates resource and identifies lead officers to carry these out as soon as possible. Without accountable officers identified to achieve actions identified, it is unlikely these will be progressed in a timely manner. This is particularly important in order to ensure that wider understanding of contract management is embedded throughout the Council.

### Auditor judgement

The Council has made good progress to update the Procurement Strategy, and Social Value Policy along with publication of procurement pipelines. Additionally, the action plan alongside this is clear and includes ambitions for templates and more developed training, along with raising awareness of regulation changes. However the ambitions outlined are unlikely to be achieved without clear resources identified and held accountable throughout the year.

### Summary findings

The Procurement team has been recognised nationally for their procurement activity. This is now reflected in the updated Procurement Strategy and the Team has a clear vision of further improvements to be achieved. However this will be difficult unless key officers are identified in a timely manner.

### Management Comments

Agreed. Lead officers have been assigned to progress and deliver the areas identified in the action plan.

The range of recommendations that external auditors can make is explained in Appendix C.

# Improvement recommendations



## Governance

**Improvement Recommendation 5** The Council should ensure that procurement and contract management training is rolled out across the Council and all contract managers are aware of their roles and responsibilities, with regular reporting to directorate management teams.

### Why/impact

Robust contract management is key to the successful management of risk within the procurement process and any weaknesses in contract management can leave the Council open to risk. All contract managers need to be aware of and required to comply with the procurement strategy if it is to be effective. When contract management works well, there are better relationships with suppliers; fewer disputes; and better outcomes. When it doesn't work well, the door starts to open for risk of fraud.

### Auditor judgement

There should be a wider understanding of the importance of a robust procurement and contract management process, with particular focus on those areas with higher levels of temporary staffing or large infrastructure projects

### Summary findings

Contract management processes have been varied across the Council. This has been recognised by the leadership team and in response the Contract Assurance Board has been set up, chaired by the s.151 Officer. This is relatively new and has been put in place in order to standardise processes in relation to contract management, with a specific focus on dealing with contract variations. However, in order to ensure that the contract management role is more fully embedded as part of 'business as usual' the Council should focus on clarifying roles and responsibilities, along with ensuring adequate training is provided to all relevant staff.

### Management Comments

Agreed.

The range of recommendations that external auditors can make is explained in Appendix C.



# Follow-up of previous recommendations

Recommendation	Type of recommendation	Date raised	Progress to date	Addressed?	Further action?	
1	Optimise outcomes for the Council in the current round of Department for Education Safety Valve Group discussions, including approval for the Special Educational Needs (SEND) Transformation Plan in order to seek a long term solution to the Dedicated Schools Grant (DSG) overspend.	Improvement	March 2022	At the end of 2021/22 the Dedicated Schools Grant ("DSG") deficit was £22.3m following receipt of £13.5m from central government during the financial year. This receipt arose from the "Safety Valve" agreement, which will contribute a further £4m per annum for the following five years.	Partly	It is important that the DSG overspend is kept under constant review so that the Council do not breach the conditions of the Safety Valve agreement with DfE. This is particularly important as the agreement was signed prior to recent inflationary rises.
2	Ensure that the scale of future years Minimum Revenue Provision (MRP) continues to be transparent in future years budgets and medium term financial strategies (MTFS).	Improvement	March 2022	We recommended last year that the use of the MRP prepayment be transparent in the Council's MTFP and we can see that it is shown separately in the budget workbook.	Yes	No
3	Update the Council Plan for the next iteration to clearly reflect the impact that COVID-19 will have on financial and performance measures.	Improvement	March 2022	The Council's updated Council Plan 2021/23 focusses on addressing impacts of the pandemic including mental health and educational outcomes, along with ensuring learning from the pandemic response is built into future policies and actions.	Yes	No
4	Consider publishing the Member and Senior Officer's registers of interests and gifts and hospitality more clearly on the Council website.	Improvement	March 2022	These are now clearly displayed on the Council's website, with the Gifts & Hospitality register table as one document. The individual declarations of interests for each Councillor are also available to download.	Partly	The Council may consider publishing one complete central register of all declared interests. This would enable a review of the interests of the Cabinet or of a specific Committee as a whole.

# Follow-up of previous recommendations

	Recommendation	Type of recommendation	Date raised	Progress to date	Addressed?	Further action?
5	Ensure that a comprehensive assessment which assesses the advantages and disadvantages of each governance model takes place to support any decision made on the future governance model for the Council.	Improvement	March 2022	This assessment has taken place and a decision has been taken to continue in the current arrangement of Leader and Cabinet.	Yes	No
6	We recommend that the Council creates an updated procurement strategy and a regular review process to ensure this is kept up to date.	Improvement	March 2022	The Council have now developed a Procurement Strategy which was approved by Cabinet in November 2022.	Partly	The Council now need to work to embed the Procurement Strategy throughout the organisation.
7	We recommend the Council reviews its group company and investment governance arrangements.	Improvement	March 2022	This is ongoing. Our discussion with the Head of Internal Audit highlighted that there have been a number of reports on the Council's associated parties and specifically Kirklees Community Association. At the time of writing specific action against the recommendations of these reviews had not yet been taken.	Partly	Whilst the Council have reviewed some of the arrangements in relation to its arrangements, it is clear that further work is needed in order to ensure governance arrangements are effective and risks are reduced to the Council.
8	We recommend that quarterly performance reporting is reinstated.	Improvement	March 2022	Performance reporting currently takes place bi-annually with a mid-year and year-end report produced. This is an improvement on the prior year where no Corporate Performance reports had been submitted to Cabinet.	Partly	The Council should consider whether their current arrangement of bi-annual reporting is sufficiently often for updating members and mitigating poor performance in a timely manner.

# Opinion on the financial statements



## Audit opinion on the financial statements

We gave an unqualified opinion on the Council's financial statements on **TBC**.

## Audit Findings Report

More detailed findings can be found in our AFR, which was published and reported to the Council's Corporate Governance and Audit Committee on **TBC**.

## Whole of Government Accounts

To support the audit of the Whole of Government Accounts (WGA), we are required to review and report on the WGA return prepared by the Council. This work includes performing specified procedures under group audit instructions issued by the National Audit Office.

**TBC**.

## Preparation of the accounts

The Council provided draft accounts in line with the national deadline and provided a good set of working papers to support it.

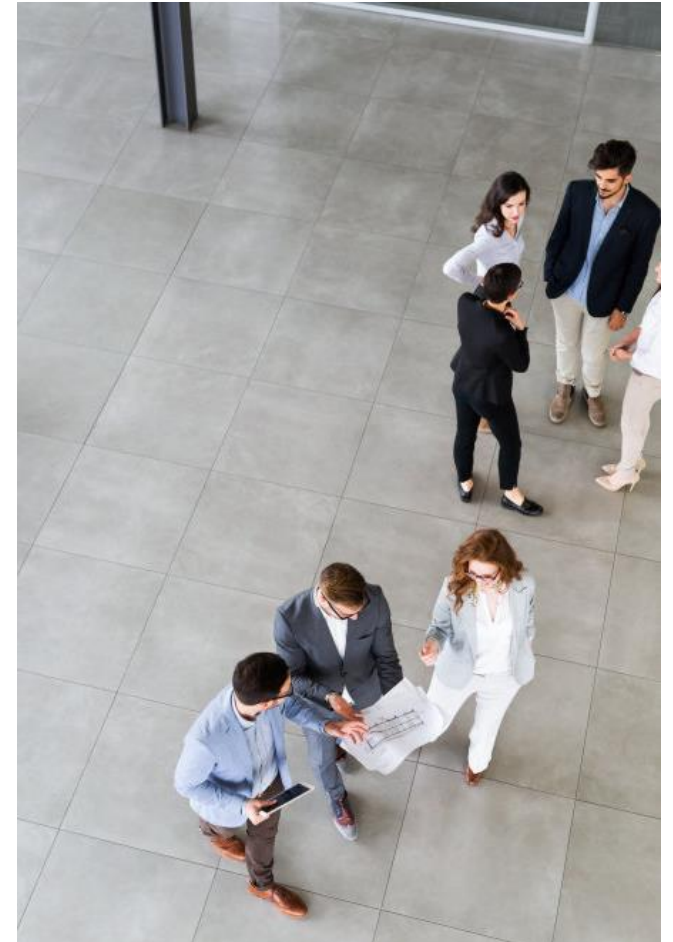
## Issues arising from the accounts:

The key issues were:

- National changes to accounting for infrastructure assets
- Material movements in pension fund asset returns affecting the Council's draft financial statements

## Grant Thornton provides an independent opinion on whether the accounts are:

- True and fair
- Prepared in accordance with relevant accounting standards
- Prepared in accordance with relevant UK legislation



# Appendices

# Appendix A – Responsibilities of the Council

Public bodies spending taxpayers' money are accountable for their stewardship of the resources entrusted to them. They should account properly for their use of resources and manage themselves well so that the public can be confident.

Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records and ensure they have effective systems of internal control.

All local public bodies are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. Local public bodies report on their arrangements, and the effectiveness with which the arrangements are operating, as part of their annual governance statement

The Chief Financial Officer (or equivalent) is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Chief Financial Officer (or equivalent) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Chief Financial Officer (or equivalent) or equivalent is required to prepare the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom. In preparing the financial statements, the Chief Financial Officer (or equivalent) is responsible for assessing the Council's ability to continue as a going concern and use the going concern basis of accounting unless there is an intention by government that the services provided by the Council will no longer be provided.

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

# Appendix B – Risks of significant weaknesses, our procedures and findings

As part of our planning and assessment work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. The risks we identified are detailed in the table below, along with the further procedures we performed, our findings and the final outcome of our work:

Risk of significant weakness	Procedures undertaken	Findings	Outcome
<p>Financial sustainability was identified as a potential significant weakness, see pages 7-11 for more details.</p> <p>The Council has a significant DSG overspend held in an unusable DSG reserve under statutory override.</p>	<p>We reviewed the agreement with DfE and progress against the SEND Transformation Plan. We spoke to both finance and children social care officers to fully understand the current position and key risks.</p>	<p>At the end of 2021/22 the Dedicated Schools Grant ("DSG") deficit was £22.3m following receipt of £13.5m from central government during the financial year. This receipt arose from the "Safety Valve" agreement, which will contribute a further £4m per annum for the following five years.</p>	<p>Appropriate arrangements not in place, one key recommendation.</p>
<p>Governance was identified as a potential significant weakness, see 12-18 for more details.</p> <p>The Council has been considering a move from the Leader and Cabinet model of governance to a Committee structure. There was a risk identified that Council may not arrive at the most suitable governance structure unless the decision is properly considered and supported by evidence.</p>	<p>We reviewed the process and evidence submitted by the Democracy Commission in consideration of the change in leadership structure. We also engaged with the Head of Governance to understand further the work that had been undertaken to reach the decision.</p>	<p>In the Council meeting in January 2023 the Democracy Commissions' report on the Committee System Proposal was considered. The Council agreed to adopt for the retention of the current Cabinet Strong Leader Model of governance, along with a series of improvements to engage non-Cabinet members in the decision-making process.</p>	<p>Appropriate arrangements in place no further action taken.</p>
<p>Improving economy, efficiency and effectiveness was not identified as a risk of significant weakness.</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>

# Appendix C – An explanatory note on recommendations

A range of different recommendations can be raised by the Council’s auditors as follows:

Type of recommendation	Background	Raised within this report	Page reference
Statutory	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014.	No	N/A
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as ‘key recommendations’.	Yes	6
Improvement	These recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council’s arrangements.	Yes	15,16,17,22,23

# Appendix D – Sources of evidence



## Documents Reviewed

- Annual Budget 2022/23-2026/27
- Annual Governance Statement
- Annual Treasury Management Report 2021/22
- Capital Plan 2022/23-2030/31
- Children & Young People’s Plan
- CIPFA Resilience Index
- Code of Conduct
- Code of Corporate Governance
- Committee papers and minutes
- Committee System Proposal Papers
- Communities Partnership Plan 2022/27 and Board minutes
- Constitution
- Contract Procedure Rules
- Corporate Customer Standards Interim Report
- Corporate Financial Monitoring Report Q1 2022/23
- Corporate Financial Monitoring Report Q2 2022/23
- Corporate Performance and Impact End of Year Report 2021/22
- Corporate Performance and Impact Mid-Year Report 2021/22
- Corporate Risk Matrices
- Corporate Risk Register and Risk Management Action Plans
- Directorate Risk Matrices
- Draft Fraud Strategy Draft Internal Audit Plan
- DSG Safety Valve Agreement
- Economic Strategy
- Environment Strategy Consultation
- Financial Outturn Report 2021/22
- Gifts & Hospitality Register
- Head of Internal Audit Opinion
- Inclusive Communities Framework
- Internal Audit Reports and Investigation papers
- Kirklees Active Leisure Funding and Partnership Framework
- Kirklees Cashflow workings
- Kirklees Community Association Financial Statements
- Kirklees Health & Care Place Based Partnership Collaboration
- Kirklees Health & Wellbeing Plan KLT
- Kirklees Joint Targeted Area Inspection Report
- Kirklees Stadium Development Financial Statements
- Kirklees Stadium Development Limited Options paper
- Local Government Association Corporate Peer Challenge Progress Report
- News article reviews
- Ofsted reports and letters
- Partnerships Updated to ELT
- Procurement Pipeline May 2022
- Procurement Strategy
- Procurement Strategy Action Plan
- Risk Management report to Executive Team
- Safeguarding Adults Board Annual Report
- Savings templates
- SEND – Transformation Plan Update and Appendix
- SEND Transformation Plan updates
- Social Value Policy
- Suez Recycling Financial Statements
- Statement of Accounts 2021/22
- Update of MTFP 2023/24
- Waste Disposal Arrangements and pre-decision scrutiny papers
- West Yorkshire People PLAN
- Whistleblowing Policy



# Appendix D – Sources of evidence



## Staff involved

- **Amanda Evans** – Director Adults Social Care  
Operation Amanda Evans
- **Andy Simcox** – Director Strategy & Innovation
- **Eamonn Croston** – Director of Finance (S.151 Officer)
- **Jo-Anne Sanders** – Director Learning & Early Support
- **Jonathan Nunn** - Policy and Partnerships Team  
Manager
- **Jacqui Gedman** – Chief Executive
- **Jane Lockwood** – Head of Procurement &  
Commissioning Support
- **James Anderson** – Head of Accountancy
- **Joanne Batholomew** – Director Skills & Regeneration
- **Martin Dearnley** – Head of Risk (Internal audit & Risk  
Management)
- **Samantha Lowton** – Head of Governance
- **Tom Brailsford** – Director of Resources, Improvement &  
Partnerships

# Appendix E - Key acronyms and abbreviations

The following acronyms and abbreviations have been used within this report

**AGN** – Auditor Guidance Notes

**AGS** – Annual Governance Statement

**CE** – Chief Executive

**CIPFA** – Chartered Institute of Public Finance and Accountancy

**DfE** – Department for Education

**DSG** – Dedicated Schools Grant

**FY** – Financial Year

**GTIL** – Grant Thornton International Ltd

**HoIA** – Head of Internal Audit

**IA** – Internal Audit

**ICB** – Integrated Care Board

**ICP** – Integrated Care Partnership

**ICS** – Integrated Care System

**KPI** – Key Performance Indicator

**LASAAC** - Local Authority (Scotland) Accounts Advisory Committee

**LGA** – Local Government Association

**LLP** – Limited Liability Partnership

**LGA** – Local Government Association

**LLP** – Limited Liability Partnership

**LMT** – Leadership Management Team

**MRP** – Minimum Revenue Provision

**MTFP** – Medium Term Financial Plan

**NAO** – National Audit Office

**NHS** – National Health Service

**NNDR** – National Non-Domestic Rates

**RAG** – Red, Amber, Green

**SEND** – Special Education Needs and Disabilities

**VfM** – Value for Money

**WGA** – Whole of Government Accounts



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# Kirklees Council external audit plan

Year ended 31 March 2023

Kirklees Council

July 2023

# Contents



## Your key Grant Thornton team members are:

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Section	Page	
Key matters	3	The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.
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# Key matters



## Council developments

The Council has set a balanced budget for 2023/24 in the backdrop of significant financial challenges in the medium-term. The Council is embarking on a transformational savings programme, requiring rigorous monitoring, but which aims to restore financial balance and avoid the depletion of reserves to an unsustainable level.

The Council continues to participate in the Safety Valve Programme in order to reduce its Dedicated Schools Grant (DSG) deficit in the medium term. The net overspend against the DSG funding allocation in 2022/23 was reported in June 2023 as £6.4m, mainly relating to High Needs, and this leaves the Council with an overall carry-forward deficit on £28.9m at 31 March 2023 (£22.3m at 31 March 2022).

We continue to hold regular meetings with the senior finance team at the Council. During these meetings we discuss a range of key issues regarding the Council's general developments, current and projected financial performance and emerging auditing and financial reporting issues.

We also endeavour to attend each meeting of the Corporate Governance and Audit Committee to provide audit updates to members and to gain a clear understanding of matters concerning risk management at the Council and relevant matters from internal audit reports.

## National context

For the general population, rising inflation rates, in particular for critical commodities such as energy, food and fuel, is pushing many households into poverty and financial hardship, including those in employment. At a national government level, recent political changes have seen an emphasis on controls on spending, which in turn is placing pressure on public services to manage within limited budgets.

Local Government funding continues to be stretched with increasing cost pressures due to the cost-of-living crisis, including higher energy costs, increasing pay demands, higher agency costs and increases in supplies and services. Local authority front-line services play a vital role in protecting residents from rising costs; preventing the most vulnerable from falling into destitution and helping to build households long-term financial resilience. At a local level, councils are also essential in driving strong and inclusive local economies, through their economic development functions and measures like increasing the supply of affordable housing, integrating skills and employment provision, and prioritising vulnerable households to benefit from energy saving initiatives. Access to these services remains a key priority across the country, but there are also pressures on the quality of services. These could include further unplanned reductions to services and the cancellation or delays to major construction projects such as new roads, amenities and infrastructure upgrades to schools, as well as pothole filling.

Our recent value for money work has highlighted a number of governance and financial stability issues at a national level, which is a further indication of the mounting pressure on audited bodies to keep delivering services, whilst also managing transformation and making savings at the same time.

In planning our audit, we will take account of this context in designing a local audit programme which is tailored to your risks and circumstances.

# Key matters

## Audit Reporting Delays



In a report published in January 2023 the NAO have highlighted that since 2017-18 there has been a significant decline in the number of local government body accounts including an audit opinion published by the deadlines set by government. The NAO outline a number of reasons for this and proposed actions. In March 2023, we issued [About time?](#), which explored the reasons for delayed publication of audited local authority accounts.

For Kirklees Council, our 2021-22 audit has not yet been concluded, due to delays in obtaining appropriate assurances from the auditor of the West Yorkshire Pension Fund with regards to the value of the council's LGPS assets and liabilities at the reporting date of 31 March 2022. This has been compounded by the need to incorporate the findings of the latest pension fund-wide triennial revaluation (published April 2023), which resets the actuarial assumptions and member data as at 31 March 2022. Since this represents the most accurate information in relation to the Council's 2021-22 balance sheet position, we must consider whether this gives rise to a material misstatement of the Council's 2021-22 net pension liability. Early indications are that this is not the case, however we must await assurances from the pension fund auditor before finalising our work.

## Our Responses

- As a firm, we are absolutely committed to audit quality and financial reporting in the local government sector. Our proposed work and fee, as set out further in our Audit Plan, has been agreed with the Service Director for Finance.
- We will consider your arrangements for managing and reporting your financial resources as part of our audit in completing our Value for Money work.
- Our value for money work will also consider your arrangements relating to governance and improving economy, efficiency and effectiveness.
- We will consider progress made against previously agreed recommendations, from both an accounts as well as a Value for Money perspective.
- We will continue to provide you and your Corporate Governance and Audit Committee with sector updates providing our insight on issues from a range of sources and other sector commentators via our Audit Committee updates.
- We hold annual financial reporting workshops for our audited bodies to access the latest technical guidance and interpretation, discuss issues with our experts and create networking links with other audited bodies to support consistent and accurate financial reporting across the sector.
- We have identified an increased incentive and opportunity for organisations in the public sector to manipulate their financial statements due to increasing financial pressures. We have identified a significant risk in regards to management override of controls– refer to page 7 for further details.
- We identified further significant audit risks relating to both the valuation of the pension fund net liability and the valuation of land and buildings, Council Dwellings and investment properties. For more information, please see pages 7 and 8.



# Introduction and headlines

## Purpose

This document provides an overview of the planned scope and timing of the statutory audit of Kirklees Council ('the Council') for those charged with governance.

## Respective responsibilities

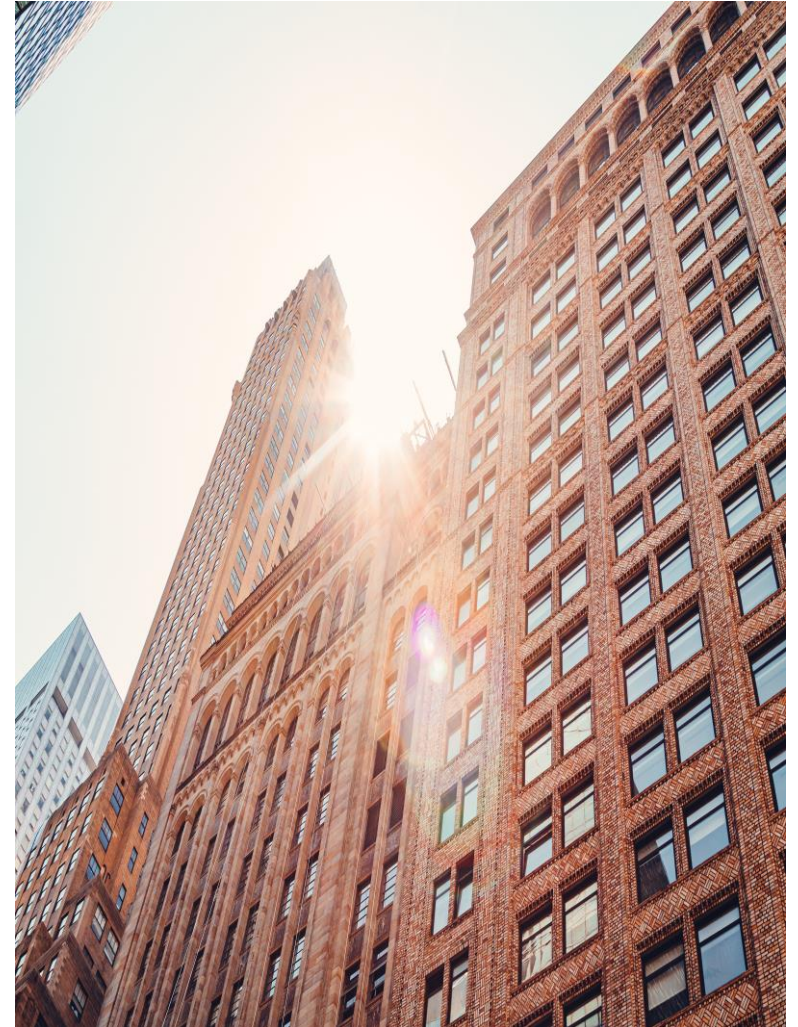
The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the agreed in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of Kirklees Council. We draw your attention to both of these documents.

## Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the Council and group's financial statements that have been prepared by management with the oversight of those charged with governance (the Corporate Governance and Audit committee); and we consider whether there are sufficient arrangements in place at the Council and group for securing economy, efficiency and effectiveness in your use of resources. Value for money relates to ensuring that resources are used efficiently in order to maximise the outcomes that can be achieved.

The audit of the financial statements does not relieve management or the Corporate Governance and Audit Committee of your responsibilities. It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the Council's business and is risk based.



# Introduction and headlines

## Significant risks

Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:

- Management override of controls
- Valuation of land and buildings, council dwellings and investment properties
- Valuation of the Pension fund net liability/asset

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.

## Group Audit

The Council is required to prepare group financial statements that account for the financial information of its joint venture, Kirklees Stadium Development Ltd (KSDL), on an equity basis.

## Materiality

We have determined planning materiality to be £16,250k (PY £15,700k) for the group and £16,200k (PY £15,600k) for the Council, which equates to approximately 1.35% of your gross expenditure costs for the year 2022/23. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. As part of our risk assessment, we have considered the impact of unadjusted prior period errors. Performance materiality has been set at £11,300k for the Council (65%) and £11,350k for the Group.

Clearly trivial has been set at £810k (PY £800k).

## Value for Money arrangements

Our risk assessment regarding your arrangements to secure value for money has identified the following risks of significant weakness:

- Financial Sustainability: Dedicated Schools Grant (DSG) overspend
- Financial Sustainability: restoring medium term financial balance

We will continue to update our risk assessment until we issue our Auditor's Annual Report.

## New Auditing Standards

There are two auditing standards which have been significantly updated this year. These are ISA 315 (Identifying and assessing the risks of material misstatement) and ISA 240 (the auditor's responsibilities relating to fraud in an audit of financial statements). We provide more detail on the work required later in this plan.

## Audit logistics

Our planning work took place in March and April and our final visit will take place in July to September. Our key deliverables are this Audit Plan, our Audit Findings Report and Auditor's Annual Report.

Our proposed fee for the audit will be £212,596 (PY: £202,971) for the Council, subject to the Council delivering a good set of financial statements and working papers.

We have complied with the Financial Reporting Council's Ethical Standard (revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

# Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Management over-ride of controls	Council	Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities.	<p>We will:</p> <ul style="list-style-type: none"> <li>- evaluate the design effectiveness of management controls over journals; analyse the journals listing and determine the criteria for selecting high risk unusual journals</li> <li>- test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration</li> <li>- gain and understanding of the accounting estimates and critical judgements applied made by management and consider their reasonableness with regard to corroborative evidence</li> <li>- evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.</li> </ul>
ISA240 revenue and expenditure risk	Council	Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue.	<p>We plan to rebut this presumed significant risk subject to a full risk assessment review of revenue and expenditure streams.</p> <p>Despite revenue and expenditure recognition not being a significant risk we will still undertake procedures to ensure that revenue and expenditure included within the accounts is materially correct.</p>

Page 61 Significant risks often relate to significant non-routine transactions and judgmental matters. Non-routine transactions are transactions that are unusual, due to either size or nature, and that therefore occur infrequently. Judgmental matters may include the development of accounting estimates for which there is significant measurement uncertainty.' (ISA (UK) 315)

# Significant risks identified (cont.)

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of the pension fund net liability/asset	Council	The Council's pension fund net liability/asset, as reflected in its balance sheet as the net defined benefit liability/asset, represents a significant estimate in the financial statements. The pension fund net liability/asset is considered a significant estimate due to the size of the numbers involved and the sensitivity of the estimate to changes in key assumptions. We therefore identified valuation of the Council's pension fund net liability/asset as a significant risk of material misstatement.	<p>We will:</p> <ul style="list-style-type: none"> <li>- update our understanding of the processes and controls put in place by management to ensure that the Authority's pension fund net liability/asset is not materially misstated and evaluate the design of the fund assets valuation in the pension fund financial statements and associated controls</li> <li>- evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work</li> <li>- assess the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation</li> <li>- assess the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability/asset</li> <li>- test the consistency of the pension fund figures and disclosures in the draft financial statements with the actuarial report from the actuary</li> <li>- undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report</li> <li>- review whether the pension fund has reported any material uncertainty in relation to investment property valuations as at 31 March 2023 and, if so, assess the impact on disclosures in the financial statements and on our audit opinion</li> <li>- obtain assurances from the auditor of the West Yorkshire Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary by the pension fund and the Council</li> <li>- evaluate the appropriateness of recognising a pension asset position against the Code and IFRIC 14 criteria.</li> </ul>

# Significant risks identified (cont.)

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of land and buildings, Council Dwellings and investment properties	Council	<p>Revaluation of land, buildings, Council dwellings and investment property should be performed with sufficient regularity to ensure that carrying amounts are not materially different from those that would be determined at the end of the reporting period.</p> <p>Investment property and Council Dwellings should be revalued annually.</p> <p>Additionally, valuations are significant estimates made by management in the accounts.</p> <p>We have identified the valuation of land, buildings, Council Dwellings and investment property as a significant risk.</p>	<p>We will:</p> <ul style="list-style-type: none"> <li>- evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to the valuation experts and the scope of their work</li> <li>- evaluate the competence, capabilities and objectivity of the valuation expert</li> <li>- write to the Council's valuers to confirm the basis on which the valuations were carried out</li> <li>- challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding</li> <li>- engage an independent auditor's expert valuer to provide a further review of the reasonableness of the assumptions and approach taken by the Council's valuers</li> <li>- test a sample of valuations at 31 March 2023 to understand the information and assumptions used in arriving at any revised valuations</li> <li>- test revaluations made during the year to see if they had been input correctly into the Council's asset register</li> <li>- test a sample of investment properties to ensure that fair value assumptions have been applied appropriately and can be supported</li> <li>- review the social housing discount factor as applied to Council Dwellings</li> <li>- Review whether the Council's expert valuer has reported any material uncertainty in relation to property valuations as at 31 March 2023 and, if so, assess the impact on disclosures in the financial statements and on our audit opinion.</li> </ul>

Management should expect engagement teams to challenge management in areas that are complex, significant or highly judgmental which may be the case for accounting estimates and similar areas. Management should also expect to provide to engagement teams with sufficient evidence to support their judgments and the approach they have adopted for key accounting policies referenced to accounting standards or changes thereto.

Where estimates are used in the preparation of the financial statements management should expect teams to challenge management's assumptions and request evidence to support those assumptions.

# Group audit scope and risk assessment


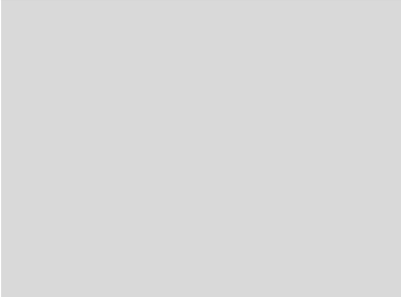
In accordance with ISA (UK) 600, as group auditor we are required to obtain sufficient appropriate audit evidence regarding the financial information of the components and the consolidation process to express an opinion on whether the group financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework.

Since the re-integration of the Kirklees Neighbourhood Housing company on 1 April 2021, the group accounts comprise the Council and its share in the Kirklees Stadium Development joint venture, consolidated on an equity basis.

No changes were identified to the group structure in the 2022/23 financial year.








# Group audit scope and risk assessment

Component	Individually Significant?	Level of response required under ISA (UK) 600	Risks identified	Planned audit approach
Kirklees Council	Yes		<ul style="list-style-type: none"> <li>Significant audit risks are set out on pages 7-9.</li> </ul>	Full scope audit performed by Grant Thornton UK LLP
Kirklees Stadium Development Limited (KSDL)	No		<ul style="list-style-type: none"> <li>Valuation of the Council's share of the net assets of KSDL.</li> </ul>	<p>Full scope audit performed by Revell Ward Ltd. We do not plan to direct the work of KSDL's auditor.</p> <p>The IFRS valuation of the John Smith stadium will be reviewed as part the group accounts consolidation procedures.</p>

## Audit scope

Page 65

-  Audit of the financial information of the component using component materiality
-  Audit of one more classes of transactions, account balances or disclosures relating to significant risks of material misstatement of the group financial statements
-  Review of component's financial information
-  Specified audit procedures relating to risks of material misstatement of the group financial statements
-  Analytical procedures at group level

# Other matters

## Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We read your Narrative Report and Annual Governance Statement [and any other information published alongside your financial statements] to check that they are consistent with the financial statements on which we give an opinion and our knowledge of the Council.
- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with requirements set by CIPFA.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We consider our other duties under legislation and the Code, as and when required, including:
  - giving electors the opportunity to raise questions about your 2022/23 financial statements, consider and decide upon any objections received in relation to the 2022/23 financial statements;
  - issuing a report in the public interest or written recommendations to the Council under section 24 of the Local Audit and Accountability Act 2014 (the Act).
  - application to the court for a declaration that an item of account is contrary to law under section 28 or a judicial review under section 31 of the Act
  - issuing an advisory notice under section 29 of the Act

We certify completion of our audit.

## Other material balances and transactions

Under International Standards on Auditing, 'irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure'. All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.



# Progress against prior year audit recommendations

We identified the following issues in our 2021/22 audit of the group and Council's financial statements, which resulted in 4 recommendations being reported in our 2021/22 Audit Findings Report. We will follow up on the implementation of our recommendations and will confirm whether we believe these have been fully addressed in our 2022/23 Audit Findings Report.

Recommendation	Issue and risk previously communicated	Update on actions taken to address the issue
1	The draft financial statements including the Annual Governance Statement (AGS) are required to be published on the Council's website for public inspection and comment. In 2021/22 the draft AGS was not included with the initial publication.	For 2022/23 ensure that public inspection requirements are met. <b>Management response</b> Agreed.
2	It has become increasingly common for LGPS pension fund asset figures reported in draft financial statements to change significantly due to audit and actuarial issues.  This often means that admitted bodies, such as the Council, see material movements in their corresponding asset figures subsequent to preparing and publishing their draft financial statements.  There is a risk that the Council might not always be sighted on the full impact of these changes, meaning that the pension liability might be materially misstated in the financial statements.	In future years ensure that management request from the LGPS pension fund to be alerted of any changes to draft asset figures, so that an informed decision can be made as whether to request revised actuarial reports.  <b>Management response</b> Noted.

# Progress against prior year audit recommendations (cont.)

Recommendation	Issue and risk previously communicated	Update on actions taken to address the issue
3	<p>In 2020/21 our auditor's expert for valuations work noted that the Council's General Fund valuer had not followed the expected RICS guidance in performing DRC valuations for specialised assets. Specifically, the Council's valuer does not allow for age-related reductions in the useful lives of buildings, nor is there a mechanism for capital expenditure to affect the remaining lives of the building as components are replaced or renewed.</p> <p>Upon review of the 2021/22 valuations we noted that this issue still exists and therefore warrants the attention of Those Charged with Governance.</p> <p>We do not however consider there to be a material misstatement occurring as a result of this methodological issue.</p>	<p>For 2022/23 communicate with the General Fund valuer to understand and ensure they are following the national RICS guidance for valuations.</p> <p><b>Management response</b> Noted.</p>
4	<p>In 2021/22 we reported a sub-set of 8 IT-related recommendations. Of these:</p> <ul style="list-style-type: none"> <li>- Two were rated as high-risk, related to SAP users with debug access in SAP production.</li> <li>- Three were rated as medium-risk, related to SAP segregation of duties.</li> <li>- Two were rated as low-risk, related to SAP.</li> <li>- One was rated as medium-risk, relating to Northgate.</li> </ul>	<p>Management responses were obtained and included in our 2021/22 audit findings report. We will assess completion of these recommendations as part of our 2022-23 audit work.</p> <p>For 2022-23 our IT audit scope will no longer include Northgate due to modification to our audit approach.</p>

# Progress against prior year audit recommendations (cont.)

Recommendation	Issue and risk previously communicated	Update on actions taken to address the issue
5	<p><b>Infrastructure asset accounting- useful economic lives estimation process</b></p> <p>From our evaluation of management's approach to useful economic life determination and the resulting depreciation charge to infrastructure assets, we concluded that the accounting estimate is reasonably stated in the financial statements.</p> <p>However, we consider management's approach to be lacking in robustness as management has not produced any evidence to support their selection of 20 years as a standard UEL for all types of infrastructure.</p> <p>There is a risk that if this is left unchanged, the depreciation charge may become materially inaccurate in future years. This could lead to an understatement in the infrastructure asset balance and a subsequent overestimation of the speed at which the assets' economic benefits are utilised.</p>	<p>Management should carefully adhere to the latest issued CIPFA Guidance in terms of reviewing Useful Asset Lives and considering how these may differ for the different types of infrastructure assets.</p> <p><b>Management response</b></p> <p>From 2022/23, Useful Asset Lives for Highways Infrastructure assets will follow CIPFA guidance.</p>

# Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

Matter	Description	Planned audit procedures
1	<p><b>Determination</b></p> <p>We have determined financial statement materiality based on a proportion of the gross expenditure of the group and Council for the financial year. Materiality at the planning stage of our audit is £16,250k, which equates to 1.35% of your gross expenditure for the year, as reported in the draft financial statements published on 29 June 2023.</p>	<p>We determine planning materiality in order to:</p> <ul style="list-style-type: none"> <li>– establish what level of misstatement could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements</li> <li>– assist in establishing the scope of our audit engagement and audit tests</li> <li>– determine sample sizes and</li> <li>– assist in evaluating the effect of known and likely misstatements in the financial statements</li> </ul>
2	<p><b>Other factors</b></p> <p>An item does not necessarily have to be large to be considered to have a material effect on the financial statements.</p>	<p>An item may be considered to be material by nature where it may affect instances when greater precision is required.</p> <ul style="list-style-type: none"> <li>– We have identified audit fees and remuneration disclosures as areas of heightened interest and sensitivity. We will give additional attention to the accuracy of figures disclosed in these notes, however we do not assign a specific lower materiality threshold.</li> </ul>

# Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

Matter	Description	Planned audit procedures
3	<p><b>Reassessment of materiality</b></p> <p>Our assessment of materiality is kept under review throughout the audit process.</p>	<p>We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality.</p>
4	<p><b>Other communications relating to materiality we will report to the Corporate Governance and Audit Committee</b></p> <p>Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Corporate Governance and Audit Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria.</p>	<p>We report to the Corporate Governance and Audit Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work.</p> <p>In the context of the group and Council, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £810k (PY £800k). If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Corporate Governance and Audit Committee to assist it in fulfilling its governance responsibilities.</p>

# IT audit strategy

In accordance with ISA (UK) 315 Revised, we are required to obtain an understanding of the relevant IT and technical infrastructure and details of the processes that operate within the IT environment. We are also required to consider the information captured to identify any audit relevant risks and design appropriate audit procedures in response. As part of this we obtain an understanding of the controls operating over relevant Information Technology (IT) systems i.e., IT general controls (ITGCs). Our audit will include completing an assessment of the design and implementation of relevant ITGCs. We say more about ISA 315 Revised on slide 21.

The following IT systems have been judged to be in scope for our audit and based on the planned financial statement audit approach we will perform the indicated level of assessment:

IT system	Audit area	Planned level IT audit assessment
SAP	Financial reporting, payroll, accounts payable and receivable	<ul style="list-style-type: none"> <li>• Test the design and implementation of the ITGCs</li> <li>• Follow up on recommendations made in the previous audit</li> </ul>

# IT audit strategy

In addition, due to the activity during the period, specifically the new system implementation in December 2022, additional audit procedures will be completed to address the additional risks of material misstatement identified.

IT system	Event	Relevant risks	Planned IT audit procedures
Series4000 (fixed asset management software)	New system implementation	Post migration data completeness and accuracy; system functionality operating to design.	<ul style="list-style-type: none"> <li>Obtain an understanding of the process used for new system implementation</li> <li>Audit of data migration activity and results</li> </ul>

# Value for Money arrangements

## Approach to Value for Money work for the period ended 31 March 2023

The National Audit Office issued its latest Value for Money guidance to auditors in April 2020. The Code expects auditors to consider whether a body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Auditors are expected to report any significant weaknesses in the body's arrangements, should they come to their attention. In undertaking their work, auditors are expected to have regard to three specified reporting criteria. These are as set out below:



### Improving economy, efficiency and effectiveness

How the body uses information about its costs and performance to improve the way it manages and delivers its services.



### Financial Sustainability

How the body plans and manages its resources to ensure it can continue to deliver its services.



### Governance

How the body ensures that it makes informed decisions and properly manages its risks.



# Risks of significant VFM weaknesses

As part of our planning work, we considered whether there were any risks of significant weakness in the body's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. The risks we have identified are detailed in the first table below, along with the further procedures we will perform. We may need to make recommendations following the completion of our work. The potential different types of recommendations we could make are set out in the second table below.

## Risks of significant weakness

Those risks requiring audit consideration and procedures to address the likelihood that proper arrangements are not in place at the body to deliver value for money.

### Financial Sustainability: Dedicated Schools Grant (DSG) overspend



The Council has a significant DSG SEND overspend which is held in an unusable negative DSG reserve at 31 March 2023 under statutory override. At the end of 2022/23 the Dedicated Schools Grant (DSG) deficit was £28.9m, due to pressures in the High Needs Block. We will update our knowledge on the progress made by the Council to seek a solution to the SEND overspend and retained deficit as part of the DfE Safety Valve Group. This will involve assessing the Safety Valve's assessment of the SEND Transformation Plan.

### Financial Sustainability: Medium Term financial balance



The Council has forecast a significant depletion of reserves in order to set balanced budgets in the financial years from 2023/24. In our interim 2021/22 Auditor's Annual Report we identified a significant weakness with regards to the adequacy of the Council's arrangements to identify and monitor sufficient savings plans to restore financial balance in the medium term.

## Potential types of recommendations

A range of different recommendations could be made following the completion of work on risks of significant weakness, as follows:

### Statutory recommendation



Written recommendations to the body under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the body to discuss and respond publicly to the report.

### Key recommendation



The Code of Audit Practice requires that where auditors identify significant weaknesses in arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the body. We have defined these recommendations as 'key recommendations'.

### Improvement recommendation



These recommendations, if implemented should improve the arrangements in place at the body, but are not made as a result of identifying significant weaknesses in the body's arrangements

# Audit logistics and team



## Jon Roberts, Engagement Lead

Leads our relationship with you and takes overall responsibility for the delivery of a high-quality audit, meeting the highest professional standards and adding value to the Council.

## Tom Foster, Associate Director (VFM audit)

Leads on the Value for Money audit and draws upon experience from carrying out VFM work nationally.

## Aaron Gouldman, Manager

Plans and manages the delivery of the audit including regular engagement with Governance Committees and senior officers.

## Sam Danielli, Audit In-charge

Key audit contact responsible for the day-to-day management and delivery of the audit work.

## Audited Entity responsibilities

Where audited bodies do not deliver to the timetable agreed, we need to ensure that this does not impact on audit quality or absorb a disproportionate amount of time, thereby disadvantaging other audited bodies. Where the elapsed time to complete an audit exceeds that agreed due to an entity not meeting its obligations, we will not be able to maintain a team on site. Similarly, where additional resources are needed to complete the audit due to an entity not meeting their obligations, we are not able to guarantee the delivery of the audit to the agreed timescales. In addition, delayed audits will incur additional audit fees.

## Our requirements

To minimise the risk of a delayed audit, you need to :

- ensure that you produce draft financial statements of good quality by the deadline you have agreed with us, including all notes, the Annual Report and the Annual Governance Statement
- ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we have shared with you
- ensure that the agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of samples for testing
- ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit
- respond promptly and adequately to audit queries.

# Audit fees and updated Auditing Standards including ISA 315 Revised

In 2018, PSAA awarded a contract of audit for Kirklees Council to begin with effect from 2018/19. The fee agreed in the contract was £122,721. Since that time, there have been a number of developments, particularly in relation to the revised Code and ISAs which are relevant for the 2022/23 audit. For details of the changes which impacted on years up to 2021/22 please see our prior year Audit Plans.

The major change impacting on our audit for 2022/23 is the introduction of ISA (UK) 315 (Revised) - Identifying and assessing the risks of material misstatement ('ISA 315'). There are a number of significant changes that will impact the nature and extent of our risk assessment procedures and the work we perform to respond to these identified risks. Key changes include:

- Enhanced requirements around understanding the Council's IT Infrastructure, IT environment. From this we will then identify any risks arising from the use of IT. We are then required to identify the IT General Controls ('ITGCs') that address those risks and test the design and implementation of ITGCs that address the risks arising from the use of IT.
- Additional documentation of our understanding of the Council's business model, which may result in us needing to perform additional inquiries to understand the Council's end-to-end processes over more classes of transactions, balances and disclosures.
- We are required to identify controls within a business process and identify which of those controls are controls relevant to the audit. These include, but are not limited to, controls over significant risks and journal entries. We will need to identify the risks arising from the use of IT and the general IT controls (ITGCs) as part of obtaining an understanding of relevant controls.
- Where we do not test the operating effectiveness of controls, the assessment of risk will be the inherent risk, this means that our sample sizes may be larger than in previous years.

These are significant changes which will require us to increase the scope, nature and extent of our audit documentation, particularly in respect of your business processes, and your IT controls. We will be unable to determine the full fee impact until we have undertaken further work in respect of the above areas. However, for an authority of your size, we estimate an initial increase of £5,000. We will let you know if our work in respect of business processes and IT controls identifies any issues requiring further audit testing. There is likely to be an ongoing requirement for a fee increase in future years, although we are unable yet to quantify that.

The other major change to Auditing Standards in 2022/23 is in respect of ISA 240 which deals with the auditor's responsibilities relating to fraud in an audit of financial statements. This Standard gives more prominence to the risk of fraud in the audit planning process. We will let you know during the course of the audit should we be required to undertake any additional work in this area which will impact on your fee.

Taking into account the above, our proposed work and fee for 2022/23, is detailed overleaf and has been agreed with the Service Director for Finance.

# Audit fees

	Actual Fee 2020/21	Estimated Fee 2021/22	Proposed fee 2022/23
Kirklees Council Audit	£196,000	*£202,971	£212,596
Total audit fees (excluding VAT)	£196,000	£202,971	£212,596

\*Subject to PSAA approval

## Assumptions

In setting the above fees, we have assumed that the Council will:

- prepare a good quality set of accounts, supported by comprehensive and well-presented working papers which are ready at the start of the audit
- provide appropriate analysis, support and evidence to support all critical judgements and significant judgements made during the course of preparing the financial statements
- provide early notice of proposed complex or unusual transactions which could have a material impact on the financial statements.

## Relevant professional standards

In preparing our fee estimate, we have had regard to all relevant professional standards, including paragraphs 4.1 and 4.2 of the FRC's [Ethical Standard \(revised 2019\)](#) which stipulate that the Engagement Lead (Key Audit Partner) must set a fee sufficient to enable the resourcing of the audit with partners and staff with appropriate time and skill to deliver an audit to the required professional and Ethical standards.

# Audit fees – detailed analysis

Scale fee published by PSAA 2019	£122,721
Audit of Public Interest Entities (not included in the Scale Fee)	£4,000
Audit of Group Accounts (not included in the Scale Fee)	£5,000
Additional audit procedures arising from a lower materiality	£4,000
Enhanced audit procedures for Property, Plant and Equipment	£11,000
Enhanced audit procedures for Pension Liabilities (IAS19)	£3,000
<b>Brought forward ongoing fee from 2019/20</b>	<b>£149,721</b>
<i><b>New issues for 2020/21</b></i>	
Additional work on Value for Money (VfM) under new NAO Code	£26,000
Increased audit requirements of revised ISAs 540 / 240 / 700	£17,000
Additional work required on housing benefit related expenditure	£3,000
<b>Total audit fees 2020/21 (excluding VAT)</b>	<b>£195,721</b>

# Audit fees – detailed analysis

<i>New issues for 2021/22</i>	
FRC response - additional review, EQCR or hot review	£1,500
Enhanced audit procedures for Infrastructure	£2,500
Additional work required under Value for Money arrangements	£3,250
<b>Total audit fees 2021/22 (excluding VAT)</b>	<b>£202,972</b>
<i>New issues for 2022/23</i>	
PSAA scale fee inflation adjustment	£3,374
Enhanced audit procedures for Payroll – Change of circumstances	£500
Enhanced audit procedures for Collection Fund- reliefs testing	£750
Increased audit requirements of revised ISAs 315/ 240	£5,000
<b>Total proposed audit fees 2022/23 (excluding VAT)</b>	<b>£212,596</b>

# Independence and non-audit services

## Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons. relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that we have implemented policies and procedures to meet the requirements of the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.. Further, we have had regard to the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

We confirm that we have implemented policies and procedures to meet the requirements of the Ethical Standard. For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the group and Council.

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# Independence and non-audit services

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## Other services

No other services provided by Grant Thornton were identified.

Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.



# Communication of audit matters with those charged with governance

Our communication plan	Audit Plan	Audit Findings	
Respective responsibilities of auditor and management/those charged with governance	•		<p>ISA (UK) 260, as well as other ISAs (UK), prescribe matters which we are required to communicate with those charged with governance, and which we set out in the table here.</p> <p>This document, the Audit Plan, outlines our audit strategy and plan to deliver the audit, while the Audit Findings will be issued prior to approval of the financial statements and will present key issues, findings and other matters arising from the audit, together with an explanation as to how these have been resolved.</p> <p>We will communicate any adverse or unexpected findings affecting the audit on a timely basis, either informally or via an audit progress memorandum.</p> <p><b>Respective responsibilities</b></p> <p>As auditor we are responsible for performing the audit in accordance with ISAs (UK), which is directed towards forming and expressing an opinion on the financial statements that have been prepared by management with the oversight of those charged with governance.</p> <p>The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.</p>
Overview of the planned scope and timing of the audit, form, timing and expected general content of communications including significant risks and Key Audit Matters	•		
Confirmation of independence and objectivity of the firm, the engagement team members and all other indirectly covered persons	•	•	
A statement that we have complied with relevant ethical requirements regarding independence. Relationships and other matters which might be thought to bear on independence. Details of non-audit work performed by Grant Thornton UK LLP and network firms, together with fees charged. Details of safeguards applied to threats to independence	•	•	
Significant matters in relation to going concern	•	•	
Matters in relation to the group audit, including: Scope of work on components, involvement of group auditors in component audits, concerns over quality of component auditors' work, limitations of scope on the group audit, fraud or suspected fraud	•	•	
Views about the qualitative aspects of the Group's accounting and financial reporting practices including accounting policies, accounting estimates and financial statement disclosures		•	
Significant findings from the audit		•	
Significant matters and issue arising during the audit and written representations that have been sought		•	
Significant difficulties encountered during the audit		•	
Significant deficiencies in internal control identified during the audit		•	
Significant matters arising in connection with related parties		•	
Identification or suspicion of fraud (deliberate manipulation) involving management and/or which results in material misstatement of the financial statements (not typically council tax fraud)		•	
Non-compliance with laws and regulations		•	
Unadjusted misstatements and material disclosure omissions		•	
Expected modifications to the auditor's report, or emphasis of matter		•	



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**Name of meeting: Corporate Governance & Audit Committee**  
**Date: 14 July 2023**

**Title of report: Draft Annual Governance Statement 2022/23**

**Purpose of report: To provide the Committee with details of the latest version of the Statement for information and comment prior to formal approval in conjunction with the Annual Accounts later in the 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 <a href="#">Council's Forward Plan (key decisions and private reports)?</a>	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name Is it also signed off by the Service Director for Finance?	Yes
Is it also signed off by the Service Director for Legal, Governance & Commissioning?	Yes
Cabinet member portfolio	Cllr Shabir Pandor

**Electoral wards affected: All**  
**Ward councillors consulted: Not applicable**  
**Have you considered GDPR; Yes**  
**Public**

## 1. Summary

- 1.1 The Committee is asked to note the latest version of the Draft 2022/23 Annual Governance Statement, prior to it being signed off by the Chief Executive and Leader of the Council, which concludes that overall the governance arrangements remain fit for purpose and to consider whether the issues raised reflect the state of the governance and control framework during 2022/23.
- 1.2 As the Statement covers the period up until the Annual Financial Accounts 2022/23 are approved, there may be need for revisions to be made in the text to reflect findings from the external audit and anything else material in the intervening period.
- 1.3 The Statement is a statutory requirement and accompanies the Statement of Accounts in order to provide readers with assurance about the governance and internal control environment in which they have been compiled and to which they relate.
- 1.4 The draft Statement has been compiled following the annual review of the effectiveness of the overall internal control and governance arrangements and

draws on a number of forms of assurance which have been presented to various parts of the Council during the year, including many to this Committee (e.g. annual activity reports), being principally the Annual Report of Internal Audit, reports by the external auditor, Monitoring Officer and from the performance management framework.

- 1.5 The draft Statement highlights a number of what are termed 'Significant Governance Issues'. Several of the Issues from the 2022/23 Statement are brought forward in one guise or another, reflecting the wide-ranging nature of the issues and action required. Consideration has been given to a number of potential new Issues and three, most notably the very serious financial position of the Council, have been incorporated.
- 1.6 The actions and controls the Council is taking are contained within a recommended Action Plan. Since the final Statement will not be agreed until later this year, subject to the approval of this draft by this Committee, it is intended that the draft Action Plan will be the subject of internal monitoring, with reporting back to Executive Team and this Committee during the remainder of 2023/24. Any amendments made to the final version will be reflected in monitoring work should there be sufficient time to progress the action during the year.

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

- 2.1 The detail is contained within the draft Statement.

## **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 **Impact on the finances of local residents**- None directly
- 3.7 **Other (e.g. Legal/Financial or Human Resources)** - Although each of the sub categorisations above suggest no direct implications, the review of the effectiveness of the internal control and governance arrangements covers all aspects of the Council's operations, including elements of the above, either specifically, indirectly or on a commissioned basis.

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

- 4.1 The Chief Executive, Strategic Directors, Service Director Legal, Governance & Commissioning, Service Director Finance, Service Director Strategy & Innovation, Head of (Audit &) Risk have commented on the draft Statement.

## **5. Next steps & Timelines**

- 5.1 A finalised version of the Statement will be considered by the Committee ahead of the approval of the Annual Accounts later in the year. The Action Plan will be revised and updated in responding to the Significant Issues

identified. Monitoring will take place on the draft issues identified. When a final statement is approved, this will be monitored.

5.2 Communications will assist in the formatting of the final version.

**6. Officer recommendations and reasons**

Members are asked to comment on the draft Statement, and to formally note it.

**7. Cabinet portfolio holder recommendation**

Not applicable.

**8. Contact officer**

Simon Straker, Audit Manager 01484 221000 (73726)

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

The Draft 2022/23 Statement is attached.

**10. Service Director responsible**

Chief Executive.

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Kirklees Council

# Draft Annual Governance Statement 2022/23

## Overall Conclusion & Opinion

We have considered carefully the effectiveness of the Council's governance framework and have been advised by the Corporate Governance and Audit Committee. We are satisfied that the Council's overall governance arrangements are in accordance with our governance framework and Code of Corporate Governance.

We will continue to enhance our governance arrangements as recommended in the Action Plan that underpins this Statement. We are satisfied that these steps will address the need for improvements that were identified in our review and will monitor their implementation during 2023/24 and beyond in conjunction with the Corporate Governance & Audit Committee.

Signed:



Cllr. Shabir Pandor, Leader of the Council



Jacqui Gedman, Chief Executive



## Significant Governance Issues during 2022/23

The annual corporate review process has identified and evaluated both progress with addressing ongoing issues from the 2021/22 Statement and some new areas of potential concern. Any of these that meets one or more of the following criteria (suggested by CIPFA / SOLACE) has been regarded as *significant* and included in this Statement:

- A) It undermines / threatens the achievement of organisational objectives.
- B) It is a significant failure to meet the principles of good governance.
- C) It is an area of significant concern to an inspector, external audit, or regulator.
- D) The head of internal audit, one of the statutory officers or the Corporate Governance & Audit Committee (CGAC) has recommended it be included.
- E) It is an issue of public or stakeholder concern.
- F) It is an issue that cuts across the organisation and requires cooperation to address it.

## Progress with the Significant Governance Issues in last year's Statement

Our previous Statements recognise that many issues are complex, and sometimes not solely under the Council's direct control. These often take longer than one year to address and some of these have featured in a similar form for a number of years, though some aspects can be resolved during the year. Good governance is about taking actions and making continuous improvement. Progress has been made since the 2021/22 Statement in addressing several of the issues highlighted last year, and consequently these have been omitted from the current Statement. There has also been a change of focus or circumstance this has resulted in several being combined and revised in this year's Statement.

No.	Governance Issue / Theme	Reason for Inclusion	Direction of Travel / Progress in 2022/23	Further Action in 2023/24
1	<p>The Corporate Planning process needs further strengthening with improved linkages to both revenue and capital resource allocation and performance measures to ensure delivery of key Council objectives.</p> <p>(A, B, F)</p>	<p>Delivery of key Council objectives could be undermined.</p>	<p>Although work was conducted to ascertain the Administration's priorities, and this was reflected in the budget for 2023/24 approved by Council in March 2023, the challenging financial position meant that it was not possible to create a more robust arrangement that established a Corporate (Council) Plan first, and then developed a budget that expressed the priorities contained therein.</p>	<p>Recognising the challenging financial circumstances, the Council Plan, to be considered at Council in July 2023, will focus on the most significant priorities for the council up to January 2024. A full, robust process to create a new Council Plan, for approval in January 2024 has already commenced. This will work to the principles of a strategic priority-led approach to planning and budgeting. This will be followed by the agreement of a medium-term financial plan that expresses those priorities and objectives in cost terms, utilising intelligence to establish an operational plan.</p>
2	<p>Strengthen and develop Partnership Governance and new relationships.</p> <p>(A, E, F)</p>	<p>Key outcomes require significant input from partners and others.</p>	<p>Although some areas of partnership working have continued to be strengthened, and areas such as the relationships with the West Yorkshire Mayoral Combined Authority, and Integrated Care Boards have been progressing well, there remain some concerns with associated parties at a more local level.</p>	<p>Work closely with the local partnership bodies to ensure that effective service delivery meets prioritised community needs, does not involve cost shifting or shunting, and does not, wherever possible, distort the Council's own policy priorities.</p>

No.	Governance Issue / Theme	Reason for Inclusion	Direction of Travel / Progress in 2022/23	Further Action in 2023/24
3.	<p>Continue to develop and strengthen the governance arrangements for decision-making and place-based working, including greater clarity to the roles and responsibilities of Members and officers.</p> <p>(B, C, F)</p>	<p>Having the right structures and mechanisms in place is key to achieving delivery of the Council's priorities.</p>	<p>Consideration of proposals to review options around committee structures was completed and approved by Council. The Cabinet and Leader governance model was approved, and a number of recommendations were agreed and are to be implemented throughout 2023/24.</p> <p>Action has been taken to seek to improve member-officer relationships, through a Protocol exercise and various training and awareness sessions.</p> <p>In relation to members working together, there have been changes in the scrutiny process, and at an administrative level, steps taken to ensure that officer delegated decisions are better recorded.</p>	<p>Continue to implement our current governance model with a focus on pre-decision scrutiny and improved communication and training.</p> <p>Implementation of Council recommendations from the Democracy Commission.</p> <p>Determine the next steps in the process suggested in the report following the Protocol exercise, so as to continue to promote effective working together between officers and members and indeed all members together too.</p>
4.	<p>Address the health and safety issues raised in connection with housing properties and the complete buildings portfolio, ensuring that management and operational</p>	<p>Work is ongoing to embed innovation and change but it has not yet reached a <i>business-as-usual</i> state.</p>	<p>In respect of the governance of housing services generally a Board has been established, independently chaired, and reporting directly to the cabinet committee, that is meant to address all areas of activity subject to oversight by the government regulator. Steps have also been taken to improve the governance oversight, and</p>	<p>Areas of high risk, such as fire safety in high and higher rise residences, and concerns about being sure that damp is addressed remain concerns, though this may be an issue of challenge operationally rather than governance. The uncertainty about the extent of the Government's regulatory regime means</p>

No.	Governance Issue / Theme	Reason for Inclusion	Direction of Travel / Progress in 2022/23	Further Action in 2023/24
	arrangements provide for the health and safety of all Council tenants, employees and residents.  (A, C, E)		operational management of property related matters within the housing function.	that continued flexibility with regard to governance oversight reflecting the regulator expectations may be required.

The previous entries re transformational activity have been subsumed into the existing need to improve corporate planning, and the newly expressed need to strengthen changes in activity and operations to achieve financial savings. Additional effort has made substantial changes to risk management processes; the organisation now needs to learn how to use this to make choices. Governance of employment related areas and the cost-of-living crisis have become a matter for ongoing business, reported through the council's risk management process and general business activity, and new revised policy arrangements look to address counter fraud, bribery and corruption, including new operational arrangements, and improved governance and reporting.

## New Issues

The annual review of the effectiveness of our governance arrangements has identified areas of heightened concern, risk, or significant uncertainty that require a corporate response. Where appropriate, these matters have been incorporated into exiting or slightly refocussed Issues brought forward from last year's Statement.

Governance Issue / Theme	Reason for Inclusion	Action Required in 2023/24
<p>1A The Medium-Term Financial Plan shows a significant (minimum) funding deficit of £30m in 2024/25 after assuming £11m savings proposals are delivered in full. Given the significant overspend on the General Fund Budget in 2022/23, with the consequent use of £27m from unallocated reserves, combined with the significant use of unallocated reserves (c£25m) to balance the Council's budget in 2023/24 in addition to a savings requirement of c£19m, the Council has no choice but to identify measures to reduce its net expenditure significantly to maintain a balance budget (and to avoid external intervention). The delivery of c£60m+ of savings in a 2-year period after 13 years of austerity will present a significant challenge for the Council inevitably impacting on its ability to deliver on its strategic objectives. (A, B, C, D, E, F)</p>	<p>Could prevent achievement of any objectives.</p>	<p>Given the structure of the Council's General Fund Revenue Budget in 2023/24, including the use of unallocated reserves totalling £25m (which has reduced reserves to the lower end of what is considered to be an acceptable Minimum Working Balance) and requirement to save c£19m, there are two key objectives - it is vital that all cost/income pressures are contained (which may require additional savings to be identified) so there is no overspend and all savings must be delivered in full. This will require detailed and timely financial and activity monitoring so that, if necessary, early remedial action can be taken if it is considered that either objective will not be achieved. Where such remedial action does not prove effective, consideration may need to be given to implementing some form of spending controls.</p> <p>At the same time, and looking ahead to 2024/25, there will need to be:</p> <ul style="list-style-type: none"> <li>A review of all reserves, earmarked or otherwise, to determine how much of any of those reserves can be moved to unallocated reserves to bolster the Minimum Working Balance (a review of the methodology for the Minimum Working Balance will be undertaken</li> </ul>

		<p>so that is founded on a risk-based analysis (as per CIPFA guidance) of what is needed and not a simple %age of Net Revenue Expenditure) and Unallocated Reserves in the event of an overspend in 2023/24;</p> <ul style="list-style-type: none"> <li>• A review of the strength of the Council's Balance Sheet to determine the extent of any assets/liabilities that may have a bearing on the Council's overall financial position bearing in mind the acute financial position of the Council</li> <li>• A review of the Council's Capital Programme with a view to reducing the amount of the Council's Prudential Borrowing given its impact on the General Fund Revenue Budget. In turn, this will necessitate a review of the Treasury Management Strategy not least because the Council, at a time of rising interest rates, is significantly (c£160m) under borrowed with any new borrowing likely to test the viability of projects previously agreed.</li> <li>• A review of the Medium-Term Financial Plan to ensure that it fully reflects both the anticipated income and expenditure of the Council in the period 2024/25 to 2028/29 and is based on a range of sound assumptions.</li> <li>• The early identification of a package of savings proposals totalling a minimum of £30m (this amount may change subject to the matters above) that can be delivered in full in 2024/25 (and indeed, identifying any that can be delivered in 2023/24). This will include assessing the robustness of any such savings proposals to</li> </ul>
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		<p>make sure they are deliverable, agreed through the appropriate governance mechanism and implemented as early as possible.</p>
<p>1B The effective implementation of the “Safety Valve” programme – to address overspending and historic deficit on special education needs (SEND) budgets as part of the Dedicated Schools Grant</p> <p>(A, C, D, F)</p>	<p>Affects the ability to achieve a balanced budget.</p>	<p>The Government has awarded additional grant (both capital and revenue) as part of a ‘Safety Valve’ agreement (over a 5-year period) to seek to address a historical deficit and in year overspending on support for children with additional needs. This activity is focused on increasing sufficiency of provision for children with Additional and Special Educational Needs and Disabilities and therefore involves both significant capital investment in creating a range of additional educational provision to enable children to be educated locally, as well as system-wide transformational changes in how SEND provision is delivered. Given the complexities of the programme and the complexity of need for our children, progress against the expectations that were set in the Safety Value Agreement with the DfE has been slower than anticipated. This has resulted in additional enhanced monitoring taking place with a revised plan to be submitted back to the Department for Education (DfE).</p> <p>Given the continuing dialogue with DfE, there is a clearer understanding of the Council’s plans and a robust plan both in the Childrens and Families Directorate, and, corporately of the need to work with the local area to deliver the plans necessary to reduce the deficit on the High Needs budget and more importantly to provide a service that is financially sustainable within the Dedicated Schools Grant funding provided by the DfE. The programme of work is being overseen by the SEND Programme Board and ultimately by the Executive Team.</p>

		<p>If the DfE do not allow the Council to continue participating in the Safety Valve Programme, once the statutory override that allows Councils to carry DSG deficits expires (currently planned to be March 2026), the Council would be required to fund any remaining deficit from its own resources at that time. A requirement to charge this to the Council's general fund would create an overspend, impacting on viability of the whole Council which may instigate a s114 report by the Chief Finance Officer.</p>
<p>2A During 2023/24 a number of senior managers have retired or taken up new employment elsewhere, including the Chief Executive, two strategic directors and the Director of Finance.</p> <p>(A, C, F)</p>	<p>This may present a significant risk to the Council's ability to respond rapidly to the issues.</p>	<p>The changes referenced here have, in the main, been planned (and therefore known about) for some time. The Director of Finance has already been substantively replaced, an acting role will replace one of the Strategic Directors and a new Chief Executive is currently being recruited (whilst the other strategic director post is expected to be unfilled). The serious financial position does create a particular tension, which needs to be addressed by a positive handover to the new post holders wherever possible.</p>
<p>2B The Council's data management policies, processes, governance, and standards need strengthening to ensure the accuracy and timeliness of data used for operational and strategic decision making.</p> <p>(A, F)</p>	<p>Effective data management enables operational and strategic decisions to be informed and supported by robust intelligence,</p>	<p>The development and implementation of a Data Management Framework across the Council. This will include:</p> <ul style="list-style-type: none"> <li>• Enhanced and increased data governance to improve the quality of the Council's data.</li> <li>• Implementation of standards to ensure consistency in and interoperability of the Council's data.</li> <li>• Increasing the use of automated data processing to improve quality and efficiency.</li> </ul>



	insights, and evidence.	<ul style="list-style-type: none"> <li>• Embedding master data management and the use of reference data to enable data to be integrated across services and systems.</li> <li>• Where possible, ensuring data is captured once and used multiple times to avoid multiple, and potentially conflicting, data sources across the Council.</li> </ul> <p>Delivery of the Council's Data and Insight Strategy which is overseen by the Modern Organisation Board and works alongside and in tandem with the Council's Technology and Information Governance Strategies.</p>
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A detailed Action Plan sits behind this summary and the Executive Team and Corporate Governance & Audit Committee will monitor progress during 2023/24.

## Statement Scope

Kirklees Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. The Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised.

Kirklees Council has a Local Code of Corporate Governance, which is consistent with the principles of the CIPFA / SOLACE framework *Delivering Good Governance in Local Government 2016*. A copy of the Code is available from the Monitoring Officer.

The current version following annual review can be found at <https://www.kirklees.gov.uk/beta/council-and-democracy.aspx#your-council>

This Statement explains how the Council has complied with the Code during 2022/23 and up to the date that the Statement of Accounts is approved (September 2023) and thus meets the requirements of the Accounts and Audit Regulations 2015, and the Accounts and Audit (Amendment) Regulations 2020. It provides assurance about the Council's governance framework, including the other entity in the Group Accounts, a joint venture, Kirklees Stadium Development Limited, to enable readers of the consolidated Accounts to be satisfied that arrangements are in place to govern spending and safeguard assets. Where specific improvements and/ actions are ongoing or needed, brief information is provided about the key issues and the main areas of work that have been progressed during 2022/23 and those which are planned or ongoing in 2023/24.

## **The purpose of the governance framework**

Corporate governance is a phrase used to describe how organisations direct and control what they do. For local authorities this also includes how a Council relates to the communities that it serves. The governance framework comprises the systems and processes, culture and values by which the Council is directed and controlled and through which it engages with, leads and accounts to its communities. Effective governance should enable the Council to monitor the achievement of its strategic objectives and to assess if this has led to the delivery of appropriate services and value for money.

System of internal control are a significant part of any organisations governance framework, designed to manage risk to a reasonable level. They cannot eliminate all risk of failure to achieve policies, aims and objectives and provide reasonable, but not absolute, assurance of effectiveness.

## **The key parts of the governance framework**

- A Local Code of Corporate Governance overseen by the Service Director Legal, Governance & Commissioning and the Corporate Governance and Audit Committee, to assess operational practice and behaviour, and prepare this Statement.
- A Council Constitution.
- A Corporate Plan that outlines how officers will seek to run the Council to meet our community commitments and objectives.
- A Leader and Cabinet model of governance.
- A corporate governance, audit and scrutiny process as set out in the Constitution.

- Oversight and delivery of the Council Programme, including several officer boards as described in the Constitution, notably the Children's Board.
- Statutory officer roles performed by the Chief Executive as Head of Paid Service, the Service Director Legal, Governance & Commissioning as Monitoring Officer and the Service Director Finance as Section 151 Officer. The S151 Officer is a professionally qualified accountant and reports directly on financial matters to the Chief Executive as a member of the Executive Team (ET).
- The Monitoring Officer who has responsibility for the Constitution and ensuring the legality of Council actions and decision making.
- The S151 Officer who has responsibility for ensuring that the financial management arrangements conform with all of the governance requirements of the five principles that define the core activities and behaviours that belong to the role in the CIPFA *Statement on The Role of the Chief Financial Officer in Local Authorities (2014)*.
- Codes of conduct defining the standards of behaviour for Members and employees.
- A Counter Fraud, Bribery and Corruption Policy and arrangements that endeavour to comply with the CIPFA Code and best practice.
- A Risk Management Strategy.
- Systems of financial and business internal control.
- An internal audit section, which is compliant with the Public Sector Internal Audit Standards and Code of Ethics.
- Whistle blowing arrangements.
- A complaints system for residents and service users.
- Business continuity arrangements.
- A senior manager to act as the Caldicott Guardian to protect the confidentiality of patient and service-user information.
- A Data Protection Officer reporting directly to the Chief Executive and a Senior Information Risk Officer (Monitoring Officer).
- Arrangements to manage other parts of the Council's (financial) Group. The S151 Officer monitors and reports on the financial effectiveness of the subsidiary and joint venture companies, whose accounts are subject to external audit.

## 2022/23 Review of effectiveness

Kirklees Council has a legal responsibility for conducting, at least annually, a review of the effectiveness of its governance framework. The review is informed by several sources including the work of the executive managers, the Head of Audit & Risk's annual report, the external auditor and other review agencies and inspectorates and Member Committees. The Council has four bodies / committees jointly responsible for monitoring and reviewing governance. These are:

- The Executive (Cabinet)
- The Corporate Governance & Audit Committee (CGAC)
- The Overview & Scrutiny Committee; and
- The Standards Committee.

The main parts of the review process are described below:

### 1. Annual Review of effectiveness of the system of internal control

In accordance with the requirements of the Accounts and Audit Regulations 2015 and Public Sector Internal Audit Standards (PSIAS), the CGAC approved the annual review of the effectiveness of its system of internal control and internal audit. The Head of Audit & Risk's self-assessment of current compliance with the Public Sector Internal Audit Standards & Code of Ethics and revised CIPFA Local Government Application Note 2019, concluded that overall Internal Audit does conform to these Standards and in December 2022, an external assessment as part of a regional peer review process concluded that Internal Audit "Generally Conforms" to PSIAS, this being the highest level of compliance opinion.

### 2. Head of Audit and Risk's Annual Assurance Opinion

Other than in respect of a small number of control issues that have arisen during the year, the Head of Audit and Risk has provided assurance that overall, the Council's systems of governance, risk management and internal control are generally sound and operate reasonably consistently across Services.

### 3. External Auditor's Review

During the year the External Auditor's Annual Report for 2022/23 included

- an unqualified opinion on the Council's 2022/23 financial statements; and
- an unqualified value for money conclusion, stating that we have made proper arrangements to secure economy, efficiency and effectiveness in our use of resources.

### 4. Corporate Governance & Audit Committee (CGAC)

The Committee considered and approved an updated Local Code of Corporate Governance at its meeting in March 2020.

During 2022/23 the CGAC reviewed a number of aspects of the Council's governance arrangements and noted or approved revisions or made recommendations to Council as appropriate.

CGAC also received assurance from various 2022/23 annual reports such as health and safety, emergency planning and business continuity, information governance and customer corporate standards on complaint handling, and a review of the Ombudsman and Third Stage Complaints received, together with details of the Whistleblowing concerns that have been received.

Recognising the need to ensure that both new and existing members of the Committee have the appropriate support and skills to conduct their role, training sessions are provided at various intervals, and this includes treasury management, over which the Committee has corporate oversight.

The Democracy Commission undertook a piece of work on behalf of the Committee in relation to the committee system proposal motion submitted to Annual Council May 2021. The Commission's recommendations were approved by the Committee (December 2022) and subsequently Council in January 2023. The recommendations are to be implemented throughout 2023 with a review of the recommendations set for March 2024. The recommendations continue to retain the Cabinet and Leader model, with some improvements to recognise the key role of the scrutiny function within key strategy formation and in engaging non-cabinet members in the decision-making process.

## 5 Overview & Scrutiny Management Committee

During 2022/23 the Committee and its four Panels were themselves reviewed following a review of the Council's governance arrangements and key issues faced and strategies and responses to manage these. Revised panels were agreed at Council in May 2023, retaining the same number but changing some of the areas of focus and making one of the ad hoc panels permanent.

## 6. Standards Committee

During the year the Committee reviewed various aspects of Member conduct and supported the work reviewing the Member Officer protocol.

## 7 Role of the Chief Financial Officer

The role of the Chief Financial Officer (CFO) continues to reflect the governance arrangements set out in the CIPFA Statement, which are required to ensure the CFO is able to operate effectively and perform their core duties as part of the review of the Constitution. The Council's financial management arrangements continue to fully conform to those set out in the Statement.

The CFO and an Internal Audit assessment have confirmed that the Council is compliant with the CIPFA Financial Management Code, although there are some aspects of operations that can be strengthened further in line with recommendations made in the report.

## 8 External Inspections & Peer Reviews

A central repository of the outcome and future timetable of all external inspections, audits, accreditations and reviews has been established during the year by colleagues in the Policy Team from information provided by Service Directors. Areas for improvement and recommendations to be implemented can be identified quickly and progress monitored accordingly to ensure complete corporate oversight, including any areas that may represent significant governance issues for inclusion herein. All Strategic Directors are set an annual objective of participating in LGA Peer Reviews to ensure organisation learning from best in class.

## 9 Officer Governance

Officer Boards as prescribed in the Constitution have continued to drive forward the Transformation Programme with strategic oversight from the Executive Team and escalation of appropriate issues, with particular emphasis on revenue budget and capital plan management. These arrangements are subject to both Cabinet and Scrutiny oversight.

## 10 Significant Partnerships

Partnerships range from joint venture partnerships, thematic partnerships and their subsidiaries to key contractual agreements managing substantial amounts of public money. The main contact officer for each Partnership is responsible for assessment of the governance arrangements and providing details of any significant changes to the membership and circumstances of the partnership. This information is used by senior officers of the Council to assess the potential risk that the partnership presents to the reputation or financial standing of the Council. The Council is continuing to work on a number of areas where arrangements need to be revised to strengthen and embed the governance framework, as identified in the Action Plan for this Statement.

## 11 Monitoring Officer / Senior Information Risk Owner

Reviewed information governance and security matters as Chair of the Information Governance Board within the context of an internal review of the Board's terms of reference and increasing focus on an enabling and supportive role, as well as wider assurance concerning organisational governance and compliance with the Constitution. A review of the effectiveness of the Member Officer Protocol in the Council's constitution has commenced.

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

**Date:** 14<sup>th</sup> July 2023

**Title of report:** Planning Scheme of Delegation (SoD) and Planning Committees

**Purpose of report:** To provide information for CGA on the changes proposed to both the Planning Scheme of Delegation (SoD) and to Planning Committees

<b>Key Decision - Is it likely to result in spending or saving <b>£500k</b> 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.</b>	<b>No</b>
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?</b>	<b>No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>No</b>  The decision to change the SoD and change Planning Committees is a Full Council decision, not an Executive decision
<b>Date signed off by <u>Strategic Director &amp; Name</u></b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>David Shepherd - 29th June 2023</b>  <b>Dean Langton – 3 July 2023</b>  <b>Julie Muscroft – 4 July 2023</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Graham Turner</b>

**Electoral wards affected:** All

**Ward councillors consulted:** Briefings have been provided to Labour, Conservative and Liberal Democrat Groups

**Public or private:** Public

**Has GDPR been considered?** Yes

## 1. Summary

This report is designed to help explain the reasons for updating the 2013 Scheme of Delegation for Planning and the changes to Planning Committees. For information - Planning decision making and committee structures at Kirklees Council are a decision for Full Council who must vote to change the Constitution related to Planning decision making matters. It is a requirement for all Councils with Local Planning Authorities to have a Planning Committee. The types of planning applications decided at the Planning Committee are subject to the Scheme of Delegation.

## 2. By way of background, these are the most significant Planning milestones since the 2013 Scheme of Delegation was adopted:

2015	Introduction of Strategic Planning Committee alongside existing Sub Committees
2015	Adoption of Development Management Charter (How and Who is consulted on planning applications)
2017	Adoption of Officer Member Planning Communication Protocol
2019	Adoption of Local Plan
2019-2023	Adoption of Supplementary Planning Documents and Guidance Notes
2022	Adoption of Local Validation Checklist for Planning Application

## 3. Information required to take a decision

A review of the existing Scheme of Delegation and Planning Committee structures has been undertaken. Engagement with the 3 main political groups has been done to gain member feedback to the changes proposed.

In summary the changes proposed are:

- To update the Scheme of Delegation to revise the conditions under which applications are decided at Committee.
- To move from the current 3 committee structure to 2 planning committees each meeting every 6 weeks.
- To introduce an expectation that Ward Councillors who refer an application to committee attend in person at the meeting (or send a ward councillor colleague).
- Within the Highway and Transportation scheme of delegation in relation to Definitive Map Modification Orders (DMMO) enable Planning Committee Chairs to consider if matters do not require determination by the planning committee and can remain delegated to the relevant Strategic Director.

At Kirklees the Planning Service performance is well above all the Governments targets for planning decision making this is despite challenges with the complexity of planning. One significant area of concern however is the length of time it takes for planning decisions to be made. The main reasons for the length of time each application takes is due to the volume and complexity of the

applications. Kirklees is in the top 20 of busiest planning services in the country. The amount of time spent considering, assessing and improving planning applications to help arrive at a positive outcome, is not covered by the cost of the planning application fee and long running applications cause strain and stress for communities and applicants.

To help focus Council resources, the proposals here are to update the Scheme of Delegation so that applications are decided at Committee only where they:

- Attract significant representations from the public against the officer recommendation, or
- Have been referred by Ward Councillors to a planning committee, or
- Significant Departures from the Development Plan and cases where applicants request reduced S106 contributions will also be referred to Committee.

This will reduce by around an estimated third of current cases going needing to go to Planning Committees under the current scheme of delegation. This will help to speed up the planning process. It will also allow officer time to be redeployed to other cases and projects and save money for both the Council and applicants. It will ensure communities are active in the planning process by focusing the time needed at committee on applications which are most important to them. The new Scheme of Delegation and Committees will allow Committees to focus on the planning applications which generate significant public interest.

By reducing the volume of applications needing a planning committee decision, it is possible to reduce the number and frequency of Committees. Currently there are 3 planning committees the proposal is to have 2 planning committees:

- The Strategic Planning Committee - focus on Major Planning Applications, and
- The District Wide Planning Committee - focused on Minor and Other (Householder) Applications.

The Strategic Planning Committee (Major planning applications) and the District Wide Planning Committee (Minor and Other planning applications) will have equal status and their terms of reference (as amended) will include responsibilities for planning, highways and transportation matters.

Each new Committee would meet every 6 weeks in person.

Under the new Scheme of Delegation 2023 Ward Councillors who refer an application to committee are expected to attend in person at the meeting (or send a ward councillor colleague). By exception virtual attendance by a ward councillor who referred an application can be appropriate with the agreement of the Chair of the Committee.

There are no changes proposed to public or Councillor speaker rights at the new Planning Committees.

In relation to the changes to the Definitive Map Modification Orders (DMMO) a clause has been inserted into the Scheme of Delegation to enable the relevant

Chair of the Planning Committee to consider if the making of a DMMO can remain delegated to the Strategic Director. This will allow instances where there are no objections from interested parties or ward councillor referrals for DMMO to be decided by Officers. This will help speed up the process for DMMO's in instances where there is no need for a committee decision because there has been no public interest in the case.

### **3.1 Proposed new wording within the Scheme of Delegation**

Below is the proposed version of the elements of the Councils constitution which would be amended to reflect the new Scheme of Delegation the new Planning Committee structures, and changes to decision making for DMMOs.

(Appendix A and Appendix F contains the text from the current Scheme of Delegation with 'tracked changes' to show all proposed amendments).

## ***Scheme of Delegation 2023***

### ***Strategic Director Growth and Regeneration***

*The holder of the post of Strategic Director Growth and Regeneration shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Growth and Regeneration Directorate and, without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:*

### ***Planning and Development***

#### ***A. Development Management, Strategic and Neighbourhood Planning and Highways Transportation***

##### ***Non-Executive Functions***

*1. All functions and responsibilities of the Council as;*

- Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Regulation 2 of the Hedgerow Regulations 1997));*
- Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990);*
- Relevant Authority (within the meaning of the Part 8 of the Anti-Social Behaviour Act 2003);*
- Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990);*
- Local Housing Authority (within the meaning of Section 1 of the Housing Act 1985);*
- Acquiring Authority (within the meaning of section 7(1) of the Acquisition of Land Act 1981) relating to development management, strategic and neighbourhood planning, high hedges and hazardous substances included*

*within the terms of reference of the Strategic Planning Committee (Major Planning Applications) and District Wide Planning Committee (Minor and Other Planning Applications) except:*

- (1) For any Major Planning Application (Full or Outline) which receives a significant number of representations against the officers recommended decision or if a Ward Members refers a Major Planning Application to Strategic Planning Committee with the Chairs agreement or if a significant Departure from the development Plan (Local Plan 2019 or any future updates) or any reduction in S106 Planning obligations from Local Plan 2019 (or any future updates).*
- (2) Any Minor or Other Planning applications which receives a significant number of representations against the officers recommended decision or if a Ward Members refers a Minor or Other Planning Application to the District Wide Planning Committee (Minor and Other planning applications) with the Chairs agreement or if a significant Departure from the Development Plan (Local Plan 2019 or any future updates).*
- (3) Applications for the stopping up and diversion of footpaths, bridleways and restricted byways under Section 257 of the Town and Country Planning Act 1990 where;  
a) any member so requests in relation to an application within their ward. The member shall specify in writing his/her reasons for making the request; or  
b) there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).*

### **Scheme of Delegation 2023**

#### **Strategic Director Environment and Climate Change**

*The holder of the post of Strategic Director Environment and Climate Change shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Environment and Climate Change Directorate and without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:*

#### **A. Highways Transportation and Public Rights of Way matters Non-Executive Functions**

- 1. All relevant functions and responsibilities of the Council as:
  - *Local Highway Authority (within the meaning of s.1 Highways Act 1980);*
  - *Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981;*
  - *Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000;*
  - *Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991);**

- *Traffic Authority (within the meaning of Section 121A of the Road Traffic Regulation Act 1984).*

*relating to highways transportation, public rights of way and highways development management included within the terms of reference of the Planning Committees.*

*(1) Matters are referred to the relevant Planning Committee as specified in paragraph 3 of the General Provisions and in the following cases:*

*i) where the delegated officer so decides:*

*a) with the agreement of the Chair of the relevant Planning Committee; or*

*b) due to the significant volume of local opinion (including through Parish/Town Councils);*

*ii) where the Chair of the relevant Planning Committee so requests;*

*iii) where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request;*

*iv) where there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal);*

*v) in respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking or re-enacting that Act with or without modification) unless the chair of the relevant planning committee considers matters do not require determination by the planning committee and can remain delegated to the relevant Strategic Director.*

## **3.2 Proposed new wording for Planning Committee Terms of Reference**

### **3.2.1 Strategic Planning Committee**

Below are the details for the proposed terms of reference for the Strategic Planning Committee (Major Planning Applications).

(Appendix B contains the text from the current Terms of Reference with 'tracked changes' to show all proposed amendments.).

#### ***Strategic Planning Committee (Major Planning Applications)***

***Membership*** 7 Members of the Council Including the Chairperson

#### ***Terms of Reference***

*Delegated authority in respect of all Planning, Development Management and Highways functions which are not by virtue of any legislation present or future, the responsibility of the Executive and are not required by legislation to be carried out in the full Council.*

*This includes:*

#### ***Planning and Development Management***

- 1. Power to determine application for planning permission.*
- 2. Power to determine applications to develop land without compliance with conditions previously attached.*
- 3. Power to grant planning permission for development already carried out.*
- 4. Power to decline to determine application for planning permission.*
- 5. Duties relating to the making of determinations of planning applications.*
- 6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.*
- 7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.*
- 8. Power to enter into agreements regulating development or use of land.*
- 9. Power to issue a certificate of existing or proposed lawful use or development.*
- 10. Power to serve a completion notice.*
- 11. Power to grant consent for the display of advertisements.*
- 12. Power to authorise entry onto land.*
- 13. Power to require the discontinuance of a use of land.*
- 14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice Revised April 2023*
- 15. Power to issue an enforcement notice.*
- 16. Power to apply for an injunction restraining a breach of planning control.*
- 17. Power to determine applications for hazardous substances consent, and related powers.*
- 18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.*
- 19. Power to require proper maintenance of land.*

20. *Power to determine application for listed building consent, and related powers.*
21. *Duties relating to applications for listed building consent*
22. *Power to serve a building preservation notice, and related powers.*
23. *Power to issue an enforcement notice in relation to demolition of listed building in conservation area.*
24. *Powers to acquire a listed building in need of repair and to serve a repairs notice.*
25. *Power to apply for an injunction in relation to a listed building.*
26. *Power to execute urgent works.*
27. *Powers relating to the protection of important hedgerows.*
28. *Powers relating to the preservation of trees.*
29. *Powers relating to complaints about high hedges.*

### **Additional Notes and Interpretation – Strategic Planning Committee**

*1. The Strategic Planning Committee (Major Planning Applications) will generally only deal with full and outline planning applications for Major development proposals as set out in the Scheme of Delegation 2023. All Major Planning Applications are delegated decisions unless the relevant Chair considers otherwise or ward members exercise their right of referral with the Chairs agreement or if significant representations against the Officers recommended decision are received or if the application is a significant Departure from the Development Plan (Local Plan 2019 or any future updates). Any reduction in S106 obligations from Local Plan 2019 (or any future updates) requirements will also be reported to Strategic Planning Committee for determination.*

*2. Ward Members' rights to refer planning applications to the District Wide Planning Committee (Minor and Other planning applications) remain unaffected (subject to the Chair's confirmation that the reasons are valid).*

*3. Ward members' rights to refer Planning Applications either to the Strategic Planning Committee (Major Planning Applications) or the District Wide Planning Committee (Minor and Other planning applications) for determination will not, in the normal course of events, extend to discharges of planning conditions or applications under section 96A of the Town and Country Planning Act 1990 (non-material amendments to planning permissions). The reason for this is that the statutory timescales within which decisions relating to these submissions must be made by the LPA are too short to allow for Committee determinations. Officers will continue to notify relevant ward members of such applications through the 'weekly lists' and will take into account comments made before making their final decisions.*

*4. It is good practise to carry out site visits for planning applications. Site visits will be carried out upon planning application at a Committee unless discretion is exercised. The chair in consultation with officers will decide whether to exercise this discretion.*

### **Highways and Transportation**

1. *Power to permit deposit of builder's skip on highway.*
2. *Power to license planting, retention, and maintenance of trees, etc. in part of highway.*
3. *Power to authorise erection of stiles, etc. on footpaths or bridleways.*
4. *Power to license works in relation to buildings, etc. which obstruct the highway.*



5. *Power to consent to temporary deposits or excavations in streets.*
6. *Power to dispense with obligation to erect hoarding or fence.*
7. *Power to restrict the placing of rails, beams, etc. over highways.*
8. *Power to consent to construction of cellars, etc. under street.*
9. *Power to consent to the making of openings into cellars, etc. under streets, and pavement lights, and ventilators.*
10. *Power to create footpath, bridleway or restricted byway by agreement.*
11. *Power to create footpaths, bridleways or restricted byways*
12. *Duty to keep register of information with respect to maps, statements, and declarations.*
13. *Power to stop up footpaths, bridleways or restricted byways*
14. *Power to determine application for public path extinguishment order.*
15. *Power to make a rail crossing extinguishment order.*
16. *Power to make a special extinguishment order.*
17. *Power to divert footpaths, bridleways or restricted byways*
18. *Power to make a public path diversion order.*
19. *Power to make a rail crossing diversion order.*
20. *Power to make a special diversion order.*
21. *Power to require applicant for order to enter into agreement.*
22. *Power to make an SSSI diversion order.*

*Revised April 2023*

23. *Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.*
24. *Power to decline to determine certain applications.*
25. *Duty to assert and protect the rights of the public to use and enjoyment of highways.*
26. *Duty to serve notice of proposed action in relation to obstruction.*
27. *Power to apply for variation of order under section 130B of the Highways Act 1980.*
28. *Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.*
29. *Power temporarily to divert footpath, bridleway or restricted byway*
30. *Functions relating to the making good of damage and the removal of obstructions.*
31. *Powers relating to the removal of things so deposited on highways as to be a nuisance.*
32. *Power to extinguish certain public rights of way.*
33. *Duty to keep definitive map and statement under review.*
34. *Power to include modifications in other orders.*
35. *Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.*
36. *Power to prepare map and statement by way of consolidation of definitive map and statement.*
37. *Power to designate footpath as cycle track.*
38. *Power to extinguish public right of way over land acquired for clearance.*
39. *Power to authorise stopping-up or diversion of highway (including Section 247 of the Town & Country Planning Act 1990).*
40. *Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway*
41. *Power to extinguish public rights of way over land held for planning purposes.*

*42. Power to enter into agreements with respect to means of access.*

*Revised April 2023*

*43. Power to provide access in absence of agreement.*

*44. Power to grant a street works licence.*

*45. Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highways and related powers.*

*46. Duty to publish notice in respect of proposals to grant such permission under Section 115E of the Highways Act 1980.*

### **3.2.2 Proposed District-wide Planning Committee**

Below are the details for the proposed District Wide Planning Committee.

The Sub Planning Committees (Heavy Woollen and Huddersfield) will both be deleted in full, from the Terms of Reference. A District Wide Planning Committee (Minor and Other planning applications) will replace the Sub Planning Committees.

The Strategic Planning Committee (Major planning applications) and the District Wide Planning Committee (Minor and Other planning applications) will have equal status, and their terms of reference (as amended) will include responsibilities for planning, highways and transportation matters.

(Appendix B contains the text from the current Terms of Reference with ‘tracked changes’ to show all proposed amendments. This includes the addition of Highways and Transportation responsibilities identical to those held by the Strategic Planning Committee (Major Planning Applications).

#### ***District Wide Planning Committee (Minor and Other planning applications)***

***Membership*** will be 9 Members of the Council including the Chairperson.

#### ***Terms of Reference***

*Delegated authority in respect of all Planning, Development Management and Highways functions which are not by virtue of any legislation present or future, the responsibility of the Executive and are not required by legislation to be carried out in the full Council.*

*This includes:*

#### ***Planning and Development Management***

- 1. Power to determine application for planning permission.*
- 2. Power to determine applications to develop land without compliance with conditions previously attached.*
- 3. Power to grant planning permission for development already carried out.*
- 4. Power to decline to determine application for planning permission.*
- 5. Duties relating to the making of determinations of planning applications.*
- 6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.*

7. *Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.*
8. *Power to enter into agreements regulating development or use of land.*
9. *Power to issue a certificate of existing or proposed lawful use or development.*
10. *Power to serve a completion notice.*
11. *Power to grant consent for the display of advertisements.*
12. *Power to authorise entry onto land.*
13. *Power to require the discontinuance of a use of land.*
14. *Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice Revised April 2023*
15. *Power to issue an enforcement notice.*
16. *Power to apply for an injunction restraining a breach of planning control.*
17. *Power to determine applications for hazardous substances consent, and related powers.*
18. *Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.*
19. *Power to require proper maintenance of land.*
20. *Power to determine application for listed building consent, and related powers.*
21. *Duties relating to applications for listed building consent*
22. *Power to serve a building preservation notice, and related powers.*
23. *Power to issue an enforcement notice in relation to demolition of listed building in conservation area.*
24. *Powers to acquire a listed building in need of repair and to serve a repairs notice.*
25. *Power to apply for an injunction in relation to a listed building.*
26. *Power to execute urgent works.*
27. *Powers relating to the protection of important hedgerows.*
28. *Powers relating to the preservation of trees.*

### ***Additional Notes and Interpretation – District Wide Planning Committee***

1. *The District Wide Planning Committee (Minor and Other planning applications) will generally only determine Full and Outline planning applications for Minor and Other scale development proposals set out in the Scheme of Delegation 2023.*
2. *All Minor and Other planning applications are delegated decisions unless the relevant Chair considers otherwise or ward members exercise their right of referral with the Chairs agreement or if significant representations against the Officers recommended decision are received or if the application is a significant Departure from the Development Plan (Local Plan 2019 or any future updates).*

### ***Highways and Transportation***

1. *Power to permit deposit of builder's skip on highway.*
2. *Power to license planting, retention, and maintenance of trees, etc. in part of highway.*
3. *Power to authorise erection of stiles, etc. on footpaths or bridleways.*
4. *Power to license works in relation to buildings, etc. which obstruct the highway.*
5. *Power to consent to temporary deposits or excavations in streets.*
6. *Power to dispense with obligation to erect hoarding or fence.*
7. *Power to restrict the placing of rails, beams, etc. over highways.*

8. *Power to consent to construction of cellars, etc. under street.*
9. *Power to consent to the making of openings into cellars, etc. under streets, and pavement lights, and ventilators.*
10. *Power to create footpath, bridleway or restricted byway by agreement.*
11. *Power to create footpaths, bridleways or restricted byways*
12. *Duty to keep register of information with respect to maps, statements, and declarations.*
13. *Power to stop up footpaths, bridleways or restricted byways*
14. *Power to determine application for public path extinguishment order.*
15. *Power to make a rail crossing extinguishment order.*
16. *Power to make a special extinguishment order.*
17. *Power to divert footpaths, bridleways or restricted byways*
18. *Power to make a public path diversion order.*
19. *Power to make a rail crossing diversion order.*
20. *Power to make a special diversion order.*
21. *Power to require applicant for order to enter into agreement.*
22. *Power to make an SSSI diversion order.*

*Revised April 2023*

23. *Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.*
  24. *Power to decline to determine certain applications.*
  25. *Duty to assert and protect the rights of the public to use and enjoyment of highways.*
  26. *Duty to serve notice of proposed action in relation to obstruction.*
  27. *Power to apply for variation of order under section 130B of the Highways Act 1980.*
  28. *Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.*
  29. *Power temporarily to divert footpath, bridleway or restricted byway*
  30. *Functions relating to the making good of damage and the removal of obstructions.*
  31. *Powers relating to the removal of things so deposited on highways as to be a nuisance.*
  32. *Power to extinguish certain public rights of way.*
  33. *Duty to keep definitive map and statement under review.*
  34. *Power to include modifications in other orders.*
  35. *Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.*
  36. *Power to prepare map and statement by way of consolidation of definitive map and statement.*
  37. *Power to designate footpath as cycle track.*
  38. *Power to extinguish public right of way over land acquired for clearance.*
  39. *Power to authorise stopping-up or diversion of highway (including Section 247 of the Town & Country Planning Act 1990).*
  40. *Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway*
  41. *Power to extinguish public rights of way over land held for planning purposes.*
  42. *Power to enter into agreements with respect to means of access.*
- Revised April 2023*
43. *Power to provide access in absence of agreement.*

44. *Power to grant a street works licence.*
45. *Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highways and related powers.*
46. *Duty to publish notice in respect of proposals to grant such permission under Section 115E of the Highways Act 1980.*

**3.2.3 Other proposed changes to the Constitution and associated Planning Protocols.** There are a number of references in the Councils constitution to Sub Committees. As the proposals in the report are to disestablish Sub Committees the relevant parts of the Constitution will require updating. It is recommended that any references to the previous scheme of delegation and Strategic and Sub Committees shall be updated.

The Protocols for the Planning Committees and Sub Committees (including Protocols for Public Speaking) will also require amending to reflect the changes proposed in this report. The relevant pages are appended to this report with track changes highlighting the new and deleted sections.

See Appendix C for proposed changes to Protocols for Planning Committees

## **4. Implications for the Council**

### **4.1 Working with People**

The changes proposed will help save time and money for all parties involved in the planning process. Speeding up planning decision making helps improve outcomes. There are no changes to the roles of the community in the planning process. The 3 main groups of the Council's political parties have helpfully provided input and ideas to shape these reforms.

### **4.2 Working with Partners**

Speeding up the planning process, will help Partners deliver housing and employment developments and make Kirklees a more attractive place to invest and do business. Less throughput of applications in the committee system will help technical and statutory consultees who sometimes prepare for and attend committees.

### **4.3 Place Based Working**

There are no changes to Place based working. The Council will have less requirements on its facilities as a result of having few committee meetings to service and attend.

#### **4.4 Climate Change and Air Quality**

Any improvements to the speed and effectiveness of the planning system can help contribute to our goal of Net Zero by 2038 and new developments can help tackle air quality through good quality decision making and designs being approved.

#### **4.5 Improving outcomes for children**

Helping speed up the planning process can help provide better quality accommodation for children in terms of housing and education facilities and enhance our existing good parks and recreation spaces.

#### **4.6 Financial Implications for the people living or working in Kirklees**

Speeding up the planning process will save a modest amount of money by not having to prepare for and service 3 planning committees. This will allow officers to be redeployed to other case work and projects.

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

An IIA has been undertaken on the planning reforms specified. There is no requirement to complete a stage 2 assessment. Benefits have been identified in speeding up the planning process to parties wanting to undertake new developments.

### **5. Consultation**

The 3 main political groups have been briefed on the planning reforms proposals at their Group meetings. In addition, informal briefings with the Chair of Overview and Scrutiny and the 3 existing Planning Chairs was undertaken. Feedback was helpful in shaping the final recommendations in this report. Cabinet Members, the Leader and the Councils Executive Team have all been engaged throughout the discussions on the options for reform and the recommendations contained within this report.

### **6. Engagement**

Should the reforms be supported and approved by Full Council later this year, communication with regular customers of the planning service and our communities will take place advising on the changes to decision making and when they will come into effect.

## 7. Next steps and timelines

Transitional arrangements will be implemented following a Full Council decision on the proposed new Scheme of Delegation and the 2 planning committee system. An overview of the next steps and timeline for these arrangements is shown in the table below (with more detail provided in the following paragraphs)

<b>Date</b>	<b>Activity</b>
13 September 23 (Anticipated date)	Report submitted to Full Council
10 November 2023	New Scheme of Delegation 2023 in place
	Revised name and terms of reference in place for Strategic Planning Committee
10 Nov 23 to 9 Feb 2024	Revision to Terms of Reference for existing Sub-Planning Committees (To include reference to new Scheme of Delegation 2023)
9 Feb 2024	Planning Sub-committees disestablished
	New District-wide planning committee established
	Revised Planning Protocol in place (Implementing changes to member referral process)

Currently a working group is evaluating what is required in back-office functions and for the applicants and wider public to implement the reforms. Communication with interested parties will take place throughout Autumn and Winter 2023/4 to inform people about the changes to planning decision making. The aim is to implement the reforms (if approved by Full Council) as quickly as practical post decision of Full Council.

The Scheme of Delegation 2023 will be implemented from 10 November 2023. All planning applications will be decided by the 2023 Scheme of Delegation from this date onwards. Applications which require a decision by one of the current three Planning Committees will be referred to either the Strategic Planning Committee (Major Planning Applications) or one of the appropriate Planning Sub Committees (Heavy Woollen and Huddersfield) until 9 February 2024.

From 9 February 2024 the two Sub Planning Committees will be de-established. The District Wide Planning Committee (Minor and Other Planning Applications) will come into operation from 9 February 2024.

Planning Applications will then be referred to the 2 Committee system (Strategic Planning Committee – Major Planning Applications) and (District Wide Planning Committee- Minor and Other Planning Applications) from 2024 onwards in accordance with the Scheme of Delegation 2023. Both Committees will meet in Huddersfield Town Hall.

Dates for planning committee meetings will be confirmed but it is envisaged they will continue to be held on Thursdays, starting at 1pm with site visits carried out on the same morning before the committee meeting.

## 8. Officer recommendations and reasons

Officers recommend that the changes to the Scheme of Delegation and the introduction of a 2 planning committee system are taken forward for approval by Full Council and implemented thereafter.

### 8.1 Specifically, Committee is recommended to approve and recommend Full Council approve the following:

- a) Approve the Scheme of Delegation to the Strategic Director Growth and Regeneration set out at Appendix A to take affect from Friday 10 November 2023.
- b) Approve the Scheme of Delegation to Strategic Director Environment and Climate Change set out at Appendix F to take affect from Friday 10 November 2023
- c) Approve the renaming of Strategic Planning committee as Strategic Planning Committee (Major Planning Applications), and revised Terms of Reference for the Strategic Planning committee set out in Appendix B from Friday 10 November 2023.
- d) To note that the membership and composition of the renamed Strategic Planning Committee remains the same (namely 7 including Chairperson).
- d) Approve a revised Terms of Reference for the existing two planning sub-planning committees (Heavy Woollen and Huddersfield) from Friday 10 November 2023 to Friday 9 February 2024 as set out in Appendix C
- e) Approve the disestablishment both Heavy Woollen Planning Sub-committee and Huddersfield Planning Sub-Committee from Friday 9 February 2024
- f) Approve the establishment a new planning committee and their Terms of Reference at Appendix D - namely the District Wide Planning Committee (Minor & other planning applications). To be implemented on Friday 9 February 2024
- g) Approve the composition of the District Wide Planning Committee (Minor and Other Planning Applications) set out at Appendix B of this report to come into effect from 9 February 2024. Namely:
  - o District Wide Planning Committee - 9 members of the Council including Chairperson (5:3:1)
- h) A delegation to Group Business Managers to nominate membership of the District Wide Planning Committee (Minor and Other Planning Applications) which comes into effect 9 February 2024.
- i) A delegation to the Service Director Legal, Governance and Commissioning to make consequential changes to the Constitution (including Scheme of Delegation at Appendix A and Appendix F, Strategic Planning Committee (Major planning applications) Terms of Reference at Appendix B, and revised Terms of Reference for Heavy Woollen and Huddersfield Planning Sub-Committees at Appendix C) as set out in this report to implement the recommendations to this committee and full Council in relation to this report. To come into effect 10 November 2023.



- j) A delegation to the Service Director Legal, Governance and Commissioning to make consequential changes to the Constitution (including Dis-establishment of the Heavy Woollen and Huddersfield Sub-Planning Committees, establishment of the District-Wide Planning Committee (Minor and Other planning applications) at Appendix A, D and F, and Protocols for Planning Committee at Appendix E) as set out in this report to implement the recommendations to this committee and full Council in relation to this report. To come into effect from 9 February 2024.

8.2 This will save money for all parties involved and enable the focus of Committee and Member time on application which are most important to local communities.

## **9. Cabinet Portfolio Holder's recommendations**

Cllr Graham Turner supports the recommendations.

## **10. Contact officer**

Mathias Franklin – Head of Planning and Development

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

Existing Scheme of Delegation and Terms of Reference for the Constitution

## **12. Service Director responsible**

Edward Highfield- Service Director for Growth and Regeneration

## Appendix A – Changes to Scheme of Delegation (Strategic Director Growth and Regeneration)

Proposed changes shown as tracked changes (in coloured text) below:

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Scheme of Delegation 2023

### Strategic Director Growth and Regeneration

The holder of the post of Strategic Director Growth and Regeneration shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Growth and Regeneration Directorate and, without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

### Investment and Regeneration

#### A. Development Management, Strategic and Neighbourhood Planning and Highways Transportation

##### Non-Executive Functions

1. All functions and responsibilities of the Council as:

- Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Regulation 2 of the Hedgerow Regulations 1997);
- Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990);
- Relevant Authority (within the meaning of the Part 8 of the Anti-Social Behaviour Act 2003);
- Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990);
- Local Housing Authority (within the meaning of Section 1 of the Housing Act 1985);
- Acquiring Authority (within the meaning of section 7(1) of the Acquisition of Land Act 1981)

relating to development management, strategic and neighbourhood planning, high hedges and hazardous substances included within the terms of reference of the Strategic Planning Committee (Major Applications) and District Wide Planning Committee (Minor and Other Applications) except:

- (1) For any Major Planning Application (Full or Outline) which receives a significant number of representations against the officers recommended decision or if a Ward Members refers a Major Planning Application to Strategic Planning Committee with the Chairs agreement or if a significant Departure from the development Plan (Local Plan 2019 or any future updates) or any reduction in S106 Planning obligations from Local Plan 2019 (or any future updates).
- (2) Any Minor or Other Planning applications which receives a significant number of representations against the officers recommended decision or if a Ward Members refers a Minor or Other Planning Application to the district Wide Planning Committee

(Minor and Other applications) with the Chairs agreement or if a significant Departure from the Development Plan (Local Plan 2019 or any future updates).

(1) The determination of planning applications for full or outline planning permission which are specifically reserved to the Strategic Planning Committee, namely:

a) Planning applications where the proposed decision will be contrary to any saved policy of the Unitary Development Plan save for;

i) Planning applications involving the development of no more than 60 residential units where the proposed decision will only be contrary to saved Policy D5.

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b) Planning applications that straddle administrative boundaries<sup>1</sup>

;

c) Planning applications that straddle Planning Area Sub-Committee boundaries<sup>2</sup>

;

d) Planning applications for residential developments exceeding 60 units;

e) Non-residential planning applications (including employment, leisure and education development) where the application site boundary exceeds 0.5 hectares<sup>3</sup>

;

f) Planning applications for wind turbines which involve the generation of more than 1MW collectively;

g) Other energy production planning applications exceeding 5MW or where the application site boundary exceeds 1 hectare;

h) Planning applications for major infrastructure proposals;

i) Planning applications for new minerals sites or physical extensions to existing minerals workings where the area to be developed exceeds 0.5 hectares;

j) Planning applications for retail developments exceeding 1250 square metres gross in floor space which officers are proposing to approve;

k) Planning applications for gypsy/traveller sites;

l) Any other planning applications that are considered appropriate for referral to the Strategic Planning Committee by the Strategic Director Growth and Regeneration in consultation with the Chair of the relevant Area Sub-Committee e.g. planning applications for residential development which will significantly increase the size of an individual settlement;

m) Planning applications for exploration, appraisal and production of oil and gas resources by fracking;

n) Planning applications for the disposal of special hazardous wastes where the application site boundary exceeds 0.5 hectares;

o) Planning application for mixed-use developments that include more

<sup>1</sup> Unless the Strategic Director Growth and Regeneration in consultation with the Chair of the

Strategic Planning Committee determines that it would be more appropriate for the planning application to be decided by the relevant Area Sub-Committee

2-Unless the Strategic Director Growth and Infrastructure in consultation with the Chair of the Strategic Planning Committee determines that it would be more appropriate for the planning application to be decided by the relevant Area Sub-Committee

3-As above

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than 50 residential units and employment, leisure and/or nonresidential development where the application site boundary exceeds 0.5 hectares;

p) Matters that fall to be considered by the relevant Planning Area SubCommittee as specified in paragraph 3 of the General Provisions and in the following cases:

i) planning applications for residential development where the area to be developed is in exceeds 0.5 hectares but propose fewer than 61 units;

ii) planning applications for retail development in excess of 750 sq metres gross floor area which officers are proposing to approve;

iii) if the delegated officer so decides:

a) with the agreement of the Chair of the relevant SubCommittee; or

b) due to the significant volume of local opinion;

iv) where any ward member so requests in relation to any planning application or submission<sup>4</sup> within their ward and the Chair of the relevant Sub-Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees and Sub-Committees; and

v) where any member for the wards of Almondbury, Ashbrow, Colne Valley, Crosland Moor and Netherton, Dalton, Denby Dale, Golcar, Greenhead, Holme Valley North, Holme Valley South, Kirkburton, Lindley and Newsome so requests with regard to any application/submission<sup>5</sup>

for development falling wholly or substantially within Huddersfield Town Centre and the Chair of the relevant sub-committee has confirmed that the ward member's reasons for making the request are valid having regard to the Councillor's Protocol for Planning Committees and Sub-Committees and that the application / submission does relate to development falling wholly or substantially within Huddersfield Town Centre.

(Ward members are required to specify in writing their reasons  
4,5

"Submission" means:

- ▲ applications for approval of reserved matters relating to extant outline planning permissions that were not determined by the Strategic Planning Committee
  - ▲ applications under s73 TCPA 1990 relating to extant permissions that were not determined by the Strategic Planning Committee
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- for making the request which shall reasonably relate to some aspect of the site or the development. The reason will be incorporated in full in the Sub-Committee report)
- vi) applications for listed building consent involving the partial or total demolition of Grade I or Grade II\* listed buildings;
  - vii) the serving of building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in non-urgent cases;
  - viii) planning applications for the disposal of special hazardous wastes on sites up to and including 0.5 hectares;
  - ix) applications to court for an injunction to restrain:-
    - a) any actual or apprehended breach of planning control;
    - b) any actual or apprehended offence under the Hedgerow Regulations 1997;
    - c) any actual or apprehended offence under Sections 210 or 211 of the Town and Country Planning Act 1990;
    - d) any actual or apprehended contravention of Section 9(1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990;
 in non-urgent cases where action does not need to be instigated in advance of the next scheduled Sub-Committee.
  - x) 3) applications for the stopping up and diversion of footpaths, bridleways and restricted byways under Section 257 of the Town and Country Planning Act 1990 where:
    - a) any member so requests in relation to an application within their ward. The member shall specify in writing his/her reasons for making the request; or
    - b) there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).
  - xi) the revocation of certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development;
- Revised February 2022
- xii) all applications submitted by or on behalf of any elected member of the Council (in their personal capacity) or any member of their family;
  - xiii) all applications submitted by or on behalf of any member of staff (in their personal capacity) who works for the Investment and Regeneration Service and any member of their family;
  - xiv) all applications submitted by or on behalf of the Chief Executive, any member of the Directors Group or Management

Board or any Head of Service or Senior Manager (in their personal capacity) or any member of their family.

q) The determination of all submissions<sup>6</sup>

(relating to extant outline or

full planning permissions that were originally considered by the Strategic Planning Committee) where the following circumstances apply:

i) if the delegated officer so decides:

a) with the agreement of the Chair of the Strategic Planning Committee; or

b) due to the significant volume of local opinion

ii) where any ward member so requests in relation to any submission within their ward and the Chair of the Strategic Planning Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees and Sub-Committees;

Without prejudice to the generality of the above, but subject to the specific exceptions set out in (1), (2) and (3) above, such functions and responsibilities referred to in A1 above include but are not limited to:

(a) Determination of applications under section 73 of the Town and Country Planning Act 1990;

(b) Determination of applications under section 96A of the Town and Country Planning Act 1990;

(c) Determination of the applications/submissions to discharge planning conditions on all planning permissions and reserved matters approvals;

(d) Determination of all applications for the approval of reserved matters;

6

"submission" means applications for approval of reserved matters and applications under s73-TCPA

1990

Revised February 2022

(e) Determination of planning applications to modify elements of approved developments that benefit from extant planning permissions (e.g. modified house types, minor layout changes).

Executive Functions

2. All relevant functions and responsibilities of the Council as:

▲ Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 2 of the Hedgerow Regulations 1997);

▲ Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990);

▲ Relevant Authority (within the meaning of Part 8 of the Anti-Social Behaviour Act 2003);

▲ Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990).

▲ Local Housing Authority (within the meaning of Section 1 of the Housing Act 1985);

▲ Acquiring Authority (within the meaning of section 7(1) of the Acquisition of Land Act 1981) relating to development management, strategic and neighbourhood planning, high hedges and hazardous substances not included within the terms of reference of the Strategic Planning Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above such functions and responsibilities referred to in A2 above include but are not limited to:

a) To prepare and publish for consultation the Local Transport Plan.

In relation to Part 6 Chapter 3 and Schedule 9, 10, 11, 12 of the Localism Act 2011 to:

a) Advice and assistance to applicants;

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b) Recommendations to the Neighbourhoods Committee as to the designation of forums and areas;

c) Receive and respond to the consultation;

d) Check compliance with procedures, all relevant legislation and conformity with plans;

e) Undertaking publicity;

f) Determining content of representation at examination.

## **Appendix B – Changes to Strategic Planning Committee Terms of Reference**



Proposed changes shown as tracked changes (in green text) below:

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## Strategic Planning Committee (Major Planning Applications)

### Membership

7 Members of the Council Including the Chairperson (3:2:1)-(4:2:1)

### Terms of Reference

Delegated authority in respect of all Planning, Development Management and Highways functions which are not by virtue of any legislation present or future, the responsibility of the Executive and are not required by legislation to be carried out in the full Council.

This includes:

### Planning and Development Management

1. Power to determine application for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into agreements regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice Revised April 2023
15. Power to issue an enforcement notice.
16. Power to apply for an injunction restraining a breach of planning control.
17. Power to determine applications for hazardous substances consent, and related powers.
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
19. Power to require proper maintenance of land.
20. Power to determine application for listed building consent, and related powers.
21. Duties relating to application for listed building consent
22. Power to serve a building preservation notice, and related powers.
23. Power to issue an enforcement notice in relation to demolition of listed building in conservation area.
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.
27. Powers relating to the protection of important hedgerows.

28. Powers relating to the preservation of trees.
29. Powers relating to complaints about high hedges.

#### **Additional Notes and Interpretation – Strategic Planning Committee**

1. The Strategic Planning Committee (Major Planning Applications) will generally only deal with full and outline planning applications for Major development proposals ~~falling within the 16 categories of development specifically reserved to that Committee as set out in the Scheme of Delegation 2023. All Major Planning Applications are delegated decisions Applications for approval of reserved matters and variations of conditions will be determined by officers unless~~ the relevant Chair considers otherwise or ward members exercise their right of referral with the Chairs agreement or if significant representations against the Officers recommended decision are received or if the application is a significant Departure from the Development Plan (Local Plan 2019 or any future updates). Any reduction in S106 obligations from Local Plan 2019 (or any future updates) requirements will also be reported to Strategic Planning Committee for determination.

~~2. All planning applications that straddle administrative boundaries or Area SubCommittee boundaries will be determined by the Strategic Planning Committee except where the Strategic Director for the Economy and Infrastructure in consultation with the Chair of that Committee considered that it would be more Revised April 2023 appropriate for such applications to be decided by the relevant Area SubCommittee.~~

3. Ward Members' rights to refer planning applications/submissions to the District Wide relevant Area Planning Sub-Committee (Minor and Other planning applications) remain unaffected (subject to the Chair's confirmation that the reasons are -valid). ~~A right for ward members to refer applications/submissions relating to permissions that were originally determined by the Strategic Planning Committee to that committee for determination is also available.~~

4. Ward members' rights to refer Planning Applications submissions either to the Strategic Planning Committee (Major Planning Applications) or the Area District Wide Planning Sub-Committee (Minor and Other planning applications) for determination will not, in the normal course of events, extend to discharges of planning conditions or applications under section 96A of the Town and Country Planning Act 1990 (non-material amendments to planning permissions). The reason for this is that the statutory timescales within which decisions relating to these submissions must be made by the LPA are too short to allow for Committee/Sub-Committee determinations. Officers will continue to notify relevant ward members of such submissions-applications through the 'weekly lists' and will take into account comments made before making their final decisions.

5. It is good practise to carry out site visits for planning applications. Site visits will be carried out upon ~~major~~ planning application at a Committee unless discretion is exercised. The chair in consultation with officers will decide whether to exercise this discretion.

## **Highways and Transportation**

1. Power to permit deposit of builder's skip on highway.
2. Power to license planting, retention, and maintenance of trees, etc. in part of highway.
3. Power to authorise erection of stiles, etc. on footpaths or bridleways.
4. Power to license works in relation to buildings, etc. which obstruct the highway.
5. Power to consent to temporary deposits or excavations in streets.
6. Power to dispense with obligation to erect hoarding or fence.
7. Power to restrict the placing of rails, beams, etc. over highways.
8. Power to consent to construction of cellars, etc. under street.
9. Power to consent to the making of openings into cellars, etc. under streets, and pavement lights, and ventilators.
10. Power to create footpath, [bridleway](#) or restricted byway by agreement.
11. Power to create footpaths, [bridleways](#) or restricted byways
12. Duty to keep register of information with respect to maps, statements, and declarations.
13. Power to stop up footpaths, [bridleways](#) or restricted byways
14. Power to determine application for public path extinguishment order.
15. Power to make a rail crossing extinguishment order.
16. Power to make a special extinguishment order.
17. Power to divert footpaths, [bridleways](#) or restricted byways
18. Power to make a public path diversion order.
19. Power to make a rail crossing diversion order.
20. Power to make a special diversion order.
21. Power to require applicant for order to enter into agreement.
22. Power to make an SSSI diversion order.

Revised April 2023

23. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.
24. Power to decline to determine certain applications.
25. Duty to assert and protect the rights of the public to use and enjoyment of highways.
26. Duty to serve notice of proposed action in relation to obstruction.
27. Power to apply for variation of order under section 130B of the Highways Act 1980.
28. Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.
29. Power temporarily to divert footpath, [bridleway](#) or restricted byway
30. Functions relating to the making good of damage and the removal of obstructions.
31. Powers relating to the removal of things so deposited on highways as to be a nuisance.
32. Power to extinguish certain public rights of way.
33. Duty to keep definitive map and statement under review.
34. Power to include modifications in other orders.
35. Duty to keep register of prescribed information with respect to applications

*under section 53(5) of the Wildlife and Countryside Act 1981.*

*36. Power to prepare map and statement by way of consolidation of definitive map and statement.*

*37. Power to designate footpath as cycle track.*

*38. Power to extinguish public right of way over land acquired for clearance.*

*39. Power to authorise stopping-up or diversion of highway (including Section 247 of the Town & Country Planning Act 1990).*

*40. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway*

*41. Power to extinguish public rights of way over land held for planning purposes.*

*42. Power to enter into agreements with respect to means of access.*

*Revised April 2023*

*43. Power to provide access in absence of agreement.*

*44. Power to grant a street works licence.*

*45. Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highways and related powers.*

*46. Duty to publish notice in respect of proposals to grant such permission under Section 115E of the Highways Act 1980.*

## **Appendix C – Changes to Planning Sub- Committees Terms of Reference – for the period 10 November 2023 to 9 Feb 2024**

Proposed changes shown as tracked changes below:

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### **Planning (Heavy Woollen) Area Sub Committee Planning (Huddersfield) Area Sub Committee (Sub-committees of the Strategic Planning Committee)**

#### **Membership**

15 Members of the Council

#### **Terms of Reference**

Delegated authority in respect of all Planning, Development Management and Highways functions which are not by virtue of any legislation present or future, the responsibility of the Executive and are not required by legislation to be carried out in the full Council.

This includes:

#### **Planning and Development Management**

1. Power to determine application for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into agreements regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice Revised April 2023
15. Power to issue an enforcement notice.
16. Power to apply for an injunction restraining a breach of planning control.
17. Power to determine applications for hazardous substances consent, and related powers.
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
19. Power to require proper maintenance of land.
20. Power to determine application for listed building consent, and related powers.
21. Duties relating to applications for listed building consent

22. Power to serve a building preservation notice, and related powers.
23. Power to issue an enforcement notice in relation to demolition of listed building in conservation area.
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.
27. Powers relating to the protection of important hedgerows.
28. Powers relating to the preservation of trees.

### **Additional Notes and Interpretation – District Wide Planning Committee**

1. The Planning Sub-Committees (Heavy Woollen and Huddersfield) will generally only determine Full and Outline planning applications for Minor and Other scale development proposals set out in the Scheme of Delegation 2023.
  2. All Minor and Other planning applications are delegated decisions unless the relevant Chair considers otherwise or ward members exercise their right of referral with the Chairs agreement or if significant representations against the Officers recommended decision are received or if the application is a significant Departure from the Development Plan (Local Plan 2019 or any future updates).
- 
- 2 Those matters that fall within the scheme of delegation of the Strategic Director for Economy and Infrastructure.

## Appendix D – New District-Wide Planning Committee Terms of Reference

Proposed changes shown as tracked changes (coloured text) below:

### District Wide Planning Committee (Minor and Other **planning** applications)

#### Membership

9 Members of the Council including the Chairperson. (5:3:1)

#### Terms of Reference

Delegated authority in respect of all Planning, Development Management and Highways functions which are not by virtue of any legislation present or future, the responsibility of the Executive and are not required by legislation to be carried out in the full Council.

This includes:

#### Planning and Development Management

1. Power to determine application for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into agreements regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice Revised April 2023
15. Power to issue an enforcement notice.
16. Power to apply for an injunction restraining a breach of planning control.
17. Power to determine applications for hazardous substances consent, and related powers.
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
19. Power to require proper maintenance of land.
20. Power to determine application for listed building consent, and related powers.
21. Duties relating to applications for listed building consent
22. Power to serve a building preservation notice, and related powers.
23. Power to issue an enforcement notice in relation to demolition of listed building in conservation area.
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.

27. Powers relating to the protection of important hedgerows.

28. Powers relating to the preservation of trees.

### **Additional Notes and Interpretation – District Wide Planning Committee**

1. The District Wide Planning Committee (Minor and Other applications) will generally only determine Full and Outline planning applications for Minor and Other scale development proposals set out in the Scheme of Delegation 2023.
2. All Minor and Other planning applications are delegated decisions unless the relevant Chair considers otherwise or ward members exercise their right of referral with the Chairs agreement or if significant representations against the Officers recommended decision are received or if the application is a significant Departure from the Development Plan (Local Plan 2019 or any future updates).

### **Highways and Transportation**

1. Power to permit deposit of builder's skip on highway.
2. Power to license planting, retention, and maintenance of trees, etc. in part of highway.
3. Power to authorise erection of stiles, etc. on footpaths or bridleways.
4. Power to license works in relation to buildings, etc. which obstruct the highway.
5. Power to consent to temporary deposits or excavations in streets.
6. Power to dispense with obligation to erect hoarding or fence.
7. Power to restrict the placing of rails, beams, etc. over highways.
8. Power to consent to construction of cellars, etc. under street.
9. Power to consent to the making of openings into cellars, etc. under streets, and pavement lights, and ventilators.
10. Power to create footpath, bridleway or restricted byway by agreement.
11. Power to create footpaths, bridleways or restricted byways
12. Duty to keep register of information with respect to maps, statements, and declarations.
13. Power to stop up footpaths, bridleways or restricted byways
14. Power to determine application for public path extinguishment order.
15. Power to make a rail crossing extinguishment order.
16. Power to make a special extinguishment order.
17. Power to divert footpaths, bridleways or restricted byways
18. Power to make a public path diversion order.
19. Power to make a rail crossing diversion order.
20. Power to make a special diversion order.
21. Power to require applicant for order to enter into agreement.
22. Power to make an SSSI diversion order.
- Revised April 2023
23. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.
24. Power to decline to determine certain applications.
25. Duty to assert and protect the rights of the public to use and enjoyment of highways.



26. Duty to serve notice of proposed action in relation to obstruction.
27. Power to apply for variation of order under section 130B of the Highways Act 1980.
28. Power to authorise temporary disturbance of surface of footpath, bridleway or restricted byway.
29. Power temporarily to divert footpath, bridleway or restricted byway
30. Functions relating to the making good of damage and the removal of obstructions.
31. Powers relating to the removal of things so deposited on highways as to be a nuisance.
32. Power to extinguish certain public rights of way.
33. Duty to keep definitive map and statement under review.
34. Power to include modifications in other orders.
35. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.
36. Power to prepare map and statement by way of consolidation of definitive map and statement.
37. Power to designate footpath as cycle track.
38. Power to extinguish public right of way over land acquired for clearance.
39. Power to authorise stopping-up or diversion of highway (including Section 247 of the Town & Country Planning Act 1990).
40. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway
41. Power to extinguish public rights of way over land held for planning purposes.
42. Power to enter into agreements with respect to means of access.
- Revised April 2023
43. Power to provide access in absence of agreement.
44. Power to grant a street works licence.
45. Power to grant permission for provision etc of services, amenities, recreation and refreshment facilities on highways and related powers.
46. Duty to publish notice in respect of proposals to grant such permission under Section 115E of the Highways Act 1980.

## **KIRKLEES COUNCIL**

### **PROTOCOL FOR PLANNING COMMITTEES**

**(Approved by Julie Muscroft under the general delegation of - date to be added post Full Council Autumn 2023)**

#### **1. BACKGROUND AND INTRODUCTION**

This protocol replaces and updates Which was approved 20 May 2015.

1. The aim of this protocol is to ensure that the planning process operates properly, legally and effectively and that there are no grounds for suggesting that a decision has been biased, partial or not properly considered and made in any way. It is also intended to help councillors work effectively and seek to achieve their aims within the regimes which govern development control.
2. Your role as a member of the planning authority is to make planning decisions openly, impartially, with sound judgment and for justifiable, properly balanced reasons which must be relevant to planning issues. If for any reason you would have difficulty in complying with this protocol or if you would usually prefer to be able to champion your constituents' point of view, you should not accept appointment to the committees , nor attend as a substitute.
3. When the protocol applies: This protocol applies to councillors at all times when involved in the planning process. This includes taking part in decision making meetings of a planning committee or sub-committee, or when involved on less formal occasions, such as meetings with officers or the public. It applies equally to planning enforcement matters or to policy issues relating to a specific site as to planning applications. Part 11 of the protocol draws attention to issues affecting all councillors, whether or not involved in decision- making.
4. If you have any doubts about the application of this protocol to your own circumstances, you should seek early advice from the Service Director – Legal, Governance and Commissioning or one of their staff, preferably well before any meeting takes place. Senior Planning Officers and Decision Support Officers are also able to assist.

## 2. RELATIONSHIP TO THE COUNCILLORS' CODE OF CONDUCT

5. This protocol is additional to the councillors' code of conduct. You should always apply that code first to any issue arising and declare any interests which you may have and, in the case of an Other interest, leave the meeting during the consideration of the item (unless you have been allowed to stay to make a statement as permitted by the revised code of conduct, in which case you should leave as soon as you have made that statement). As with all other matters, the duty to declare an interest also applies where it is a member of your family, a close associate of yours or your employer etc, who has an interest as defined in the code of conduct. It would be helpful if you could avoid confusing that sort of interest with the other issues raised under this protocol, especially those in part 3 below.

## 3. GUIDANCE REGARDING ISSUES OF BIAS, PREDETERMINATION AND PREDISPOSITION

6. Planning is not a quasi-judicial process. It is an administrative decision making process. Councillors who sit on planning committees cannot therefore be expected to have the same strict level of independence and impartiality as judges or quasi-judges who make decisions in courts and tribunals.
7. Councillors are elected to provide and pursue policies in a situation of democratic accountability. Accordingly, members of planning committees are entitled and indeed expected, by those who have elected them, to have and express views on planning issues. They will have political allegiances and publicly known policies.
8. It is therefore perfectly permissible for members of a planning committee to be predisposed towards a view that is in favour of or against a planning application or development proposal. However, it is essential that, notwithstanding their predisposition, they retain an open mind as to the merits of the argument before they make the final decision. Failure to do so, or failure to demonstrate to applicants, objectors or other interested parties that they have done so, can result in allegations of bias and/or predetermination which can lead to the validity of the decision being called into question. It is for this reason that councillors' minds must not be closed to the merits of any planning application or decision or even appear to be closed ie by giving a clear impression that they have already decided how they will vote at the meeting and that nothing will change their minds.

### Example of predisposition

- I am very concerned about the impact of this proposal on the local highway network. It already takes 25 minutes to get through the crossroads at peak

times. I want to see convincing evidence from the applicant that this proposal will not make matters even worse.

- This proposal is in Green Belt and the proposed extension would be inappropriate development. Its design doesn't seem to be particularly sympathetic to its surroundings. In such a prominent location there is real potential for such a development to have a very damaging effect on the open character of the area. Green Belt development needs to be handled particularly sensitively. Therefore, unless the applicant can convince me that this would be an appropriate development in the Green Belt or there are very special circumstances why it should be approved then I can't currently see how I will be able to support this application. The applicant needs to make a stronger case and provide more information.

#### Example of predetermination

- This proposal is a disaster waiting to happen. Under no circumstances could I ever support approval of this application. The applicant needs to go back to the drawing board and have a complete rethink or, ideally, he should do us all a favour and abandon this completely.
9. Also, councillors cannot be seen to take part in any planning decision making processes where they have or may appear to have a vested interest in the outcome for eg if they have a Disclosable Pecuniary Interest (DPI) and/or an Other interest in a planning application. Taking part in these circumstances can lead to allegations of bias and the validity of the decision again being called into question. If councillors are shown to have been motivated by bias then, ultimately, the decision may be ruled by the courts as unlawful and quashed.
  10. The basic legal position is that councillors may not be party to decisions in relation to which they are either actually biased (in the sense that they have a closed mind and have predetermined the outcome of the matter irrespective of the merits of any representations or arguments that may be put to them) or give an appearance of being biased.

The test that would be applied by the courts regarding apparent bias is:

***Would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?***

***(NB. An informed observer should be taken to be someone who understands the democratic context and realities of working in a political environment)***

11. In order to guard against allegations of bias and/or predetermination members of planning committees are therefore advised to follow the guidance set out below:

(1) Members with Disclosable Pecuniary Interests (DPI) and Other interests

1. At planning committee and sub-committee meetings, ensure that you always declare relevant interests in accordance with the Members' Code of Conduct.
2. Remember that:
  1. direct financial interest in the outcome of a planning decision will automatically lead to an appearance of bias;
  2. family relationship or close friendship between a member of a planning committee and the beneficiary of the decision may, and usually will, give rise to an appearance of bias;
  3. mere membership of a particular charity or group will not normally give rise to an appearance of bias on the part of the decision maker.

(2) Predetermination/predisposition

3. It is lawful for members of planning committees and sub-committees to have, and to have expressed, views on controversial local matters (such matters may often have been raised as election issues).
4. Members of planning committees are entitled to be predisposed to certain views.
5. Members must at all times retain an open mind (ie in making decisions they must consider all relevant matters and approach their task with no preconceptions) right up to the point of making the decision . But they are entitled to have regard to and apply policies in which they believe, particularly if those policies have been part of their political manifestos.
6. Members must be trusted to abide by the rules which the law lays down ie that, whatever their views, they must approach their decision making with an open mind and be prepared to change their views if persuaded that they should do so.
7. Evidence of political affiliation or of the adoption of policies towards a planning proposal will not by itself amount to an appearance of predetermination or bias.
8. Unanimity of approach by all members of a single political group when voting on a planning application should not necessarily lead to a conclusion that all or any of those members had a closed mind. Members will obviously attach importance, to differing degrees, to group unity and conformity with group policy. This is perfectly

acceptable provided they understand that the ultimate decision is for them alone as individuals.

9. Leading members of the authority who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making meetings solely on the ground that they were involved in the decision of the Executive to promote or approve the policy or proposal.
12. The guidance above has been prepared having regard to the current law on bias and predetermination. The contents of this note demonstrate that members responsible for making planning decisions do have considerable freedom to express views on applications and, in formulating such a view or predisposition, to be influenced by a number of factors including the policies of their political group and issues that they supported during an election campaign. However, members must at all times retain an open mind as to the merits of an application or proposal and demonstrate that they are willing (right up to the point of the decision) to take into account all material planning considerations.
13. Members who speak vociferously for or against a proposal thereby giving the impression that they have unequivocally and irrevocably made up their mind prior to the planning meeting may, therefore, find it more difficult to demonstrate that they have indeed retained an open mind. In these circumstances such members may consider that it would be prudent to step down from the committee and to speak at the meeting as ward councillor. Members can seek advice from the Service Director – Legal, Governance and Commissioning regarding this matter or any of the issues raised above.

#### 4. LOBBYING AND CONTACT WITH APPLICANTS AND OBJECTORS

14. Any councillor could be the subject of lobbying over planning issues. Lobbying occurs when an applicant, objector or supporter seeks to influence a councillor to change their mind or to adopt and support their point of view. This includes contact by letter, e-mail, 'phone or in person to discuss or put forward specific points of view regarding forthcoming planning decisions.
15. Lobbying is a normal and perfectly proper part of the political process. However, you need to understand and accept that where you are making a decision on a planning issue, you are acting in a different role from that of ward councillor. Lobbying can, therefore, unless care and common sense are exercised by all concerned, lead to your impartiality and integrity being called into question. In order to avoid any such criticism or legal challenge and to preserve your right to vote on an application, you should follow the following advice.

1. Avoid organising support for or opposition to a planning application or involving yourself in such a process and avoid lobbying other councillors on the issue.
2. If applicants, potential applicants or objectors ask to meet you about a proposal ideally you should refer them to another councillor who does not serve on the planning sub-committee and will not be involved in the decision; alternatively refer them to an officer. If however, the proposal is complex, controversial or of major local significance, eg a new supermarket, landfill site, large housing estate, then you may consider that the process would benefit from engaging councillors in pre-application/determination discussions. In such a situation it will be important for you to follow the guidance set out in section 5 of this Protocol about pre-application/determination discussions.
3. If anyone (including another councillor) does lobby you or raise issues about a particular proposal, refer them to officers for advice on procedure and suggest that they send their comments to officers so that they can be included in the committee report; it is also a good idea to explain why, even though you are more than happy to listen to their views/concerns, you have to remain completely impartial until the final decision has been made.
4. Keep a record of any approaches by lobbyists and the response given or action taken; these records should be incorporated in the form attached as an appendix to this protocol and the relevant records produced at the start of each sub-committee meeting - but note that this is a separate process from that which relates to declaration of interests under the members' code of conduct.
5. Minimise social contacts with known developers and agents and refrain altogether from such contacts when pre-application work is under way or a planning application has been received and is being considered by the authority;

When approached by anybody (including the press) regarding a particular application, take care to avoid expressing an opinion which others might regard as clearly indicating that you have already made up your mind on the issue before hearing all the information and arguments presented at the subcommittee meeting. You can, if pressed, perhaps, indicate the sort of concerns or issues which you think you'll need to consider when making the decision, but remember that if you cannot clearly demonstrate that at the meeting you have an open mind and are balancing all the various issues and arguments, you run the risk of potentially invalidating the decision and making the Council subject to legal challenge. So make sure that you also say that you will not be making a final decision until the meeting.

6. If you cannot avoid expressing an unequivocal opinion on the decision beforehand, which could be construed by others as

clearly indicating that you have a closed mind as to the merits of the application, then you should disclose this at the committee (as part of the disclosure of lobbying). You should not then vote on the item unless you made it clear when expressing the opinion that your views were preliminary only and that a final decision would be made at the sub-committee meeting when you had the opportunity to review all the issues and arguments. If you do have to drop out of a particular decision, you should not take part in the discussion on the item, but may, if you wish to speak, move away from the other members of the committee to the public area and comment when invited to do so as with other non-committee members and the public.

7. Remember that your overriding duty in this role is to the whole community not just to the people in your ward and, taking into account the need to make decisions impartially, you should not improperly favour any person, company, group or locality or appear to do so. If local people put you under pressure, or you want to try to be as helpful as possible, try to explain the reasons why you can't favour one side or the other, tell them the best way to get their views across, tell them how to contact another councillor who can be more proactive in supporting/helping them, or refer them to officers who can explain the issues and reasons.

Public Meetings are unlikely to be necessary or appropriate in most cases, since the process was adopted of allowing applicants and objectors to attend and make comments at planning sub-committee meetings. Nevertheless, on occasion they may be appropriate where there is a need for a forum to allow clear expression of a volume of concern on a controversial proposal. It may also very occasionally be necessary and beneficial in order to assist in the determination of a planning issue. If so it is vital that you avoid acting in a way which could lead to an appearance of pre-judgement or bias. So, if anyone asks you to organise or attend a public meeting about a specific application, you should try to avoid doing so, and you should instead refer the request to officers. Wherever possible you should avoid attending any public meeting at which officers are not present - otherwise you may be accused (rightly or wrongly) of having done so because you favour one side or the other and it might well be difficult to avoid giving that impression. If you do attend, you should do so bearing in mind all the comments set out above and should ensure that it is made clear that you are unable to form or express any clear and unequivocal view before the committee meeting- but that obviously doesn't stop you from listening to what is said or making it clear that you are listening and highlighting the areas that are of most concern to you. Don't forget, though that you need to be able to differentiate, when you do make the decision, between issues which are relevant to planning decisions and those which are not. Officers will be able to assist by answering technical questions and helping to explain why you are unable to favour either side. The same advice as above applies to avoiding expressing any opinion, which would clearly indicate that you no longer had an open mind on the ultimate decision, at such a meeting.



The public meetings referred to here should be distinguished from briefings, developer presentations etc that are organised by officers as part of any pre-application/determination discussion process with councillors/members of the planning committee in relation to applications of major impact or significance (see section 5 below).

## 5. DISCUSSIONS BETWEEN POTENTIAL/CURRENT APPLICANTS AND THE COUNCIL RELATING TO MAJOR DEVELOPMENT PROPOSALS

16. Discussions between potential applicants/applicants and the council prior to the submission or determination of an application can always be helpful. However, they can be of considerable benefit to both parties in relation to development proposals that are complex, controversial or of major local significance eg large housing estates, waste disposal sites, wind farms, industrial estates/business parks and supermarkets. Unfortunately, it would be easy for such discussions to become, or be seen by objectors to become part of the lobbying process on the part of the applicant.
17. It is therefore essential that where any discussions are held in relation to such major development proposals it is done within carefully established guidelines (as set out below) to protect the council and councillors from allegations of bias, pre-determination etc.
18. All arrangements relating to pre-application/determination discussions for major development proposals should be made by officers. Where councillors receive a request to engage in such pre-application/determination discussions from an applicant or potential applicant they should refer such request to the Planning Case Officer who will consult the Chair of the relevant committee or sub-committee as to whether pre-application discussions are considered appropriate in the circumstances and, if so, the form that such discussions will take.  
**NB. This will not preclude councillors attending informal consultation events where there is no officer present.**

The most appropriate methods of engaging councillors in pre-application/determination discussions are:

- Interim committee reports on pre-application discussions (at the request of a councillor, subject to the approval of the Chair of the relevant committee or the Councils Chief Planner );
- Public developer presentations to committee;
- Development control forums.

Informal private briefings or private developer committee presentations may

occasionally be appropriate but must be handled carefully to avoid third parties becoming suspicious of the process and the reasons for a private meeting.

19. Whatever method of pre-application/determination discussion is adopted, the following guidance will apply:

1. The purposes of councillors becoming engaged at that stage should be made clear by the relevant committee/sub-committee Chair or planning case officer at the start of the discussions. The purposes can be summarised as:
  - Keeping councillors better informed on major applications and helping them to learn more about emerging proposals;
  - Engaging members on issues to be dealt with in a formal submission;
  - Taking account of emerging or existing community concerns at a formative stage;
  - Obtaining initial member guidance for officer negotiations on major applications;
  - Identifying issues to be dealt with in any further submissions;
  - Reinforcing Councillors' roles in their communities.
2. The Chair or planning case officer will also make clear from the outset that the discussions will not bind the council to make a particular decision and that any views expressed are personal and provisional.
3. Officers should always be present with councillors at any such pre- application/determination discussions. They will be responsible for advising impartially on all planning issues including the development plan, the interpretation of relevant policies and any material planning considerations. Councillors should avoid giving separate planning advice during such discussions as this could result in inconsistent information being given. Neither should councillors become drawn into negotiations with applicants or potential applicants.
4. A written record of all pre-application/determination discussions should always be made by the officer present. This note will be placed on the public planning case file to ensure transparency.
5. Discussions with councillors at pre-application/determination stage should not be seen as:
  - A means by which to find out councillors' views on a proposal. Councillors may be in a position to give a preliminary view on a proposal but any members of the

planning committee (who are likely to be determining the application when it is submitted) will be advised that they should not express a view which could give the impression that they have pre-determined their position;

- An opportunity to conduct negotiations on the application in public;
- Any substitute for the formal consultation and processing of an application;
- A means by which potential applicants can seek to hold confidential discussions with councillors on the merits of the proposal.

6. Any member of the planning committee who elects, at such discussions, to voice a clear and strong view for or against the proposal being discussed in pursuit of their community champion role could be considered to have pre-determined their position and prejudiced their ability to vote in relation to any forthcoming planning application. They should therefore seek advice from the Service Director – Legal, Governance and Commissioning as to their future participation in the decision making process.

## 6. GUIDANCE TO COUNCILLORS WHO ARE ALSO MEMBERS OF A PARISH OR TOWN COUNCIL

20. The potential problem is that if you are involved in a meeting of the parish/town council or its planning committee which decides on the recommendations or comments which are to be given to KMC on particular planning applications and then are also a member of the planning committee which makes the final decision on those applications, you are at risk of being considered to have already made up your mind before coming to that committee and therefore being biased, in legal terms, thus invalidating the committee's decision.

21. To minimise this risk, therefore, if you are a member of the KMC planning subcommittee you should always:

- i. make it clear at any meetings of the parish/town council that any views you express and your vote, if you give one, are based solely on the limited information which is before you at that meeting;
- ii. make it clear that you are reserving your judgement and independence, when any application comes before the KC committee, to make a fresh decision on each application on the basis of all the relevant information which is available to that meeting and based also on your overriding duty to the whole community and not just the people of the area, ward or parish/town; not in any way commit yourself as to how you may vote when the proposal comes before the KC committee;

- iii. ensure that the above, or something to that effect, is noted in the parish/town minutes.

22. In addition, any member of a parish/town council (whether or not on its planning committee) needs to declare that membership at the KC planning subcommittee when considering any application on which the parish/town council has expressed a view or made comments. Clearly, if the parish/town council has a greater interest than that (eg the application has been made by the parish/town council or significantly affects parish property), you should consider whether that membership constitutes an Other interest. That can be done, of course, at the start of the planning subcommittee meeting in the normal way.

23. While the process above is a way of minimising the risk of successful challenge, it does need to be remembered that the public and press can misunderstand or (innocently or otherwise) misrepresent your actions which could lead to unjustified criticism or misguided legal challenge. There is also, of course,

inevitably the risk that on occasion for some reason something may go wrong and the proper procedure not be appropriately followed. In the light of the increasing tendency to litigation, therefore, although this Council has not so far experienced such a problem, the best advice is, where possible, to avoid playing the dual role and therefore to choose whether to go on the parish/town council's planning committee or the KC subcommittee, but not both. That would be the only way of clearly avoiding any of the potential risks and problems referred to above.

## 7. COUNCILLOR COUNCIL PARTNERSHIP DEVELOPMENT AND DEVELOPMENT ON COUNCIL LAND

24. Many of the Council's functions give rise to development which requires planning permission. Similarly, many of the activities carried out through partnerships require planning permission. From time to time the Council will also dispose of land for purposes requiring planning consent. It is important to ensure that particular care is taken with such applications to demonstrate that no preferential treatment is given to them as this could easily give rise to suspicion of bias or impropriety.

25. Such applications are dealt with in exactly the same way as any other planning application and members need to take care that they also treat them in the same way when making decisions. It's vital to demonstrate this split between promoting a scheme and making the planning decision; otherwise the latter will inevitably risk being challenged as biased.

26. If you were involved in a meeting which made a decision giving rise to the submission of such an application, you should avoid taking part in the decision making process unless you are confident that you can clearly demonstrate that you are able to approach the determination of the application with an entirely open mind. This will apply principally to members of the Cabinet, through meetings of either the Cabinet or a Cabinet committee. In addition, if you are a director on the board of a partnership company which is submitting an application then you will most probably be best advised to declare a Disclosable Pecuniary Interest under the councillors' code of conduct and leave the meeting for the consideration of that item. Similarly, if the proposal is a major council- driven project of such significance to your ward or to the borough as a whole that you want to support it or express your clear views about it, you can do so, but then you will need to consider whether or not it is appropriate for you to remove yourself from the decision-making on the planning application so that you do not expose yourself and the Council to allegations of bias or predetermination.

## 8. SITE VISITS

27. The purpose of a site visit is to enable committee members to see the physical attributes of the site and its setting which are part of the material considerations in cases where these are not readily capable of being appreciated from documentary material. Officers may arrange a site visit where they consider it to be appropriate.

You, as a ward councillor, may also request a site visit on any application being considered by committee within your ward, provided that the request is made in writing to the planning officer with a reason which relates to some aspect of the site or the development (you should have regard to the provisions of paragraph 9.6 below to help you to formulate appropriate reasons in support of your site visit request) and takes account of the purpose of site visits mentioned above and which can be incorporated in the officer's report to committee; and the request is lodged as soon as possible and in any event before the finalisation of the agenda for the committee at which the application is due to be considered in order to allow it to be included on the agenda and the itinerary. Remember, however, that if in that written request you express a strong opinion on the merits of the application, you may well disqualify yourself from taking part in the decision. Try to limit your comments to identifying issues which you think the site visit will help to clarify. This advice also applies if you request that a decision is referred to committee rather than being made by officers.

28. Alternatively, the committee may itself decide to defer an application for a site visit through the normal course of debate and vote.

29. On a site visit, councillors will have the opportunity to view the site and officers can point out significant features. You should try to avoid being lobbied by the public, but if this is unavoidable, you should react as in the guidance on lobbying above and declare the fact on return to the committee meeting room.

30. If other ward councillors attend a site visit, they should not carry out any lobbying of their own and should not join members of the planning committee on the site visit bus.
31. Anyone (public or ward member) who is unable to attend the meeting to present their views will not be able to use the site visit for that purpose and should, therefore, be encouraged to put their views in writing to the planning officers beforehand.
32. All members of the committee should attend site visits since they are an integral part of the committee decision-making process. However, since this does not always happen you should try to avoid asking officers for additional information until you get back to the meeting room. Nevertheless, to ensure that all councillors at the meeting have, as far as possible, the same information before them, officers will provide at the meeting a summary of any significant additional information provided or issues raised on the site visit.

## 9. CONDUCT AT THE COMMITTEE MEETING

33. Separate guidance set out in The Public Speaking Protocol is available for members of the public on the process allowing them to put their views in the course of the debate on any particular application. Bear in mind that many of them will not be familiar with planning procedures or with what is or is not a material consideration. Nevertheless, they should obviously be treated with respect. It is also vital that the procedure for public comment is closely followed in every case, to avoid complaints that some individuals are being treated differently from others.
34. Ward Councillors who refer items to a planning committee must attend the meeting in person (or nominate a same ward councillor colleague) to explain the reason for the referral. Ward Councillors will have up to 5 minutes to explain the reason for the referral and their issues with the application. By exception and with agreement of the Chair of the Committee virtual attendance is acceptable for the item referred to the Committee.
35. Councillors who attend the committee as observer in

accordance with Council Procedure Rule 36 (CPR 36) together with any member of the committee who has indicated that because, for instance, they can no longer demonstrate that they retain an open mind as to the merits of an application, he/she will not be voting, but still intends to contribute to the debate, will be bound by the 5 minute time restriction specified in CPR 36.

36. Every effort will be made to ensure that the seating arrangements make it clear who are the members of the committee. Wherever

possible, therefore, the public will be kept separate from the committee members and other members of the Council should also avoid sitting with the members of the committee.

37. If you are a member of the committee, you should, as far as possible, avoid contact with members of the public. This will ensure that you are not subject to last minute lobbying, or provision of information which is not available to the rest of the meeting, and it will also protect you from appearing to favour or have a relationship with one side or the other on a particular application. This applies before, during and immediately after the meeting. Only the chair should speak to members of the public during the meeting or ask questions (eg for clarification). If any other councillor needs clarification, they should raise the issue with the chair, who will decide how to deal with it.

38. Remember that you must be able to justify any decision on planning grounds. If you wish therefore to vote on a decision in a way which is different from the officers' recommendation, you should be clear what your reasons are for that.

39. Relevant planning issues, which you can take into account, include:

- The Development Plan and the various policies which it contains;
- National or regional guidance;
- The Council's supplementary planning guidance/documents [Remember that if you are proposing not to follow any one of the above three, then you'll need reasons for that too.];
- The planning history of the site;
- The visual impact of the development;
- Effect on public amenity;
- Access, traffic and highway considerations;
- Impact on listed buildings, conservation areas or protected trees;
- The views of local people insofar as they are based on relevant planning issues.

When formulating reasons which you consider will justify a decision contrary to the officer's original recommendation you should always have regard to the

principles set out in paragraph 1.3 above.

Matters which are not material planning considerations and which, therefore, cannot be taken into account include:

- Effect on property values;
- The character, identity or personal circumstances of the applicant or objectors;
- Boundary or property disputes;
- How the application affects a view (as opposed to the wider effect on public amenity);
- Issues of commercial competition;
- Land or property values;
- Moral or ethical issues or judgments;
- Weight of numbers of public opposition or support in itself - as opposed to relevant planning basis for such views;
- Political manifesto commitments.

40. Officers will ensure that the practice of seeking clarification when councillors' reasons are in doubt is always pursued and -committee chairs, before putting to the vote a proposition or amendment differing from the recommendation should expressly obtain clarification of reasons. If councillors differ as to choice of reasons, then that should itself be the subject of separate amendments. Reasons will be particularly important where officers' advice is strong. Officers will normally indicate where a decision is a close call and the recommendation is therefore on balance. In those circumstances you may simply take a different view of the balance. Where the officer view is unequivocal you need first to be clear in your own mind why you disagree. Officers are professional and experienced and while they are no less fallible than anyone else, their views should be properly considered. It's unreasonable and won't achieve what you want if you simply disagree and then expect officers to work out why. It's your decision and they must be your reasons.

41. Similarly, if your view is that a policy, such as green belt, for instance, shouldn't be applied, you need to have a clear reason for that, relevant to the way the policy is expressed. Officers can help with those sorts of issues if you are clear yourself what the problem is. On the other hand, if you are clear in your reasons and clear that they are proper planning reasons, that will make it very much easier for officers (or indeed, you yourself) to defend and explain them if they are challenged on appeal or by judicial review. Ideally there should be a partnership here.



Officers are professionals; councillors have democratic accountability. But both have to follow the rules.

42. It is the role of the Committee Chair (or Vice Chair if substituting) to guide, manage and control the meeting so that procedures are properly followed, everyone gets a fair chance to have their say, the debate remains focused and relevant, proper standards are maintained and the process is as efficient as possible leading to a clear and rational decision. Councillors (and officers) should do everything possible to co-operate and assist with that. As part of that role, the Chair (or Vice-Chair if substituting) may request that a recorded vote is taken on a particular application for eg if the application is particularly controversial, there is considerable public interest in the proposal or the decision would be contrary to the officer recommendation or the development plan. It is also the role of the Chair (or Vice Chair if substituting) to summarise and clarify the decision of the committee for the benefit of members of the public so that there is no doubt as to the outcome of the debate.

## 10. TRAINING

43. Making good, justifiable planning decisions is not something which can be done by instinct.

44. Before serving on any committee making planning decisions (whether as a full member or as a substitute) any councillor must have undergone satisfactory training, as referred to in this section, in both the procedural issues outlined in this protocol and in the basic principles of planning, so that you can understand the basis on which decisions need to be made and on which officers prepare reports. It will also help you to take a rational approach to the issues discussed in 9.7 above. -This requirement will also apply to training required to refresh and update knowledge and understanding.

45. Suitable training will be provided sufficient to ensure that councillors who wish to be involved in planning decisions can do so, but you do need to make an effort to attend, since it is not possible to make arrangements which are totally convenient for everybody.

46. Groups must not nominate anyone for membership of any committee which will be making planning decisions unless that councillor has either undergone training or is prepared to do so before taking part in the relevant committee meetings. Councillors should also be prepared to attend annual updating training. It is necessary for groups to identify and select the appropriate number of members from their group who fulfil these conditions.

47. Annual updating training will be provided. It is necessary that, in order to continue to sit on a planning committee or subcommittee, you will take part in this refresher training.

## 11. ADVICE TO ALL COUNCILLORS

### General

48. Any councillor, whether or not involved in decision making on planning issues, could benefit from reading this protocol as it may assist from time to time in explaining issues to constituents who are puzzled by the planning process. All councillors also need to understand how best to represent their constituents when not involved in the decision making process.
49. You may well be lobbied by individuals in favour of or opposed to any application, or, indeed, you may have views of your own as the local ward councillor. If so, those views should be expressed to officers. You should avoid lobbying or trying to persuade members of the decision making committee to come to a view beforehand. Doing so will only put at risk that member's ability to take part in the decision.
50. You should not, however, exert any improper pressure on officers to make a decision or recommendation contrary to their professional judgement. If you disagree with that judgement you can, of course, raise the issue with a more senior officer. Nor should you lobby members of the sub-committee - in particular make sure you avoid the temptation to seek the support of your ward or group colleagues on the planning sub-committees. Doing so could make any decision susceptible to challenge.
51. Please also note the advice on requesting site visits in section 8 which applies to all ward members.
52. Local ward councillors may attend site visits, but will not be able to carry out any lobbying on the merits of an application on such occasions.
53. Ward councillors may also attend the committee meeting at which decisions are taken. If you do so, you should sit apart from the committee members, with those attending from the public. If you wish to speak on a particular application, you should do so only when specifically invited by the Chair and should act in accordance with the Public Speaking Protocol.
54. If you are unable to get to the meeting, then any views which you wish to express should be put in writing to the Planning Officer.

55. You should remember that officers have a duty to give impartial advice on planning applications and other planning matters and to make recommendations (or decisions on delegated matters) in the light of all the relevant planning issues using their professional judgement. Where there are disagreements between councillors and officers, these should be approached with mutual respect and while you may obviously express your disagreement, that should be on a rational basis and you should avoid personal criticism or abuse.
56. You will be informed when training in planning matters is being provided. While training is extremely important for councillors who will be making decisions, it is open to all and any councillor could benefit from the information which is provided.

### Referring applications to committee

57. Under the officer delegation scheme, a ward member is able to refer for committee decision any application which would otherwise be determined by officers. Any such request must be made in writing and must specify their reasons for making the request which must reasonably relate to some aspect

of the site or the development (you should have regard to the provisions of paragraph 9.6 above to help you to formulate appropriate reasons in support of your request for referral to Committee). To be a valid request the Chair of the relevant committee or sub-committee must have confirmed that the ward member's reasons for making the request are acceptable. Requests should ideally be received before the earliest date for decision - i.e. three weeks after receipt of the application. However, requests received later than this will still be valid provided appropriate reasons are given in support of the request and the Chair is prepared to exercise his/her discretion to consider the late request.

58.

Ward members who are also members of the committee (or substitutes) should remember that if, in your written request for referral of an application to committee, you express a strong opinion on the application which gives a clear impression that you have a closed mind as to the merits of the proposed development, you may well disqualify yourself from taking part in the decision.

Planning applications submitted by councillors and members of their families.

59. Planning applications that are submitted to the LPA by serving councillors, their close associates and relatives, can easily give rise to suspicions of impropriety. Nevertheless, it is perfectly legitimate for such applications to be submitted to the authority for determination. However, it is vital to ensure that these applications are handled in such a way that gives no grounds for accusations of bias or preferential treatment.

60.

61. When a councillor submits a planning application in their personal capacity, or where their spouse or civil partner; or person living with them as if a husband, wife or civil partner has submitted a planning application in their personal capacity that Councillor will have a disclosable pecuniary interest (DPI) in that application and should not take part in the decision making process relating to the application and must leave the room or send a substitute should their application be required by the Scheme of Delegation 2023 to be determined at a planning committee. If you are a councillor in that position you should not speak as a ward councillor at the application that relates to either your application or that of your spouse, civil partner or a person you live with as a husband, wife or civil partner. If you are a member of the Planning Committee at which the application is being considered you will need to declare your interest and leave the room for that item of the agenda. Alternatively, you might want to consider whether or not to arrange a substitute to attend the meeting.
62. You will also be considered to have an Other interest in any application submitted by a member of your family or a close associate. Accordingly, if you are a member of the planning committee (or sitting as a substitute), you must leave the room if you consider your continued presence is incompatible with the Council's Code of Conduct or The Seven Principles of Public Life. You should also consider whether or not to speak as a Ward Councillor in such circumstances. In making such a decision you must consider the Principles of Public Life which are set out at in full at clause 3 of the Code of Conduct for

Members or you can seek advice from the Service Director – Legal, Governance and Commissioning regarding this matter or any of the issues raised above.

63. It is important to remember that councillors must not seek improperly to influence the decision on their application. Some councillors may therefore, in this situation, consider it unwise to make a statement to the committee and instead may prefer to rely on a third party or planning agent to make their case to the committee for them. However, councillors who do choose to make a statement to the committee personally should observe the same 3 minute time limit set out in the Public Speaking Protocol that applies to members of the public when addressing the committee.
64. This advice also applies to all councillors who are not members of the committee or acting as substitute but who choose to attend the committee at which their planning application (or that of their family member) is due to be determined if required by the Scheme of Delegation 2023 to be determined at a planning committee.

## **Appendix F – Changes to Scheme of Delegation (Strategic Director Environment and Climate Change)**

Proposed changes shown as tracked changes (in coloured text) below:

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### **Strategic Director Environment and Climate Change**

The holder of the post of Strategic Director Environment and Climate Change shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Environment and Climate Change Directorate and without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

#### **A. Highways Transportation and Public Rights of Way matters Non-Executive Functions**

1. All relevant functions and responsibilities of the Council as:
  - Local Highway Authority (within the meaning of s.1 Highways Act 1980);
  - Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981;
  - Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000;
  - Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991);
  - Traffic Authority (within the meaning of Section 121A of the Road Traffic Regulation Act 1984).

relating to highways transportation, public rights of way and highways development management included within the terms of reference of the Planning Areas Sub-Committees.

- (1) Matters are referred to the relevant Planning Committee as specified in paragraph 3 of the General Provisions and in the following cases:
  - i) where the delegated officer so decides:
    - a) with the agreement of the Chair of the relevant Planning Committee; or
    - b) due to the significant volume of local opinion (including through Parish/Town Councils);
  - ii) where the Chair of the relevant Planning Committee so requests;
  - iii) where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request;
  - iv) where there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal);

v) in respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking or re-enacting that Act with or without modification) unless the chair of the relevant planning committee considers matters do not require determination by the planning committee and can remain delegated to the relevant Strategic Director.



**Name of meeting:** CORPORATE GOVERNANCE & AUDIT COMMITTEE  
**Date:** 14<sup>th</sup> JULY 2023  
**Title of report:** QUARTERLY REPORT OF INTERNAL AUDIT Q1 2023/24  
 APRIL 2023 TO JUNE 2023

**Purpose of report.**

To provide information about internal audit work in quarter 1 of 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 Strategic Director & name.	not applicable
Is it also signed off by the Service Director for Finance IT and Transactional Services?	not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	not applicable
Cabinet member portfolio	not applicable

**Electoral wards affected:** All

**Ward councillors consulted:** None

**Public or private:** Public with a private appendix

The appendix to this report is recommended for consideration in private because the information contained in it is exempt information within part 1 of Schedule 12A of the Local Government Act 1972 namely that the report contains information relating to the financial or business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.

**Have you considered GDPR? Yes**

**1. Summary**

1.1 This report sets out the activities of Internal Audit in the first quarter of 2023/24.

- 1.2 The report contains information about fifteen audits completed during the period. (Which relate to both completing work from the 2022/23 audit plan, and work in the 2023/24 plan)
- 1.3 Of the fifteen pieces of work, just over half provided substantial assurance, just over a quarter adequate assurance, and one fifth had features which lead to limited assurance conclusions.
- 1.4 There was positive assurance from 5 of 6 schools audits, and from areas such as Rent Setting (Housing HRA), Registration Services, Business Rates Billing, Revenue debt write offs, Blue Badge issuing, and income management arrangements. There was only limited assurance from a number of areas of Adults operations, including domiciliary care contract arrangements and aspects of clients finances control arrangements. Some arrangements in relation to winter maintenance also led to a limited assurance conclusion.
- 1.5 The two follow up audits- which had issues causing limited assurance at the original audit had positive assurance at revisit – Taxi licencing and Building Service procurement arrangements.
- 1.6 The Council's Fraud Investigation Team has continuing activity on Right to Buy applications (35 active cases-9 with a resolution this period-though many originated before the case or are continuing:) other aspects of tenancy fraud (4 cases), and other cases (6). There were 44 referred cases of Blue Badge misuse. Six are in progress, and of the balance these have led to prosecution (32%), and warning letters (68%).
- 1.7 Progress in completing work in the first quarter is often low, and there is a substantial amount of work in progress. There may though be some resourcing challenges due to staff turnover, although this can be considered as a part of the second half year plan which the Committee will consider at its September meeting
- 1.8 In 2022/23 the Public Sector Internal Audit Standards external review gave a largely positive view of the councils internal audit operation. It did though highlight that the current reporting arrangements could perhaps be improved. This report has been presented to the Committee in the style used last year. Subject to the approval of the Committee it is proposed to reformat this information into one (or potentially more) different styles for the Committee to consider if they would prefer a new reporting style. This relates to both how information is split between this public report and the more detailed private report, and the existing largely narrative style of both existing reports. The challenge is to identify something that is useful to all potential information users, whilst recognising the necessarily confidential nature of some of the content.
- 1.9 It was agreed at March 2018 Council that this Committee consider any surveillance activities under the Regulation of Investigatory Powers Act 2000. There are none this quarter.

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

- 2.1 The detail of the audit work performed this quarter is contained within the private Appendix.

## 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 **Impact on the finances of local residents**- None directly



3.7 **Other (e.g., Legal/Financial or Human Resources)-** Although each of the sub categorisations above suggest no direct implications, the work of internal audit covers all aspects of the Council's operations, including elements of the above, either specifically, indirectly or on a commissioned basis. The main issues relate to those areas highlighted above- where there are risks associated with basic processing arrangements and delivering sound governance and control.

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

There are no consultees to this report although heads of service/directors participate in and respond to individual pieces of work.

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

- 5.1 To consider if any additional activity is sought. (Limited assurance audit outcomes are routinely followed up).
- 5.2 To consider alternative formats at the next meeting of this Committee.

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

- 6.1 Members are asked to note the Internal Audit Quarterly Report and determine if any further action is sought on any matter identified.
- 6.2 Members request that officers present an alternative format for internal audit reporting (based on the information contained in this report and its private appendix) at the next meeting of this Committee.
- 6.3 Members are also asked to note that there has been no Regulation of Investigatory Powers Act activity during the period quarter 1 2023/24.

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

Not applicable

#### 8. **Contact officer**

Martin Dearnley, Head of Risk & Internal Audit (01484 221000 x73672)

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

Previous Quarterly Reports, Audit Plan, and confidential appendix.

#### 10. **Service Director responsible**

Not applicable

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