

Name of meeting: Corporate Governance and Audit Committee (CGA) / Council

Date: 15 May 2015 and 20 May 2015 (respectively)

Title of report: Proposed changes to Overview and Scrutiny

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	Not applicable
Is it eligible for "call in" by Scrutiny ?	Not applicable
Date signed off by <u>Director</u> & name	David Smith
Is it signed off by the Director of Resources?	
Is it signed off by the Assistant Director - Legal & Governance?	
Cabinet member portfolio	Resources

Electoral [wards](#) affected: All

Ward councillors consulted: Not applicable

Public report:

1. Purpose of report

1.1 To inform the Committee and Council on the outcomes of the Scrutiny Refresh work and propose revised structures for Overview and Scrutiny from the 2015/16 municipal year. The report also includes proposed amendments to the Scrutiny Procedure Rules and Article 6 of the Constitution, should the proposed revised approach and structure be approved.

1.2 Members should note that due to the timing of the CGA meeting and the Council meeting the same report is being tabled for both meetings. Any comments/ observations from CGA will be given verbally and/or in a short update note at Council.

2. Key points

2.1 The 2014/15 Council budget decision included the need to consider governance arrangements within the new Council, including Overview and Scrutiny. The Overview and Scrutiny Management Committee has led a piece

of work aimed at refreshing the Scrutiny function to ensure it is fit for purpose going forward.

2.2 Attached at appendix 1 is a report of the findings of the OSMC Scrutiny Refresh project, including a summary of the views of key stakeholders and the conclusions reached by the Overview and Scrutiny Management Committee on options for the way forward. The OSMC sought the views of political groups, Director Group, Council Management Group, scrutiny co-optees and officers who support overview and scrutiny work. In addition there was a discussion with leading councillors on the findings of the refresh work and the preferred way forward.

2.3 It is acknowledged that as long as an Executive model of governance is in place in Kirklees, there are statutory requirements that have to be incorporated in any Scrutiny arrangements. When reflecting on recent national reports and the views of stakeholders, there is an acknowledgement of the importance of the Scrutiny role in Kirklees. However it is recognised that there is scope to refocus and rationalise the current arrangements, in order to have a flexible and proportionate approach within the new Council

The proposals recognise the need to refocus the approach and priorities for Overview and Scrutiny. However in order to achieve a refocused approach it is the view of the OSMC that there needs to be support from across the organisation and political leadership.

Conclusions of OSMC:

2.4 Having considered the views expressed by stakeholders the OSMC concluded that the approach to overview and scrutiny should:

- Continue to maintain the independent, cross party nature of Scrutiny – leaving the party politics at the door. However, independence does not mean isolation and moving forward Scrutiny has to re-establish an appropriate relationship with the Executive and senior officers.
- Ensure that scrutiny of Executive decision making is a priority focus for the Scrutiny work programme
- Recognise that indepth scrutiny work is valued but needs to be managed in such a way that the topics are areas of priority, where scrutiny can make a difference. Reviews must be underpinned by effective scoping and planning and officer resources to support the work (both from the Governance Team but also other council services as appropriate).
- Have an effectively co-ordinated and managed overall Scrutiny work programme so issues can keep to the approved terms of reference and the use of resources can be planned and co-ordinated. In planning reviews consideration will be given to gathering a range of evidence including views of councillors and the public.
- Continue to have voluntary co-optees as a key part of overview and scrutiny work. The stakeholder feedback indicated that co-optees

played a valuable role in bring an independent lay person perspective to discussions.

- Be clear about the role of Scrutiny in policy development, as set out in the Scrutiny Procedure Rules.
- Ensure that there is an improved understanding by both officers and councillors on the approach and work of Overview and Scrutiny.

2.5 Within the Council there is a move away from the current directorate silo approach, to working in a more cross cutting and thematic way, for example on issues related to early intervention and prevention. The current approach to scrutiny, reinforced by its structures, is not as agile or responsive when looking at cross cutting issues.

2.6 A range of structural options are set out section 7 of appendix 1 with indicative costings. The OSMC supports option 3; A Management Committee, a Health Committee and issue specific Ad Hoc Scrutiny Panels, but overall wants the most effective Scrutiny function that can be delivered within the available resources.

2.7 Option 3 will allow for a stronger coordination of the work programme and ensure a more prioritised and strategic approach to identifying Scrutiny issues. Members of the OSMC should lead the Ad Hoc Review Panels, with the OSMC ensuring effectively planning and adherence to terms of reference as part of the review process. The option recognises that resources should be prioritised to include a separate Health Scrutiny Panel to continue its good work in holding health partners to account and ensuring the effective working together of Health and Social Care.

2.8 When the findings report was discussed with leading councillors, there was cross party support for option 3 with a recommended ratio of 1:1:1:1 on the Management Committee

Constitutional implications:

2.9 Attached at appendices 2 and 3 are Article 6, Overview and Scrutiny Function and the Overview and Scrutiny Procedure Rules which include proposed amendments should option 3 be approved. The opportunity has also be taken to do some minor updating of the sections to reflect recent changes in the council. Most of the suggested amendments are self explanatory but proposed changes to highlight are:

Article 6 (Appx 2)

6.1.2 A proposal to have a 1:1:1:1 ratio on the Overview and Scrutiny Management Committee

6.1.3 / 6.2 A renaming of the former Wellbeing and Communities Scrutiny Panel to the Health and Social Care Scrutiny Panel to reflect the adjusting of portfolios to focus on health, social care and public health issues. The Panel will also be responsible for the statutory scrutiny of health responsibilities

6.2.2 Revisions to how the statutory education representatives (co-optees) will be included in scrutiny discussions on education related matters. Given

that we have struggled to appoint parent governor representatives, the proposal is to reduce the number appointed from 3 to the minimum legal requirement of 2.

6.3.2 To clarify the proportion of voluntary co-optees to elected councillors on Ad Hoc Panels, to reflect good practice.

Overview and Scrutiny Procedure Rules: (Appx 3)

2.3.1 Removal of reference to Assigned Tasks. There has been a blurring of the distinction between Assigned Tasks and Ad Hoc Panels. It is felt that Ad Hoc Panels are the appropriate mechanism for future ways of working.

5.1

Clarification of how statutory education representatives will be integrated into the revised approach. (Consistent with 6.2 above)

8.5 A proposal that Ad Hoc Panels will be chaired by members of the OSMC. This will result in a saving in councillor allowances and is part of the Management Committee ensuring a consistent approach to Scrutiny work.

18.7 A proposed amendment to add an expectation that at least one signatory to a call in will be present at the call in hearing. That person may change through the day. It is important that a signatory is present to clarify issues regarding the grounds for call in and other questions that may arise in the course of the meeting.

3. Implications for the Council

If an Executive model of governance is maintained then a Scrutiny function is a statutory requirement. The proposed option seeks to establish a more focused approach to Scrutiny that can adapt to the ongoing changes to the Council whilst undertaking statutory requirements.

4. Consultees and their opinions

The Overview and Scrutiny Management Committee supported option 3 as a way forward, subject to the appropriate indicative costings (included in appendix 1).

Leading councillors of all parties supported option 3 and acknowledged the need for a separate Health Panel given the need to scrutinise the current high levels of change within local health services.

5. Officer recommendations and reasons

- (1) That the refocused approach to Overview and Scrutiny be supported with approval to the implementation of option 3 structural arrangements from the 2015/16 municipal year
- (2) That that the Overview and Scrutiny Management Committee be constituted on a 1:1:1:1 ratio as proposed at the meeting of leading councillors.

- (3) Subject to approval of (1), approve the proposed revisions to the Overview and Scrutiny Procedure Rules and Article 6 The Overview and Scrutiny Function in the Council's Constitution
- (4) That delegated authority be given to the Assistant Director – Legal, Governance and Monitoring to make the amendments agreed to the constitution as well as any further consequential amendments which may be required to update the constitution in respect of the agreed changes to Overview and Scrutiny rules

6. Cabinet portfolio holder recommendation

Not applicable.

7. Contact officer and relevant papers

Penny Bunker: Governance and Democratic Engagement Manager

Tel: 01484 221000

8. Assistant director responsible

Julie Muscroft - Assistant Director Legal, Governance and Monitoring

Options for Overview and Scrutiny in the New Council.

1. Purpose of Report

1.1 The 2014/15 Council budget decision included the need to consider governance arrangements within the new Council, including Overview and Scrutiny. This report summarises the views of key stakeholders and sets out the conclusions reached by the Overview and Scrutiny Management Committee on options for the way forward.

The proposals recognise the need to refocus the approach and priorities for Overview and Scrutiny. However in order to achieve a refocused approach there needs to be support from across the organisation and political leadership.

2. Background:

2.1 Overview and Scrutiny is a function that has always divided opinion amongst councillors, not only in Kirklees but nationally. The Association for Public Service Excellence (APSE) recently produced the Two Tribes report looking at the local government modernisation agenda including the cabinet and overview and scrutiny model. The 2577 responses to an online survey indicated a perception of disengagement and a “waning influence” among non-executive councillors. A third did not believe that scrutiny committees were an effective means of holding the executive to account.

2.2 This has to be contrasted with the expectations placed on Overview and Scrutiny in holding a critical role in challenging decision makers and performance by digging under the headlines. For example the Francis Report identified the importance of the statutory health scrutiny role in proactively seeking information about the performance of local health services ...; in challenging the information provided to it by commissioners and providers of services ...and testing this information by drawing on different sources of intelligence¹

2.3 Most recently the reports on Rotherham Council have highlighted the need for an effective challenge from elected members both at Cabinet and Scrutiny level. The Casey report defined that challenge as “ setting aspirational targets, knowing how far to stretch the organisation, asking searching questions, drilling down into information and data, ensuring targets are kept to and agreed actions implemented”

The preceding Alexis Jay report had identified that “ more significant is the apparent lack of effective scrutiny exercised by several groups or bodies, and least of all by the Scrutiny Panels. Scrutiny in its widest sense is an essential component of Cabinet government.”

¹ Dept of Health : Local Authority Health Scrutiny - Guidance to support Local Authorities and their partners to deliver effective health scrutiny June 2014

2.4 Following the budget decision for the 2014/ 15 municipal year, it was recognised that governance structures, including Overview and Scrutiny, would require consideration to ensure that they are fit for purpose within the new, smaller Council. It was acknowledged that as long as an Executive model of governance was in place in Kirklees, there are statutory requirements that have to be incorporated in any Scrutiny arrangements. When reflecting on recent reports (as mentioned above) and the views of stakeholders, there is an acknowledgement of the importance of the Scrutiny role in Kirklees. However it is recognised that there is scope to refocus and rationalise the current arrangements, in order to have a flexible and proportionate approach within the new Council.

2.5 Given that constitutionally the Overview and Scrutiny Management Committee (OSMC) is charged with:

- Reviewing the experience and developing learning in relation to the overview and scrutiny role:
- Undertaking an annual review of the effectiveness of the overview and scrutiny role;

the OSMC resolved to lead a scrutiny refresh piece of work. The work included gathering the views of key stakeholders, and developing potential options for consideration by Council.

2.6 The design principles of the refresh work agreed that any revised approach to Overview and Scrutiny must:

- Meet the statutory requirements in respect of Scrutiny within an Executive model of governance
- Be deliverable within the available resources, both the direct support provided by Governance and Democratic Services, but also the resources required from across Council services (and partners) to support individual pieces of work.
- Be flexible to be able to respond to fluctuating demands and competing priorities as they emerge.

3. Legislative requirements

3.1 The majority of legislative Scrutiny requirements are reconfirmed in the Localism Act 2011. The primary requirements are summarised below and apply where the council operates an executive model of governance. If a Committee model is introduced then some requirements will need to be vested in a committee, in particular those relating to health scrutiny.

- The requirement to have a minimum of one Committee to carry out scrutiny functions
- The power to review or scrutinise decisions made by the Executive

- One statutory Scrutiny Officer post (cannot be Chief Executive or Monitoring Officer) (the post can be part of an officer’s wider responsibilities).
- A statutory requirement to respond to recommendations.
- The local authority is required to invest formal health scrutiny powers (in Kirklees this is in the current Wellbeing and Communities Scrutiny Panel)
 - The health scrutiny body has statutory powers to set up Joint Health Scrutiny Committees to investigate significant variations in health services, where the proposals cut across local authority areas.
- Executive/Officer requirement to attend scrutiny to answer questions.
- Ability to refer issues to O&S (A panel member or member of LA) (O&S to determine if appropriate issue for scrutiny)
- Crime and Disorder – devote at least one meeting a year to consideration of crime and disorder issues. This may include Scrutiny of the CSP partners in the context of the Community Safety Plan
- Flood risk – must scrutinise flood risk management functions
- Must have a Councillor call for action mechanism

4. The Structure of Scrutiny in Kirklees

4.1 Scrutiny has a long tradition in Kirklees Council which started informally in the 1980s with single topic Scrutiny Commissions, quality and policy reviews. The number of councillors involved varied from 3 to 7 councillors on a political ratio determined by Council. Each commission or review produced a findings report for consideration by Council or the appropriate committee.

4.2 When the Local Government Act 2000 introduced the Executive / Scrutiny model of governance, a dedicated scrutiny system was established in Kirklees. Initially the Council established a single committee with one member from each of the political parties represented on the Council. A dedicated Chair of Scrutiny post was created to lead the development of Overview and Scrutiny. The OSC commissioned pieces work, considered requests for scrutiny and coordinated the strategic approach to scrutiny in Kirklees.

4.3 In 2001 a number of Scrutiny Panels were created and these were broadly aligned with council service areas. At its largest there were 9 Overview and Scrutiny Panels. Heads of Service (on a voluntary basis) advised scrutiny panels and Committee Officers provided administrative support. The panels could determine their work programmes independent of the executive with councillors suggesting areas for scrutiny, such as underperformance and service priorities and provision.

4.4 The 2002/03 budget process saw the funding of a dedicated officer support team. In place for January 2003 until March 2013, when a decision to make budget savings in Governance and Democratic Services meant a more generic approach to governance support was reintroduced.

4.5 As the structure of Scrutiny evolved it settled as a management committee supported by a number of service based panels. This system perpetuated a 'silo' approach to Scrutiny which made it difficult to respond to cross cutting issues of service delivery and policy.

This led to a shift to a thematic panel approach and a reduction to four thematic panels and one for corporate issues. In addition to standing panels, Ad Hoc Panels were set up by the management committee to look at issues in depth and make recommendations to Cabinet or the appropriate body.

4.6 The current structure comprises Overview and Scrutiny Management Committee and four thematic standing panels which when established broadly mirrored the directorate structure of the Council. Each Scrutiny Panel has the option to use an assigned task approach to carrying out overview or Scrutiny work. In recent years this has evolved into a Task Group approach, which is in effect an ad hoc panel.

Current officer support is provided through the Governance and Democratic Engagement Team. Since April 2013, there has been a generic approach to governance support which means that in addition to supporting Scrutiny Panels, officers have a portfolio of responsibilities across the wider range of governance activities.

5. What did stakeholders say about Overview and Scrutiny?

5.1 As part of developing options for a way forward, the OSMC wanted to understand the views of stakeholders regarding the current approach to Scrutiny in Kirklees and what needs to be considered for the future. Political groups, Director Group, Scrutiny co-optees, Council Management Group and staff that support scrutiny work put forward their views.

Areas of focus were:

Whether Scrutiny is considered an important part of governance
What are its strengths and where is it not effective
The approach to work programmes and identifying the right issues
The quality of relationships
The principles / focus for the future - O&S in a new Council
The functions of O&S going forward

Below is not a complete analysis of the responses but seeks to pull out some of the common themes / views expressed. Not all of the views expressed are shared by the OSMC.

5.2 The general view of Scrutiny as part of governance

5.2.1 The majority of respondents felt that Overview and Scrutiny did have a valuable role in decision making processes. However, there are definite areas for improvement, including more effectively scrutinising and holding the Executive to account and in the planning of work programmes. The importance of constructive relationships was highlighted repeatedly.

5.3 The role of O&S

5.3.1 Respondents thought that the role of O&S was as a “critical friend” to provide a constructive challenge to the executive, whilst recognising that the current approach largely holds senior officers to account rather than executive members. Scrutiny should be a check and balance on issues of major concern and be seen as more important than currently seems to be the case. The principle of enabling Scrutiny early involvement to influence issues needs to be re-established within the organisation.

5.3.2 Scrutiny should add value to the decision making process and the organisation. In order to add value Scrutiny needs to more effectively prioritise the issues it looks at. In adding value Scrutiny should also be about organisational learning not just challenge. Scrutiny should also consider the impact of decisions and policies and whether they are having the desired outcomes.

5.4 What works well / is valued?

5.4.1 The independent nature of Scrutiny in Kirklees is valued. The emphasis on early involvement and influence was also seen as a positive aspect of Scrutiny’s approach, although as referenced in 5.3 this is not working as effectively as it should. The role of scrutiny in bringing a fresh pair of eyes to an issue was valued, together with the constructive challenge Scrutiny can bring. If working well Scrutiny can achieve positive change.

5.4.2 The cross party nature of Scrutiny was seen as a strength, providing an opportunity for non executive councillors to influence issues and as a good “apprenticeship” for new councillors. Respondents valued the contribution made by the statutory and voluntary co-optees who were able to bring a different, independent perspective to discussions.

5.4.3 The indepth Ad Hoc Panel work (Task Groups) was seen as valuable. Equally the Health Scrutiny work, including the Joint Health Overview and Scrutiny Panels were identified as good scrutiny practice in Kirklees.

5.5 What is not working?

5.5.1 The majority of respondents felt that Scrutiny had largely moved away from its key role in holding decision makers to account, with the exception being call in meetings. It was felt that Scrutiny was no longer effectively integrated in decision

making processes. In order to maximise effectiveness and contribution it needs to have a more proactive than reactive approach.

5.5.2 In some cases the style and tone of panel meetings is not felt to be constructive and can be a barrier to effective relationships. Where work programme issues are not seen as a priority for most councillors, Scrutiny may not seem like a worthwhile use of councillor or officer time.

5.5.3 A view was expressed that the overall scrutiny work programme has become too large. The Lead Member plays an important role in managing the work programme. It was felt in some panels that “pet projects” are being considered at the expense of scrutinising strategic priorities and decisions to be made by Cabinet. It is felt that there is little or no decision by decision involvement by scrutiny panels. Where terms of reference are agreed by Panels for specific pieces of work, they are not always adhered to. However, there is also a view that in some cases there is no clear purpose or rationale behind work being undertaken.

5.6 What is needed for the future?

5.6.1 It was recognised that the gap between scrutiny maintaining an independent challenge, whilst still being integrated into decision making arrangements had become too wide. There is a need to address this as part of new arrangements, which will require engagement across the organisation.

5.6.2 The Scrutiny refresh provides an opportunity to create greater clarity and better coordination. Within the Council there is a move away from the current directorate silo approach, to working in a more cross cutting and thematic way, for example on issues related to early intervention and prevention. The current approach to scrutiny, reinforced by its structures, is not as agile or responsive when looking at cross cutting issues.

5.6.3 There should be a clear rationale behind the selection of work programme issues. Effectiveness in holding the decision-makers to account should be linked to establishing the priorities of the Cabinet and matching the work programme to those areas. In developing the work programme, consideration should be given to the views of others, including councillors and the public.

5.6.4 Time needs to be built-in to effectively prepare and plan for pieces of scrutiny work. The external focus of scrutiny is currently limited and further consideration should be given to this as part of refreshing the approach.

6. Benchmarking

6.1 The national picture in relation to the approach to Overview and Scrutiny across the country continues to change. At one end of the spectrum, some smaller Councils, including county councils have reverted to a committee model and only do the mandatory requirements in respect of health scrutiny. Other Councils who have reverted to a committee model have chosen to incorporate a Scrutiny Committee or carry out scrutiny reviews through the committee structure. Thereby trying to retain what they see as the added value of the scrutiny system.

6.2 Where an Executive model has remained (the majority of cases) then some councils have already reviewed the approach to scrutiny work. The outcomes are very diverse, but given that the primary reason for review is usually resource driven, then structures reduce, in some cases significantly. It is unusual to have the statutory single committee only. Usually a Scrutiny Committee is supported by at least one other committee, generally Health, and the ability for the Managing Committee to establish Task Groups to undertake specific, indepth, priority pieces of work. Examples of this can be seen in, Barnsley, Newcastle, Bury and Rochdale.

Below are examples of scrutiny structures in comparator authorities as identified by CIPFA benchmarking.

Name of Council	Scrutiny Structure
Calderdale	5 Scrutiny Panels
Bolton	4 Scrutiny Committees
Medway	4 Scrutiny Panels (+ 3 in depth reviews per annum)
Bury	1 Scrutiny Committee, 1 Health Panel and 1 Task Group
Dudley	1 Management Committee, 5 Scrutiny Committees
Derby	5 Scrutiny Committees
Rotherham	1 Management Board, 4 Select Commissions
Wigan	Chair and Vice Chairs Meeting, 4 Scrutiny Committees
Wakefield	5 Scrutiny Committees
Doncaster	1 Management Committee, 4 Scrutiny Panels
Rochdale	1 Management Committee, 1 Health Committee
Stockton on Tees	7 Select Committees
Telford and Wrekin	1 Scrutiny Management Board, 5 Scrutiny Committees
Barnsley	1 Scrutiny Committee, 1 Children and Young People's Scrutiny Panel + 3 Task Groups per annum
Newcastle	1 Scrutiny Management Committee, 1 Health Scrutiny Committee
Sheffield	1 Scrutiny Management Committee , 4 Scrutiny and Policy Development Committees.

6.3 It can be seen that there are a range of approaches that the Council may wish to consider as future options. However, in determining what is appropriate for Scrutiny

in Kirklees in the current climate, significant factors are sustainability within shrinking resources and flexibility to be able to respond to the changing structure of the Council over the coming years.

7. Views of OSMC

7.1 In considering the views of stakeholders, the OSMC has reached conclusions concerning how Scrutiny could operate going forward. The fundamental principles that underpin overview and scrutiny remain unchanged, but there is a need to change the emphasis and refocus in some key areas.

The views expressed indicate that practice varies between Scrutiny Panels and there is a need to redefine expectations and be clear about how Scrutiny operates going forward.

Role:

- To carry out the statutory requirements in relation to O&S in a Council with an Executive model of Governance
- To act as a check and balance to the decision makers
- To act constructively as a critical friend, recognising that this may involve a robust challenge and at times the use of more formal powers to review decisions
- Wherever possible, through early involvement, to influence decisions before they are made
- As an arena for the engagement of non executive councillors to consider areas of strategic priority and operational significance.
- To scrutinise the work of partner organisations that have a significant impact on the lives of citizens in Kirklees, including statutory scrutiny of Health partners.
- To add value to the work of the Council through influencing decisions and making recommendations for improvements to the benefit of the residents of Kirklees
- To ensure a breadth of views inform Scrutiny work and that the experiences of stakeholders and residents are considered in reaching conclusions and making recommendations.

Approach:

- To continue to maintain the independent, cross party nature of Scrutiny – leaving the party politics at the door. However, independence does not mean isolation and moving forward Scrutiny has to re-establish an appropriate relationship with the Executive and senior officers.
- To ensure that scrutiny of Executive decision making is a priority focus for the Scrutiny work programme
- In depth scrutiny work is valued but needs to be managed in such a way that the topics are areas of priority, where scrutiny can make a difference. Reviews must be underpinned by effective scoping and planning and officer resources to support the work (both from the Governance Team but also other council services as appropriate).

- There must be effective co-ordination and management of the overall Scrutiny work programme so issues can keep to the approved terms of reference and the use of resources can be effectively planned and co-ordinated. In planning reviews consideration will be given to gathering a range of evidence including views of councillors and the public.
- Voluntary co-optees should continue to have a role in overview and scrutiny work. The stakeholder feedback indicated that co-optees played a valuable role in bring an independent lay person perspective to discussions.
- Feedback indicated a range of views on the role of Scrutiny of policy, going forward there needs to be clarity in this area of work.
- Feedback indicated the need to improve the understanding of both officers and councillors on the approach and work of Overview and Scrutiny.

Policy Development:

7.2 The OSMC considers that the current Constitution provides clarity on the role of Overview and Scrutiny in policy review and development.

Section 11 of the Overview and Scrutiny Procedure Rules states:

The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are a key mechanism for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, partnership body structures and Council and hence to ensure that these views are taken into account in policy development.

The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the budget and policy framework, recommendation to Council.

Co-optees:

7.3 The current role of co-optees was identified as a positive aspect of Scrutiny. The OSMC feels the role needs to continue, although dependent on structure, consideration will be needed on how the role will work. Legislatively there is still a requirement to have statutory Education co-optees who must be invited to attend every time Scrutiny considers an education related issue.

In terms of the cost of co-optees, the recent total of claims for travel and subsistence by co-optees was: 2012/13 - £625 2013/14 - £422

The Structure:

7.4 Structurally there are a range of options that could be used to deliver Overview and Scrutiny. Set out below are some options and the pros and cons of each. Indicative costings have been provided, based on a combination of the estimated cost of governance support and councillors allowances. It is not possible to quantify

the cost of support provided by services as this varies dependent on the issue being considered.

A breakdown of the indicative costings of each model, including councillor allowances is attached at appendix 1 of the report. Councillor allowances are based on the current rates, but it is recognised that once the structure and councillor roles within it are clear, there will be a need for further consideration by the Independent Review Panel.

Option 1 : No change - A Management Committee supported by 4 standing panels, which also undertake Ad Hoc Panel work
Pros: This option allows for continuity
Cons: This option does not meet the design principles set out in 6.2 of the report. Stakeholder views expressed in the consultation indicate a lack of consistency in approach and work programming. The pressure on officer resources in some areas to continue to support multiple on going pieces of scrutiny work is unsustainable as services continue to reduce. The current structures perpetuate a silo approach to scrutiny, that the Council is moving away from. The structure lacks flexibility to effectively respond to cross cutting, thematic issues or to reprioritise resources to respond to urgent pieces of work.
Indicative cost of model: £90,965

Option 2: The statutory minimum: A single committee that carries out statutory scrutiny functions
Pros: Moving to a single committee would lead to savings in officer resources, although it would need to meet more frequently than the current OSMC. It would involve a smaller number of councillors and a reduction in the amount of special responsibility allowances payable. It would create a single point of contact for all scrutiny issues and a centralised management of the work programme.
Cons: Whilst this option meets the design principle regarding delivering statutory minimum requirements, it is questionable about the quality and depth of scrutiny that could be achieved through a single committee. Scrutiny of Health is a large and important area of statutory work at the current time and recognised by stakeholders as an area of good practice. With 3 statutory Joint Health Overview and Scrutiny Committees currently meeting and smaller pieces of statutory work being undertaken by the Panel, it is difficult to see how this could be incorporated in a single Committee's work load. A statutory minimum model would limit the number of non-executive councillors who

are involved in O&S work.

The model also potentially limits the amount of indepth scrutiny work that could be undertaken as the committee focuses on holding the decision makers to account . The Committee would lack flexibility to respond to priority pieces of work in a timely manner.

Indicative cost of model: £43,405

Option 3: A Management Committee, a Health Committee and issue specific Ad Hoc Scrutiny Panels.

Pros: The Management Committee can co-ordinate all scrutiny work, both overview and in depth scrutiny work, which will address concerns about inconsistency of approach. Co-ordinated allocation of resources.

A dedicated health scrutiny committee will enable councillors to develop expertise in this complex area. It will allow the management committee to focus on other functions including statutory scrutiny of crime and disorder and scrutiny of decision makers.

Non executive councillors will be able to get involved in ad hoc panels which were identified as an area of good practice by stakeholders, where scrutiny can add value. Working on ad hoc panels which focus on single issues will allow for more positive engagement from committed councillors.

As the Council changes there is no need to keep reviewing structures (standing panels) to ensure they are appropriate. There will be a single point of reference for scrutiny work. It will be more effective in looking at cross cutting issues

Cons: The Management Committee will have to manage a heavy workload and will need to prioritise effectively. However if a Health Committee incorporates Adult Social Care and Public Health, where there are clear linked agendas, then this will help the overall work load of the Management Committee.

Indicative cost of model: £58,460

Option 4: Standing Panels (4) but no Management Committee or Ad Hoc Panels

Pros: Small saving in resources

Cons: The model would meet some of the design principles with statutory requirements being met. However it has already been seen that the silo panel structure lacks the agility and responsiveness required within the changing organisation.

Overall it is unlikely to reduce the resources implications for the organisation and will become increasingly unsustainable as the council reduces. It removes the overall co-ordination role of a management committee and maintains the silo approach as highlighted option 1. It is likely to lead to more variation / inconsistency in approach.

Indicative cost of model: £69,155

Option 5: A Management Committee and single issue Ad Hoc Panels

Pros: This option meets some of the design principles, with statutory Scrutiny requirements being met. There will be some resource savings

The Management Committee would ensure effective co-ordination of a single Scrutiny work programme. The structure allows for the engagement of non executive councillors in ad hoc panels

Cons: As with option 2, this option presents considerable difficulties in a single Committee carrying out all the essential scrutiny work in holding executive to account as well as the statutory health scrutiny work.

Indicative cost of model: £54,379

Indicative Costings of Overview and Scrutiny Structural Models

Option	Core costs	Allowances	Total
Option 1: - No Change to current structure: Management Committee, 4 standing Panels (including additional Task Group) work)	£ 52,605	£38,360	£90,965
Option 2: - the statutory minimum - A single Committee carrying out statutory functions	£24,996	£18,409	£43,405
Option 3: - a Management Committee, a Health Committee and issue specific Ad Hoc Scrutiny Panels	£34,258	£24,203	£58,460
Option 4: -Standings Panels (4) only (no Management Committee or Ad Hoc Panels)	£43,337	£25,818	£69,155
Option 5: - a Management Committee and single issue Ad Hoc Panels	£35,087	£19,292	£54,379

OSMC Conclusions and preferred option:

The OSMC feels there is a need to clarify the principles and priorities for Overview and Scrutiny in a new Council. As part of this the OSMC recognises that there are areas for improvement and a need for change but feels this is not all down to OSMC to achieve. Other areas of the Council need to recognise the importance of effective Overview and Scrutiny and make sure it is embedded in corporate decision making processes.

For OSMC the main focus of any change must be about achieving high standards and an effective O&S function. As part of this political groups need to give careful consideration to the individuals participating in Scrutiny. Effective Scrutiny is not about the number of councillors involved, but that the right councillors are involved. Councillors need to be engaged in issues that are of interest to them, which will support the aim of enabling the Council to achieve the high standard of scrutiny work that the OSMC is aiming for.

The OSMC recognises there will be concerns from some councillors about the effectiveness of Overview and Scrutiny without a supporting standing panel structure. The national Centre for Public Scrutiny has looked at the issue of the effectiveness of reduced Scrutiny structures and concluded:

“ Committee size appears to have little effect on the effectiveness of scrutiny, but councils with fewer committees tend to be more effective. CfPS has long argued for a “less is more” approach to scrutiny, where councils focus their resources and work on the most important issues.

Scrutiny structures – the size of committees, the number of committees and so on – do have some effect on scrutiny’s effectiveness. But they ultimately come second to culture.”

(Annual Survey of Overview and Scrutiny in Local Government 2012/13- key highlights)

The refresh provides the opportunity to not only develop a more appropriate focus and structure to Overview and Scrutiny but to also address some of the culture issues that have impacted on the effectiveness of Scrutiny in recent years.

OSMC preferred option:

The OSMC supports option 3, A Management Committee, a Health Committee and issue specific Ad Hoc Scrutiny Panels, but overall wants the most effective Scrutiny function that can be delivered within the available resources.

Option 3 will allow for a stronger coordination of the work programme and ensure a more prioritised and strategic approach to identifying Scrutiny issues. Members of the OSMC will lead the Ad Hoc Review Panels, with the OSMC ensuring effectively planning and adherence to terms of reference as part of the review process.

The option recognises that resources should be prioritised to include a separate Health Scrutiny Panel to continue its good work in holding health partners to account and ensuring the effective working together of Health and Social Care.

ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION

6.1 Overview and Scrutiny Management Committee

6.1.1 The council will appoint the Overview and Scrutiny Management Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act and any subsequent legislation conferring overview and scrutiny functions, including that relating to scrutiny of health service provision. The Overview and Scrutiny Management Committee will have responsibility for the statutory requirements in relation to scrutiny of crime and disorder matters and the Flood Risk Management Strategy.

Comment [KC1]: Additional text to clarify statutory responsibilities of Management Committee

The Management Committee will also co-ordinate, oversee and manage the performance of those functions carried out by any overview and scrutiny panels or ad hoc scrutiny panels. There shall be at least 6 ordinary meetings of the Management Committee and any Standing Panel each year.

Comment [KC2]: Clarification of management of Ad Hoc Panels

The council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a standing panel. The Chair of Overview and Scrutiny will be from a different political group from that of the Leader of the council.

Membership

6.1.2 The Management Committee shall be made up of four members on a 1:1:1:1 ratio, comprising the Chair of Overview and Scrutiny and the Lead Member of any standing scrutiny panel. Any councillor, except a member of Cabinet, may be a member of the Management Committee. The council shall appoint the Lead Member (Chairs) of any standing Overview and Scrutiny Panels, including the Health and Social Care Scrutiny Panel listed below.

Comment [KC3]: Proposed ratio and makeup of Management Committee

Panels and Sub-Committees

6.1.3 The Overview and Scrutiny Management Committee will appoint a Health and Social Care Scrutiny Panel to carry out overview and scrutiny work in line with statutory health scrutiny requirements. All scrutiny panels will constitute formal subcommittees of the Overview and Scrutiny Management Committee. The Management Committee will appoint single issue Ad Hoc Scrutiny Panels to carry out in depth scrutiny work and appoint members and co-optees to those panels. It will also appoint members to joint health scrutiny panels with neighbouring authorities where required to carry out scrutiny of cross boundary health issues.

Comment [KC4]: Clarification of renamed Health and Social Care Scrutiny Panel. Role of Panel set out in 6.2.1

6.2 Health and Social Care Scrutiny Panel

6.2.1 The Health and Social Care Scrutiny Panel will discharge an overview and scrutiny function in relation to the following matters:

All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the health and social care portfolio, Including Public Health matters and activities relating to health partner bodies.

The Panel's role includes the specific statutory responsibilities of the council for scrutiny of health matters which are:

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(i) To review and scrutinise matters relating to the planning, provision and operation of the health service in the local authority area.

(ii) To request information to be provided by the relevant NHS body or health service provider, in relation to (i) above

(iii) To make reports and recommendations to the relevant NHS body or health service provider

(iv) In certain circumstances to refer NHS substantial configuration proposals to the Secretary of State for Health.

Membership

6.2.2 The membership of each standing panel (with the exceptions set out below) will consist of the Panel Chair, 5 other elected Members, and co-opted members. Other elected members and members of the public will be encouraged to attend.

Exceptions:

~~The Children and Young People's Overview and Scrutiny Panel may also include one additional elected member, whose role will be to be a member of the council's Adoption Panel~~

There is a statutory requirement that when an issue is discussed relating to education matters, the **Committee** shall include in its membership (if nominated by the relevant body) the following representatives with rights to vote on education matters:-

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) ~~2~~ **3** parent governor representatives.

Any Ad Hoc Panel or Councillor Call for Action Scrutiny Panel relating to education matters shall also include the above representatives with rights to vote on education matters in their membership (if nominated by the relevant body).

Comment [KC5]: Remove as this does not reflect current practice. Appointments are made by group business managers

Comment [KC6]: Revised wording to ensure statutory requirements are met when education issues are discussed

Comment [KC7]: As there is difficulty in recruiting to the statutory representative roles, reduce to 2 parent governors as this is the statutory requirement..

6.2.3 The Chairs of the standing Overview and Scrutiny Panels will be known as Lead Members for the relevant functions.

6.2.4 The Chairs of the standing Overview and Scrutiny Panels shall not be members of the corresponding partnership bodies.

6.3 Ad-hoc Scrutiny Panels and Joint Health Panels

6.3.1 The Overview and Scrutiny Management Committee will appoint single issue ad-hoc scrutiny panels to review in depth, investigate and report on a particular topic related to the functions of the council and issues affecting the community, with such terms of reference and duration as it considers appropriate to that topic.

Membership

6.3.2 The Overview and Scrutiny Management Committee will appoint the membership of each panel (both elected members and co-opted members). Any councillor, except a member of the Cabinet, may be a member. The number of members will be proportionate to the nature and requirements of the task, though no panel shall consist of less than two elected members and the number of co-opted members shall not exceed the number of elected members. Any panel dealing with education matters must also include the church and parent governor statutory representatives.

Comment [KC8]: Clarification to ensure appropriate balance of elected members and voluntary co-optees for Ad Hoc Panels

Joint Health Committees

6.3.3 The Overview and Scrutiny Management Committee will appoint members to any Joint Health Scrutiny Committees which may be required with neighbouring authorities. Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

Councillor Call for Action Scrutiny Panels

6.3.4 The Overview and Scrutiny Management Committee will appoint members to any Councillor Call for Action Scrutiny Panels, established as a result of a councillor call for action. Terms of reference and all connected matters will be agreed by the Overview and Scrutiny Management Committee.

6.4 Political Balance

6.4.1 The Overview & Scrutiny Management Committee may, subject to compliance with legal procedures, decide that the normal political balance requirements shall not apply to scrutiny panels. In that case the Management Committee may determine an alternative distribution of membership between political groups.

6.5 General Role of the Scrutiny Function

- a) Review and scrutinise decisions made or actions taken in connection with the discharge of the council's functions
- b) On behalf of the council review or scrutinise all Cabinet / Cabinet Committees recommendations to the council, including policy and budgetary proposals.
- c) Exercise the right to call-in and review Executive decisions (see Scrutiny Procedure Rules 2.2.3 for definition of Executive decisions) in line with the procedure for the 'call-in' of decisions set out in the Overview & Scrutiny Procedure Rules in Part 4 of this Constitution.
- d) Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and / or particular service areas.
- e) Review and scrutinise decisions made or actions taken by partnership bodies, in relation to shared partnership priorities.
- f) Consider any matter affecting the area or its inhabitants.

- g) Consider how the services and resources of other organisations in the district impact on Kirklees residents and liaise with other external organisations operating in the District, whether national, regional or local, to ensure that collaborative working enhances the interests of local people.
- h) Make reports or recommendations to the full Council, the Cabinet / Cabinet Committees or any joint or area committee on the outcomes of the scrutiny process and in connection with the discharge of any function.
- i) Assist the council and the Cabinet / Cabinet Committees in the development of the budget and policy framework.
- j) Conduct research, involve the community and undertake other relevant consultation.
- k) Invite attendance by appropriate individuals (with the agreement of the Overview and Scrutiny Management Committee) to advise them (as an expert witness). Such individuals will have expertise in the area being scrutinised, e.g. they may be a service user or a professional or academic in the relevant discipline.
- l) Question Cabinet Members in relation to the overview and scrutiny of Cabinet / Cabinet Committee recommendations and the performance of Council services. (In the case of Cabinet / Cabinet Committee recommendations to Council, scrutiny will take place before the recommendations are considered by full Council). Cabinet Members and appropriate officers are required to be available to attend meetings of the relevant Overview and Scrutiny Management Committee / Panel if so requested.
- m) Question Council Officers in relation to the overview and scrutiny of service performance / delivery and the reports on which executive decisions are based, including those executive decisions taken by individual officers. Such officers are required to attend meetings of the relevant Overview and Scrutiny Management Committee / Panel if so requested.
- n) Request attendance by the council's section 41 representatives (joint authorities) in connection with the scrutiny of those bodies.
- o) Invite attendance by senior representatives of outside organisations and invite reports from them on their activities and performance, where necessary, in accordance with the Management Committee's / Panel's terms of reference.
- p) Question and gather evidence from any person (with their consent)
- q) Make recommendations to Cabinet / Cabinet Committee and / or Council on issues arising from the overview and scrutiny of Cabinet / Cabinet Committee decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.
- r) Identify issues for attention within the terms of reference of overview and scrutiny.

OVERVIEW AND SCRUTINY PROCEDURE RULES

Overview and Scrutiny Procedure Rules

1. The number and arrangements for Overview and Scrutiny Committee and Panels

- 1.1 The council will appoint the Overview and Scrutiny Management Committee, and any scrutiny standing panel Lead Members, to oversee the management, co-ordination and development of the overview and scrutiny function. The Committee will appoint Standing Panels, Ad-Hoc Panels, Councillor Call for Action Scrutiny Panels, and members of Joint Health Scrutiny Committees as set out in Article 6 of the Constitution and will appoint to them as it considers appropriate from time to time. The Overview and Scrutiny Management Committee may appoint further sub-committees as may be required.

2. Terms of Reference & Functions of Committee & Panels

2.1 The Overview and Scrutiny Management Committee

2.1.1 The Overview and Scrutiny Management Committee will:

- (i) ~~Have the power to exercise overall responsibility for the finances made available to it, and have the power to exercise overall responsibility for the work programme of the officers employed to support its work.~~
- (ii) Have overall responsibility for the management, co-ordination and development of the scrutiny function through which the decisions taken by the Cabinet and by committees and officers of the council are scrutinised and the use of resources / provision of services are reviewed.
- (iii) ~~Have overall responsibility for the work programme and c~~Co-ordinate and monitor progress on the the work programmes of any Overview and Scrutiny Panels ~~and monitor progress.~~
- (iv) ~~Co-ordinate the activity of Overview and Scrutiny Panels in relation to reviews of issues and service provision within the terms of reference of more than one panel.~~
- (iv) Exercise the right to submit a “notice of concern” on proposed decisions and “call-in” and review Executive decisions (see definition at 2.2.3) as set out in the procedures in these rules, particularly on issues that fall between the responsibilities of the separate panels.
- (v) Agree arrangements for managing overview and scrutiny business (including the call-in of Executive decisions) within the scope of more than one panel.
- (vi) Receive requests from members of the public / councillors / officers of the council / co-optees /other organisations for particular topics to be scrutinised and determine the appropriate action.
- (vii) Undertake initial explorations on requests / proposals for scrutiny reviews and recommend appropriate action.

Comment [C1]: There is no longer a dedicated Scrutiny budget. Responsibility for the work programme is included at iii below

Comment [C2]: Duplication

- (viii) Receive proposals from the [Health and Social Care Scrutiny Panel](#) ~~overview and scrutiny panels~~ for planned in-depth scrutiny reviews, investigations and reports on issues relating to the council's functions, and determine the appropriate action.
- (ix) Appoint task-orientated, ~~time-limited~~ ('ad-hoc') overview and scrutiny panels to review in depth, investigate and report on a particular topic with such terms of reference and duration as it considers appropriate to that topic.
- (x) Agree terms of reference and work plans of ad-hoc review panels and Councillor Call for Action Scrutiny Panels, and monitor their progress.
- (xi) Advise ad-hoc review panels and Councillor Call for Action Scrutiny Panels on the contents of reports.
- (xii) Consider and formally agree the reports of all Ad-Hoc Panels and Councillor Call for Action Scrutiny Panels, and submit them to Cabinet and or relevant agencies for response and action.
- (xiii) Consider and formally agree the reports of all Ad-Hoc Panels and Councillor Call for Action Scrutiny Panels, and submit them to the Council and/or Cabinet for consideration.
- (xiv) Establish and develop effective working relationships between the Overview and Scrutiny Management Committee and Panels, local partnership body structures, the Cabinet and its members, committees and sub-committees of the Council and its officers.
- (xv) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xvi) Review experience and develop learning in relation to the overview and scrutiny role.
- (xvii) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xviii) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xix) Monitor and review the effect of and consequence of the call-in of Executive decisions , including those taken through the scheme of delegation.
- (xx) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xxi) Co-ordinate the production of an annual report to Council at the end of each municipal year on the activity of the overview and scrutiny function.
- (xxii) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.

- (xxiii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxiv) Have responsibility for progressing and monitoring the overall objectives of the overview and scrutiny function

2.2 Standing Overview and Scrutiny Panels

2.2.1 ~~Any~~The Overview and Scrutiny panels will:

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated executive decisions, including those taken under the Scheme of Delegation.
- (ii) Scrutinise, advise and contribute to the Cabinet / Cabinet Committee and any relevant Council Committees in relation to issues arising from its work programme;
- (iii) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (iv) Exercise the right to submit a "notice of concern" on proposed decisions and "call-in" and review decisions taken by or on behalf of the Executive as set out in the Overview & Scrutiny Procedure Rules.
- (v) Have an overview of the practice and policy of the relevant service areas;
- (vi) Identify areas of service practice and implementation or of policy that cause concern to members of the public and councillors and report these to the Overview & Scrutiny Management Committee to determine what action should be taken;
- (vii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;
- (viii) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;
- (ix) Promote the work of the panels, including through the local media.
- (x) Develop focused programmes of work and identify the most appropriate means of progressing such work including assigned task based approaches.
- (xi) Scrutinise the work of the Local Strategic Partnership and its structures and the council's contribution to them, specifically in relation to shared partnership priorities.
- (xii) To scrutinise the effectiveness of the council's representatives in regional/sub regional and national forums.

2.2.2 NOTE: The role of the ~~Health and Social Care Scrutiny Panel~~ ~~Well Being and Communities Panel~~ will in addition include the specific responsibilities of the

Council for the scrutiny of health. Statutory responsibilities in respect of the Crime and Disorder Partnership will be vested in the [Overview and Scrutiny Management Committee Development and Environment Panel](#).

- 2.2.3 Executive decisions: Executive decisions may be discharged by Cabinet/ Cabinet Committees / Cabinet member or an officer of the Council in line with Executive Procedure Rule 1.2.5. Scrutiny powers also apply to those decisions taken by officers that are as a result of further delegation of the Cabinet, a Committee of the Cabinet or a member of the Cabinet.

2.3 Ad-hoc Overview & Scrutiny Panels

- 2.3.1 The Overview and Scrutiny Management Committee will appoint task-orientated, ~~time limited~~ ('ad-hoc') scrutiny panels to review in depth, investigate and report on particular topics related to the functions of the council, with such terms of reference and duration as it considers appropriate to the relevant topic.

NOTE: Within panels ~~assigned tasks can be used to divide larger pieces of scrutiny work into smaller tasks to be allocated to panel members and findings reported back to panels to enable recommendations to be agreed.~~

Comment [C3]: There has been a blurring of the distinction between assigned tasks and Ad Hoc Panels. In future Ad Hoc Panels will be used and established by the Management Committee.

2.4 Councillor Call for Action Scrutiny Panel

- 2.4.1 The Overview and Scrutiny Management Committee will appoint time limited Councillor Call for Action Scrutiny Panels to consider issues arising from a Councillor Call for Action request, where the Committee considers it appropriate. Councillor Call for Action Scrutiny Panels shall include a non executive councillor from the affected locality and a scrutiny voluntary co-optee (or statutory education co-optees if the issue includes education matters).

2.5 Joint Health Scrutiny Committee

- 2.5.1 The Overview and Scrutiny Management Committee will [make the necessary arrangements](#) ~~appoint members to~~ [to establish](#) any Joint Health Scrutiny Committees which may be required with neighbouring authorities [including the appointment of members](#). Terms of reference and all connected matters may be agreed by the Overview and Scrutiny Management Committee. In arrangements with other West Yorkshire Authorities it is anticipated that this will be done in accordance with the protocol for such matters which has been agreed between all the West Yorkshire District Councils.

3. Membership of Overview and Scrutiny

- 3.1 Subject to Article 6.1, any Councillor, except a member of the Cabinet, may be a member of the Overview and Scrutiny Management Committee or its panel(s) or ad hocs.
- 3.2 No member, however, may be involved in scrutinising a decision in which s/he has been directly involved. In addition, each member of an Overview and Scrutiny Management Committee / panel is required to consider whether s/he has a personal interest in an issue to be examined by that Committee / Panel and to declare any such interest. If s/he determines that the interest is prejudicial and financial in nature, s/he must not participate in the debate on the issue and must leave the room during that debate. These requirements are set out in detail in

paragraphs 11 and 12 of the council's Code of Conduct for members in Part 5 of the Constitution.

- 3.3 The membership of the Overview and Scrutiny Management Committee will reflect the political composition of the council, unless the council decides otherwise in accordance with the appropriate legal procedures.

4. Co-optees

- 4.1 The Overview and Scrutiny Management Committee will agree the appointment of non voting co-optees for each Overview and Scrutiny Panel / Ad Hoc / Councillor Call for Action Scrutiny Panel.

5. Education representatives

- 5.1 When the Overview and Scrutiny Management Committee, an Ad Hoc Panel or a Councillor Call for Action Panel meets to discuss any issue ~~The Children and Young People's Overview and Scrutiny Panel and any Ad Hoc Panel or Councillor Call for Action Scrutiny Panel~~ relating to education matters it shall include in its membership the following voting representatives (if appointed by the relevant group):

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) ~~2~~ parent governor representatives.

- 5.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Committee or Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

6. Meetings of the Overview and Scrutiny Management Committee and Panels

- 6.1 The Overview and Scrutiny Management Committee and its Panel(s) will meet as required to conduct the necessary business efficiently and effectively. There shall be at least 6 ordinary meetings of the Management Committee and each Standing Panel each year. The Ad-Hoc Panels will be time limited and will meet as required to fulfil the task allocated to them.

- 6.2 In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the relevant Overview and Scrutiny Management Committee/Panel, by any 3 members of the body or by the Assistant Director Legal, Governance and Monitoring or the Scrutiny Office if he/she considers it necessary or appropriate.

7. Quorum

The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the council Procedure Rules in Part 4 of this Constitution.

8. Chairs of Overview and Scrutiny Management Committee / Panels

Comment [C4]: Clarification on how statutory education representatives will be incorporated within revised structures.

Comment [C5]: Reduce to statutory minimum of 2 parent governor representatives.

- 8.1 The council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a Standing Panel.
- 8.2 The Chair of Overview and Scrutiny will be from a different political group to that of the Leader of the council.
- 8.3 The Chair of Overview and Scrutiny will chair the Overview and Scrutiny Management Committee.
- 8.4 The Council will appoint the Lead Members of the Standing Panels who will chair those panels.
- 8.5 The Overview and Scrutiny Management Committee will appoint the Chairs of Ad-Hoc Panels. These will be drawn from the may be from the membership of the Overview and Scrutiny Management Committee. ~~Standing Panels or other members of the council with the necessary expertise.~~ Chairs of Joint Health Overview and Scrutiny Committees may also be drawn from other members of the Council with the necessary expertise.

Comment [C6]: Proposal that Ad Hoc Panels are chaired by a member of the Management Committee

9. Work programme

- 9.1 The Overview and Scrutiny Management Committee will be responsible for setting its own objectives and work programme and in doing so shall take into account wishes of members on that Committee who are not members of the largest political group on the council.
- 9.2 The Standing Panels (subject to the agreement ~~co-ordination~~ and monitoring of the Overview and Scrutiny Management Committee) shall be responsible for setting their own work programme to overview and scrutinise the work of the Cabinet, Cabinet Committees, partnership body structures, relevant Council Committees and services and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the council.
- 9.3 Ad Hoc Panels will be set up by Overview and Scrutiny Management Committee with specified terms of reference to scrutinise and review in-depth particular issues.

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10. Agenda items

- 10.1 Agenda items for the Management Committee and panels shall be set by members identifying issues which they wish to consider in line with the agreed approach to developing scrutiny work programmes, for example through reviewing the Council's priorities, Cabinet's forward work programme of items for consideration or through their overview of service issues and performance, or through calling in particular executive decisions.
- 10.2 Any member of the Overview and Scrutiny Management Committee or panels (including the statutory education representatives) shall be entitled to give notice to the Scrutiny Office that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Governance ~~Scrutiny~~ Office will ensure that it is included on the next available agenda. The Committee / Panel shall then determine whether it wishes to pursue the item suggested by the member and, if appropriate, whether it should be referred to the Overview & Scrutiny Management Committee.

- 10.3 The council is keen to encourage members of the public, community and voluntary groups, other agencies, all Councillors, and officers of the council to suggest issues to be considered by Overview and Scrutiny. All such referrals will usually be considered by the Management Committee who will determine the appropriate action to take.
- 10.4 The Management Committee and Panels shall also respond, as soon as their work programme permits, to requests from the council and if it considers it appropriate, the Cabinet / Cabinet Committee, to review particular areas of Council activity.
- 10.5 District Area Committees shall have the right to draw matters to the attention of the Management Committee and panels.

11. Policy review and development

- 11.1 The Management Committee and Standing Panels have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Cabinet, partnership body structures and Council and hence to ensure that these views are taken into account in policy development.
- 11.2 The Cabinet is responsible for the development and implementation of policy, in which role it shall consult and involve Overview and Scrutiny in developing draft policies for adoption or, where required as part of the budget and policy framework, recommendation to Council.
- 11.3 The minimum role of Overview and Scrutiny in relation to the development of the council's budget and policy framework is set out in Rule 2 of the Budget and Policy Framework Procedure Rules and in Rule 11.2 above.
- 11.4 In relation to the development of the council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 11.5 If there are concerns about the implementation or subsequent outcomes of an agreed policy the Overview and Scrutiny Management Committee may commission standing panels or appoint Ad-Hoc Panels to hold enquiries and investigate the available options to recommend changes / improvements to the policy to make it more effective.

12. Reports from Overview and Scrutiny Management Committee

- 12.1 Once an Ad Hoc Panel (or in some instances a Standing Panel) has formed recommendations on proposals for development, a report will be prepared for informal consultation with the Overview and Scrutiny Management Committee.
- 12.2 Once the Overview and Scrutiny Management Committee's comments have been taken into account, the draft report shall be submitted by the Overview and Scrutiny Office, to be considered informally by the relevant officers / Cabinet Member / Cabinet / Cabinet Committee / or partnership body.
- 12.3 The Cabinet member (portfolio holder) / Cabinet / Cabinet Committee / partnership body / officers shall comment on any issues or factual inaccuracy within the report. Scrutiny shall consider the comments and make changes to the report as it considers appropriate. The Cabinet portfolio holder, in consultation with the relevant

Director / Asst Director(s) shall prepare a draft response to the scrutiny recommendations in the form of an action plan. For each recommendation that is accepted they shall state when and how it will be implemented. For those that are not accepted the relevant reasons must be set out.

The draft response to the recommendations, set out in the form of an action plan, should be completed within three weeks of receipt of the Scrutiny report. During that time the portfolio holder, senior officers and the councillor who chaired the scrutiny investigation, may meet to discuss or clarify any aspects of the report.

- 12.4 The report, together with the portfolio holder's draft response will be submitted to Cabinet for debate and approval of the action plan response to the recommendations. Once the response to the report is approved the report is considered final and may be submitted to Council and / or any appropriate Committee or partnership body for information or debate, particularly on issues of difference.
- 12.5 The reports of Overview and Scrutiny referred to Cabinet shall be given consideration as soon as practicable following the receipt of the draft portfolio response. If the Cabinet does not consider the report and reach a final agreement on the response to the recommendations within one month, the Overview and Scrutiny Management Committee will have the right to refer the report direct to Council without following the procedure set out above.
- 12.6 If any recommendations would require a departure from or a change to the Budget and Policy Framework these must be considered by Council
- 12.6 If a significant minority of a Scrutiny Management Committee / Panel cannot agree on the final recommendations of the report to the Cabinet / Cabinet Committee / Council as appropriate, then the report will indicate where the major differences lie. Minority reports will not be accepted.
- 12.7 The Cabinet / Cabinet Committee and where appropriate Council shall consider any report of Overview and Scrutiny as soon as practicable following its submission.

13. Rights of Overview and Scrutiny Management Committee & Panel members to documents

- 13.1 In addition to their rights as councillors, members of Overview and Scrutiny Management Committee / Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 13.2 Nothing in this section prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Management Committee and Panels as appropriate depending on the particular matter under consideration. Indeed this liaison is encouraged to enable members of scrutiny panels to develop an effective overview of services, developments, and issues for consideration.
- 13.3 All members of the council will have access in accordance with the Access to Information Procedure Rules to agendas, reports in support of decisions to be made and notices of decisions (to be posted within 3 working days) through the intranet.
- 13.4 Overview and Scrutiny Members will also be informed of decisions made by officers under the scheme of delegation.

14. Members and officers giving account

14.1 Overview and Scrutiny Management Committee or any panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service, senior officers, or other officers if necessary to attend before it to explain in relation to matters within their remit:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy; and/or
- c) their performance.

14.2 By virtue of the provisions of the Local Government Act 2000, [and the Localism Act 2011](#) the Overview and Scrutiny Management Committee / Panels can require officers and Cabinet Members to respond to their requests and attend their meetings, and (by virtue of the Act) it is the duty of those persons to attend if so required.

Comment [C7]: Update on legislative references

14.3 Requests for attendance of officers or the provision of information to Overview and Scrutiny shall generally be channelled through the Council's Directors/Heads of Service who will identify appropriate officers to respond to the requests. Services shall also identify contact officers for each Overview and Scrutiny Management Committee/Panel.

14.4 Such requests will be made in writing by or on behalf of the Chair of the relevant Management Committee / panel and as much notice of the meeting as practicable will be given allowing for the need to gather information and/or prepare a report.

14.5 Where, in exceptional circumstances, a Cabinet Member or officer is unable to attend on the required date, then the Chair of the relevant Overview and Scrutiny Management Committee / panel shall, in consultation with the Member or officer, arrange an alternative date for attendance to take place as soon as practicable from the date of the original request.

Where a Cabinet Member in response to a request from the Overview and Scrutiny Management Committee / panels refuses to attend or fails to confirm that they will be that they will be present, the Leader will attend to explain the reasons for the Cabinet Member's absence.

15. Attendance by others

15.1 Once an issue has been agreed for consideration terms of reference shall be agreed which identify the aims and objectives of the review, the lines of enquiry to be pursued, how the review will be carried out, and who shall be invited to participate in the consideration of the issue.

15.2 The Overview and Scrutiny Management Committee/panels shall be expected to seek to consult widely on the issues which they are considering and this would include inviting people other than those people referred to in section 14 above to discuss issues of concern and/or answer questions. This could include [District Area Committees](#) and Parish / Town Councils where appropriate, other public, private and voluntary / community organisations with an interest in the issue, residents and service users and may involve inviting experienced / knowledgeable individuals to

attend meetings. On occasions the Overview and Scrutiny Management Committee / panels may seek the views of members of the public through a variety of consultation methods.

15.3 External experts and other persons identified as possible contributors shall be invited to attend meetings to give evidence and advice, but the Overview and Scrutiny Management Committee / panels cannot require them to do so and therefore their participation will be on a voluntary basis.

16. Decision-Making and Call-in

16.1 A key function of overview and scrutiny is to hold the Cabinet to account for the discharge of its functions. Two of the principal elements of this are:

- Scrutinising decisions which are proposed to be taken by or on behalf of the Executive, and
- Scrutinising executive decisions before they are implemented (a so-called 'call-in' mechanism)

16.2 One of the basic principles that has been important to the development of scrutiny in Kirklees is that the council is one body and it is in the interests of all councillors and the public that the council makes the right decision first time. This implies a constructive role for Overview and Scrutiny, as it would be perverse to wait until the point of decision-making (or after) to raise concerns.

16.3 The roles of the Overview and Scrutiny Panels and their Chairs make it clear that they should be working with the Cabinet Member, and the Heads of Service that report to her/him, to build up an understanding of the work programme in that portfolio, the issues that are around, and the decisions that are on the horizon.

16.4 This will mean that the Overview and Scrutiny Panel Chair and the Panel will be aware at an early stage of the issues that the Cabinet / Cabinet Committee will be addressing. They must use this knowledge to identify at an early stage to the Cabinet Member the issues that they are concerned about, particularly if the work is focussed on a particular option and likely decision. Grounds for concern could include that all the options are not being explored adequately, or the proposed action is not in the best interests of the public, or there may not be adequate public consultation, or that independent professional advice is needed.

16.5 Through early involvement it should be possible to take on board the concerns of scrutiny and ensure that the right decision is taken first time. However, there may be times when differences will not be resolved, or when an item surfaces at short notice on an agenda. In these circumstances Overview and Scrutiny and non-executive councillors should follow the procedure set out below. This procedure gives Overview and Scrutiny the opportunity before a decision is taken to issue a formal 'notice of concern' which will be recorded, and after a decision is taken, but before it is implemented, to 'call-in' a decision.

16.6 It is fundamental to remember that:

- the Cabinet Member is responsible for the work programme within her / his portfolio and to determine, in consultation with the Leader of the council, the items that will be on the Cabinet / Cabinet Committee agenda, and

- the Cabinet / Cabinet Committee has the responsibility to make decisions within its remit, and to oversee and be accountable for the taking of decisions on its behalf by officers, joint committees or area committees.

16.7 The procedure set out in this section is designed to give Overview and Scrutiny a proper role in having an overview of decision-making.

17. Notice of Concern - Procedure

17.1 The Overview and Scrutiny Panel Chair will receive the Forward Plan, information about other decisions to be taken, papers in support of a decision to be considered by the Cabinet Member / Cabinet / Cabinet Committee, including the reports containing the Cabinet Member's recommendation or details of a delegated Executive decision to be made by an officer.

17.2 If the Overview and Scrutiny Panel Chair or Chair of Overview and Scrutiny at this stage feels that scrutiny's concerns have not been adequately addressed or it is an item brought forward late at short notice, and the Scrutiny Panel Chair or Chair of Overview and Scrutiny is unhappy with the Cabinet Member or officer's recommendation, the Scrutiny Panel Chair or Chair of Scrutiny should issue a 'notice of concern'. This must be sent in writing to the Assistant Director Legal, Governance and Monitoring, the main recipient and also for information to the Cabinet Member and, if appropriate, the Chair of Overview and Scrutiny within 3 working days starting the day after the Cabinet / Cabinet Committee agenda is published and finishing at 5.30 p.m. on the third day.

17.3 If possible, all efforts should be made by a Lead Member to consult with panel members before issuing a 'notice of concern'. If not possible, there must at least be consultation with the Chair of the Overview and Scrutiny Management Committee.

17.4 All Councillors who are not in the Cabinet can contribute to Overview and Scrutiny and can request Overview and Scrutiny to issue a 'notice of concern'.

17.5 The notice must set out the grounds that cause the concern.

17.6 The notice will have more strength if it also indicates a proposed course of action and the further considerations that should be taken into account.

17.7 The Cabinet Member in consultation with the relevant member of Director Group and the Leader of the Council will have full discretion on how to proceed. The item could be deferred for further consideration or continue on the agenda.

17.8 If the concerns set out in the notice of concern are adequately addressed prior to the meeting, the Overview and Scrutiny Panel Chair / Chair of Overview and Scrutiny may withdraw the notice of concern.

17.9 If the item is kept on the agenda for the Cabinet Member / Cabinet / Cabinet Committee, the 'notice of concern' will be indicated on the agenda. At the meeting, when that item is taken, the Assistant Director Legal, Governance and Monitoring will formally announce that Overview and Scrutiny had placed a 'notice of concern' on that item and the reasons given. The meeting will consider the item in the light of that knowledge.

17.10 Under the delegated authority of the Cabinet / Cabinet Committee the decision that is made at the meeting will be the final recorded decision, subject to the call-in procedures below. The minutes though will record the 'notice of concern'.

17.11 However, if the Cabinet / Cabinet Committee at its meeting had agreed an amendment to the Chair's recommendation, the Scrutiny Panel Chair / Chair of Overview and Scrutiny in consultation with panel members may, after the meeting and within 5 working days, withdraw the 'notice of concern', if it is felt that the concerns have been adequately addressed. A note will be added to the minutes to this effect.

17.12 If the decision is a delegated executive decision to be made by an officer on a specified date, then consideration must be given to the issues raised in the notice of concern prior to the decision being made. The consideration procedure set out in 17.9 and 17.10 should also be applied to the delegated executive decision. The delegated executive decision is also subject to the call-in procedures.

18. Call-in - procedure

18.1 The decision summary of Cabinet / Cabinet Committee and any other executive decision will be published within 2 working days of the decision and sent to the members of the appropriate Overview and Scrutiny Panel – e.g. this will be the Friday following a Cabinet Meeting on Wednesday.

18.2 There will be a standard period of 5 full working days (commencing the next working day following the day the decision is taken and ending at 5.30 p.m. on the fifth working day) before decisions can be implemented (e.g. call in period will end at 5.30 p.m. on Tuesday following a Cabinet / Cabinet Committee meeting the previous Tuesday). A decision can be called-in only during this period.

18.3 To call in an executive or a delegated executive decision, written notice must be given to the Assistant Director Legal, Governance and Monitoring as the main recipient, with a copy for information to the Chief Executive and the Chair of the Overview and Scrutiny Management Committee. An electronic pro-forma and guidance information will be made available from the Scrutiny Office to make this easier.

18.4 A decision can be called in by:

- either, 5 non executive Councillors
- or 2 members of the Overview and Scrutiny Management Committee, one of whom should be the Chair
- or 2 Members of the relevant Overview and Scrutiny Panel, one of whom should be the Chair

All efforts should be made to consult with the Chair of the Overview and Scrutiny Management Committee.

18.5 To be valid a call in must be submitted in writing (on paper or electronically) on the proforma provided signed by all parties to the call in and must state the reasons for the suspension of the decision and request for a review.

18.6 When a valid written notice is received within the period referred to above, all action to implement the decision must be suspended for 2 weeks from the end of the call in period, during which time the appropriate Overview and Scrutiny Panel must meet. If the issue that has been called-in falls between or overlaps with the responsibility of more than one panel, the Assistant Director Legal, Governance and Monitoring will take the advice of the Overview and Scrutiny Management Committee, which will determine which Panel to refer the matter to or indeed

whether it should be considered by the Overview and Scrutiny Management Committee.

18.7 When a valid written notice is received the Assistant Director Legal, Governance and Monitoring will notify all Cabinet Members and the Leader of the council. A meeting of the appropriate Overview and Scrutiny Panel will take place within two weeks of the call in, giving notice required by Rule 4 of the Access to Information Procedure Rules. If the decision has been called-in by 5 non-executive Members they must attend, if possible, the Overview and Scrutiny Panel Meeting. At least one signatory to the call in notice is required to be present during the call in hearing. The Assistant Director Legal, Governance and Monitoring will also notify all Members that this decision has been called-in.

Comment [C8]: To strengthen the requirement for at least one signatory to the call in to be present during the call in hearing. The signatory may change during the meeting

18.8 The Assistant Director of Legal, Governance and Monitoring, and in his/her absence the Director for Resources, shall have discretion to extend the period during which the appropriate Overview and Scrutiny Panel must meet, where in his/her opinion, exceptional circumstances so require.

18.9 Once signed and submitted to the Assistant Director of Legal, Governance and Monitoring, a Notice of Call In cannot be withdrawn unless all five signatories to the call in submit, in writing, their agreement to withdraw the call in.

18.10 When the Overview and Scrutiny Panel meets it will have access to all papers considered by the decision maker . The Panel can invite witnesses appropriate to the grounds of the call in to assist them in their review of the decision. Decisions as to the individuals to be invited shall be made in consultation with the Assistant Director of Legal, Governance and Monitoring, or in his/her absence the Director for Resources.

18.11 In the case of delegated executive decisions, made by an officer, the Leader / Cabinet Member is accountable for the decision (see section 16.6). However the officer who made the decision should also be present at the call in hearing wherever possible.

18.12 Having considered the decision in question, the Overview and Scrutiny Panel must resolve either to

- Free the decision for implementation; or,
- Refer it back to the Cabinet / Cabinet Committee or decision-maker with a recommendation for amendment; or,
- In exceptional circumstances, refer the issue to the next Council Meeting if the decision is not consistent with the budget or any policy previously agreed by the council. This can only be done with advice from the relevant senior officers and the Assistant Director Legal, Governance and Monitoring.

If the Overview and Scrutiny Panel refers the decision back to Cabinet / Cabinet Committee with a recommendation, it will be considered at the next meeting of the Cabinet / Cabinet Committee. The Cabinet/Cabinet Committee may:

- Accept the recommendation in full or in part of the Overview and Scrutiny panel and amend its decision accordingly;
- Decide that further work needs to be done and defer the item until this is completed. The Overview and Scrutiny Panel/non-executive members should

be kept informed of the work as it progresses and be formally notified of when it is to be reconsidered;

- Not accept the view of the overview and scrutiny panel and confirm its original decision;
- Refer the issue for discussion at the next appropriate Council meeting.

18.13 If the Cabinet / Cabinet Committee rejects the recommendation from the Overview and Scrutiny Panel and confirms its decision it can be implemented immediately as there is no scope for further review and challenge. Whilst unable to challenge the final decision, the outcome of called-in decisions will be reported to the next Council meeting and Scrutiny can use its time to explain its views to Council.

18.14 A decision may only be reviewed once.

18.15 Urgent decisions that require quick implementation - The right to suspend and review an executive decision cannot be exercised where the Cabinet / Cabinet Committee or the decision-maker, with the agreement of the Chair of the Overview and Scrutiny Management Committee or his/her nominee, resolves that the decision is urgent for reasons stated in the resolution.

18.16 Once decisions have been taken and recorded, and are being implemented Overview and Scrutiny has the subsequent right to programme reviews on any matters decided by the Executive.

18.17 The Chair of the Overview and Scrutiny Management Committee will be responsible in consultation with the Leader and the Chief Executive for monitoring the use of call-in and reviewing the procedure to ensure that it does not unduly defer or disrupt proper decision-making processes but rather plays its proper role in overseeing and holding to account the Cabinet/Cabinet Committee in a constructive and supportive way.

18.18 Delegated executive decisions taken by officers – If an executive decision is to be taken by an officer under the scheme of delegation, all councillors and Overview and Scrutiny will have the same rights to information and to use the procedures set out above for the call-in of decisions.

19. Call-in of decisions outside the budget or policy framework.

19.1 Where the stated reason for a request for call-in made under Rule 19 is that the decision is contrary to the budget or policy framework, the procedure in Rule 19 will apply, but with the following amendments.

19.2 Before considering a request, the Overview and Scrutiny Panel must seek the advice of the Monitoring Officer and/or the Director of Resources and any other relevant officer. If that advice is that the decision is not outside the framework, the Panel may either:-

- Accept that advice and free the decision for implementation; or
- Decide to follow the procedure set out in Rule 19.3.

19.3 If the advice is that the decision is or may be outside the budget or policy framework, the Overview & Scrutiny Panel must resolve either:-

- To refer the decision to the Cabinet / Cabinet Committee, with a recommendation for amendment to comply with the budget and policy framework; or
- Refer the issue to the next Council meeting.

19.4 If the Panel refers the decision back to the Cabinet / Cabinet Committee, it will be considered at the next meeting of the Cabinet / Cabinet Committee. The Cabinet / Cabinet Committee may take any of the actions set out in Rule 18 other than to confirm its original decision.

19.5 If the decision is referred to the Council, it will be considered at the next ordinary Council meeting, or, if urgent, at an additional meeting to be called as early as practicable. The council will receive reports from the Overview & Scrutiny Panel and the Cabinet / Cabinet Committee. The council may either:-

- Decide that the decision is within the existing budget and policy framework, in which case it will be freed for implementation;
- Decide that the decision is contrary to the budget and policy framework, but agree to the decision, with immediate effect; or;
- Decide that the decision is contrary to the budget and policy framework; that the council is not prepared to agree to the decision; and require the Cabinet / Cabinet Committee to re-consider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

20. The Group Business Manager

20.1 The Council views whipping as incompatible with overview and scrutiny. Therefore, the political groups shall not give any instruction to any councillor as to how that councillor shall speak or vote on any matter before overview and scrutiny, nor apply any sanction in respect of that councillor should he/she speak or vote in any particular manner.

21. Procedure at overview and scrutiny meetings

21.1 The Overview and Scrutiny Management Committee and its Panels are encouraged to develop less formal approaches to meetings that support the reflection required by the Overview and Scrutiny role. In doing so the Management Committee and Standing Panels will ensure the inclusion of some basic items, such as minutes of the last meeting; declarations of interest; consideration of any decisions that have been called in; issues from the Cabinet's forward plan and/or of service delivery; responses of the Cabinet to reports of the Overview and Scrutiny Management Committee; and the business otherwise set out on the agenda for the meeting.

21.2 Where Ad-Hoc Panels or Councillor Call for Action Panels conduct investigations, they or the Overview and Scrutiny Management Committee may also ask people to attend to give evidence at panel meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;

- ii) that those assisting the panel by giving evidence be treated with respect and courtesy; and
- iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

21.3 Following any investigation or review, the Panel in consultation with the Overview and Scrutiny Management Committee shall prepare a report for submission to the Cabinet / Cabinet Committee and/or Council as appropriate and shall make its report and findings public.

22. Matters within the remit of more than one overview and scrutiny panel

22.1 Where a matter for consideration by overview and scrutiny falls within the remit of one or more overview and scrutiny panels, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Management Committee.

22.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all panels affected by the issue and to report the outcomes to all such panels.

Name of meeting: Corporate Governance & Audit Committee (CGA) and Council

Date: 15 May 2015 and 20 May 2015 (CGA and Council respectively)

Title of report: Proposed Changes to the Council's Constitution Report 2

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
Is it in the Council's Forward Plan ?	Not Applicable
Is it eligible for "call in" by Scrutiny ?	Not Applicable
Date signed off by <u>Director</u> & name	
Is it signed off by the Director of Resources?	No Financial Implications
Is it signed off by the Assistant Director – Legal, Governance & Monitoring	Yes
Cabinet member portfolio	Resources

Electoral [wards](#) affected: All
Ward councillors consulted:

Public or private: Public

1. Purpose of report

- 1.1 To set out the proposed changes to the Council's Constitution as described in paragraph 2 and as set out in more detail in the attached Appendices 1 and 3 which show some of the proposed amendments. .
- 1.2 In the case of Corporate Governance & Audit Committee (CGA) to seek Members approval and/or comments and/or recommendations in relation to these proposed changes to make to Annual Council on 20 May 2015 and in the case of Annual Council to consider a verbal update/written report with any comments from CGA and to approve and/or make recommendations in relation to the proposed changes.
- 1.3 To delegate authority to the Assistant Director -Legal, Governance and Monitoring to make appropriate amendments to the constitution

which are agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed.

- 1.4 To delegate general authority to the Assistant Director – Legal, Governance and Monitoring to make minor drafting / tidying up amendments to the Constitution.
- 1.5 It should be noted that on this occasion this report is the same for both CGA and Council because there is insufficient time for a report from CGA with their comments to be produced before the relevant time that the agenda for Annual Council will need to be published. Instead, a verbal update and/ or a short written note with any CGA comments/ observations will be provided for the Annual Council meeting.

2. Key points

- 2.1 This report considers changes to:
 - 2.1.1 Article 4 (Part 2 of the Constitution) relating to Policy Framework
 - 2.1.2 The terms of reference of the Health and Wellbeing Board
 - 2.1.3 To Article 12 (Part 2) and the scheme of delegation to Directors in section F of Part 3 of the Constitution to reflect the changes to needed to the Proper Officers and delegations to Directors and Assistant Directors since the change to Directors/ Assistant Directors in Adults, Social services and Public Health as well as small changes to titles/ responsibilities of the assistant Directors in the Place directorate: **AND**
 - 2.1.4 Asks members to note that a future report will be brought to CGA and Council with proposals for a Corporate Parenting Panel and requests that the Assistant Director – Legal Governance and Monitoring be given a general delegated authority to make drafting / tidying up amendments to the Constitution during the year as may be required from time to time

2.2 Article 4 of the Constitution - Policy Framework

The Policy Framework as set out in Article 4 of the Constitution was last reviewed at annual Council in May 2013. The Policy Framework consists of a number of statutory policies/ strategies which the Council is required to have and others included through the Council's own choice / discretion. A number of the policies /strategies have been reviewed recently as we are required to do (e.g. Licencing) or are reviewed annually (e.g. Corporate Plan). Others currently included have not been reviewed for a number of years e.g. the Waste Management strategy and require updating/ review. The Children and young people's plan incorporates the council's corporate parenting responsibilities which do fall to every member of council and it is included for that reason

The Policy Framework requires review in the light of the Council adopting both its Health and Wellbeing, and Economic strategies. It is proposed that these should form the backbone of the Policy Framework reserved for Council complemented only by additional statutory plans that support their implementation or are of District Wide significance. Appendix 1 contains suggested amendments to the Policy Framework as well as some general tidying up in track change for discussion. Two policies are shown in square brackets for discussion – Community Cohesion and Early Learning and Childcare.

The inclusion of the Economic Strategy is new to the Policy Framework. It feeds into and responds to the Strategic Economic plan adopted by the LEP and CA which Council should consider in considering where the money comes from for the Economic Strategy.

Members are asked to consider and agree the proposed amendments to the Policy Framework and to consider whether the two in square brackets referred to above should be included in the Policy Framework. It should be noted also that a number of the policies/ strategies need a review/refresh. The current Terms of Reference of the Policy Committee (attached as Appendix 2 to this report) enable revised policies to be considered in that forum and/ or the Policy Committee to establish Sub Committees to consider proposed new or revisions to policies /strategies should it so wish to.

2.3 Terms of Reference of the Health and Wellbeing Board

The Health and Wellbeing Board's (HWB) terms of reference were agreed by Council in March 2013 in time to meet the legal requirement for the Board to be a constituted Committee of Council by 1 April 2013. There is one addition proposed to the terms of reference, namely;

- To provide leadership and oversight of key strategic programmes, such as the Better Care Fund, and associated pooled fund arrangements.

This reflects national requirements regarding the oversight role of the HWB in relation to the Better Care Fund.

Appendix 3 to this report shows the proposed amendment in red underline.

2.4 Proper Officer and Delegations changes

Article 12 of the Councils Constitution amongst other things sets out the roles in general terms of Chief Officers, designates Statutory officers and also contains a Schedule of Proper Officer appointments. These are where a Proper Officer is required under legislation to carry out certain actions -for example agree to something or accept service of a document. In light of the recent changes to Director and Assistant Director roles in Adults, social care and Public health as well as some small changes in the responsibilities of the Assistant Directors in the Place Directorate, Article 12 needs updating to reflect these changes.

Similarly the delegations to Chief Officers in Section F of Part 3 (Responsibility for Functions) of the Constitution also needs updating to reflect these changes.

2.5 Other Matters

Members are asked to note that there will be a report brought to CGA and Council in the coming months which relate to the formation of a Corporate Parenting Board. It is considered that such a Board could assist in ensuring (alongside the role of Scrutiny) that Corporate Parenting is given both vigorous challenge alongside effective, coordinated leadership across the council. It would also help to formalize governance arrangements for the Virtual School which is currently working to an interim model with Learning Senior Leadership Team filling this role in the short term.

There are a number of drafting and tidying up amendments which are still required to the Constitution and which crop up during the year – e.g. cross references, formatting, minor changes which do not change content but which are helpful to make better sense of the Constitution. A good example of this is the amendments to Proper Officer drafting to reflect the new senior officer appointments/ changes set out in paragraph 2.4 above. A general delegated authority is requested to the Assistant Director- Legal Governance and Monitoring to make such drafting and tidying up amendments to the Constitution.

3. Implications for the Council

It is essential that the Council's Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, business like and effective manner. It is also essential that the Constitution complies with current legislation. Failure to do so could lead to legal challenges, unnecessary procedural delays and less transparency in the Council's democratic practices.

4. Consultees and their opinions

Chief Executive and various officers in Legal, Governance & Monitoring Service and Resources have been consulted as well as the Policy Unit.

5. Next steps

This will be considered by Annual Council on 20 May 2015. Any feedback and comments or recommendations from CGA meeting will be included in that report.

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

6. Officer recommendations and reasons

That CGA:

6.1 Consider the proposed changes set out in paragraphs 2.2 -2.5 and Appendices 1 and 3 and make any comments/observations before the

changes are considered by Council and note that a further report will follow relating to the establishment of Corporate parenting Panel

That Council:

- 6.2 consider the proposed changes set out in paragraphs 2.2- 2.4 and Appendices 1 and 3 as well as any comments from CGA and agree to the proposed amendments
- 6.3 delegate authority to the Assistant Director -Legal, Governance and Monitoring to make appropriate amendments to the constitution which are agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed.
- 6.4 note that a further report will follow relating to the establishment of Corporate parenting Panel
- 6.5 delegate general authority to the Assistant Director – Legal, Governance and Monitoring to make drafting / tidying up amendments to the Constitution as described in paragraph 2.5

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer and relevant papers

Julie Muscroft, Assistant Director, Legal, Governance & Monitoring.

9. Assistant director responsible

Julie Muscroft, Assistant Director, Legal, Governance & Monitoring, 3rd Floor North, Civic Centre I. Telephone: 01484 221000. Email: julie.muscroft@kirklees.gov.uk

Appendix 1

Proposed amendments to Article 4 of Part 2 of Kirklees Constitution to consider at Corporate Governance and Audit Committee on 15th May 2015 and Annual Council Meeting on 20th May 2105

ARTICLE 4 - THE FULL COUNCIL

4.1 Meanings:

- a. **Policy Framework** – The policy framework means the following plans and strategies:

Children and Young People's Plan
Community Safety Partnership Plan
Sustainable Community Strategy
West Yorkshire Local Transport Plan 3
Plans and strategies which together comprise the Development Plan
Youth Justice Plan 2011/12
The Council's Corporate Plan
~~Equality and Diversity Strategy~~
~~Statement of Licensing Policy under the Licensing Act 2003~~
~~Three year Licensing Policy under the Gambling Act 2005~~

Customer Service Strategy
~~Environment Vision 2025~~
Municipal Waste Management Strategy
~~Integrated Investment Strategy~~
~~Statement of Licensing Policy under the Licensing Act 2003~~
~~Three year Licensing Policy under the Gambling Act 2005~~
~~Equality and Diversity Strategy~~
Joint Health and Wellbeing Strategy
~~Making it Personal – Commissioning Strategy for Adults~~
~~Commissioning Plans for Adult Social Care~~
[Community Cohesion Strategy]
Commissioning Housing Strategy
~~Carbon Reduction Strategy~~
[Early Learning and Childcare 2011-2014]
~~Economic Strategy~~

- b. **Budget** – The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement. It also includes the council's capital plan, the control of its capital expenditure and investments, and the setting of virement limits.
- c. **Housing Land Transfer** – Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 50 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of

land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Council

Only the ~~council~~Council will exercise the following functions:-

- a. Adopting and changing those parts of the constitution that relate to non-executive functions.
- b. Approving or adopting the ~~policy~~Policy Framework, the ~~budget~~Budget (including the capital plan) and any application to the Secretary of State in respect of any housing land transfer.
- c. Subject to the urgency procedure contained in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the ~~policy~~Policy framework~~Framework~~ or contrary to or not wholly in accordance with the ~~budget~~Budget.
- d. Appointing the Leader.
- e. Agreeing or amending the terms of reference for committees, deciding on their composition and making appointments to them.
- f. Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council.
- g. Adopting an allowances scheme under Article 2.5.
- h. Changing the name of the area, conferring the title of honorary alderman or the freedom of the borough.
- i. Confirming the appointment of the Head of Paid Service.
- j. Making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal bills.
- k. All local choice functions set out in Part 3 of this ~~constitution~~Constitution which the ~~council~~Council decides should be undertaken by itself rather than the Executive and which it has not delegated to a committee.
- l. Receive reports and recommendations from the Overview and Scrutiny Management Committee and scrutiny panels and commissions in connection with the discharge of functions.
- m. Resolution under s.166 of the Gambling Act 2005 not to issue casino premises licences.
- n. All other matters which, by law, must be reserved to the ~~council~~Council.

4.3 Council Meetings

There are three types of ~~council~~Council meeting:

The ~~annual~~Annual meeting

Ordinary meetings

Extraordinary (additional) meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

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4.4 Responsibility for Functions

The council will maintain the delegation arrangements in Part 3 of this Constitution setting out the responsibilities for the council's functions which are not the responsibility of the Cabinet.

Appendix 2

Policy Committee

Membership

Policy Committee will comprise 11 members on a ratio of 5:3:2:1.

Areas of Business

Policy Committee activity will/can focus on the following areas:

- Development of new policy or reviewing existing policy having regard to the Policy Framework set out in Article 4 of the Constitution
- Executive business outside the Council's Policy Framework commissioned by Cabinet
- Policy overview/review work as referred by Council or Overview and Scrutiny, not covered by the above arrangements

Meeting and Reporting Arrangements

Policy Committees will be time-limited and recommendations will be reported to Council. Thereafter Council will require the Cabinet, where appropriate, to develop an action plan for implementation. Where the matter of policy is referred by Cabinet the outcomes of Policy Committee work will be reported to Cabinet.

Overview and Scrutiny

Consultation will take place with the Chair of Overview and Scrutiny in respect of the areas of proposed activity in order to avoid duplication across work programmes. Policy Committees and Overview and Scrutiny should not consider the same issue in the same Municipal Year/within 12 months.

APPENDIX 3

Health and Wellbeing Board

Membership

Membership of the Board includes Councillors, NHS Clinical Commissioning Group representatives, Healthwatch and Council Directors.

Voting members

- Three Members of Kirklees Council's cabinet, one of whom may be the Leader
- One Senior Councillor from the main opposition group
- One Councillor from a political group other than the administration and main opposition group
- Director for Children and Young People
- Director for Public Health
- Director for Commissioning, Public Health and Adult Social Care
- One representative of local Kirklees Healthwatch
- Three representatives of North Kirklees Clinical Commissioning Group
- Three representatives of Greater Huddersfield Clinical Commissioning Group

Non voting members

- Chief Executive Kirklees Council
- Member of NHS England (Statutory requirement: to participate in the board's preparation of JSNA / JHWS and if requested to participate in exercise of the commissioning functions of the Board in relation to the Kirklees HWB Area)

Invited observers

Chief Executive or nominated representative of significant health partners:

- Mid Yorkshire Hospitals Trust
- Calderdale and Huddersfield Foundation Trust
- South West Yorkshire Partnership Foundation Trust
- Current community health provider

Terms of Reference

The Health and Wellbeing Board is a statutory Committee of the Council. The Board brings together the NHS and the Council to provide leadership in ensuring a strategic approach to providing integrated health and the local government services.

Purpose and Functions of the Board

- To be responsible for the health and wellbeing of the people of Kirklees, using collective resources to reduce health inequalities and address variances in the quality of health and social care.
- To provide the structure for overseeing local planning and accountabilities for health and wellbeing related services and interventions
- To bring together key NHS, public health and social care leaders across the Kirklees area
- To develop the Joint Strategic Needs Assessment for Kirklees (JSNA) to meet the legal responsibilities of Kirklees Council and the Clinical Commissioning Groups.
- To develop and own the Joint Health and Wellbeing Strategy for Kirklees, based on the JSNA and other local intelligence to provide the overarching framework for joint commissioning plans, including consideration of the pooling of budgets
- To publish and maintain a statement of needs for pharmaceutical services across the Kirklees area.
- To promote an ethos of integration and partnership in the planning, commissioning and delivery of services to improve the wellbeing of the whole population of Kirklees.
- To consider how best to ensure more collaborative working to reduce duplication and improve productivity within health and social care services, with appropriate reinvestment within this economy.
- To provide leadership and oversight of key strategic programmes, such as the Better Care Fund, and associated pooled fund arrangements.
- Have the flexibility to go beyond its minimum statutory duties to promote joining-up of a much broader range of local services (i.e. further integration of health with more services around the wider determinants of health and wellbeing).

- To involve and engage service users, patients and the wider public in order to influence and inform the broader work of the Board.
- To ensure that the Council's statutory duties in relation to health protection arrangements and plans are delivered through the work of its sub committee, the Kirklees Health Protection Board.

Voting Rights

All statutory members of the Health and Wellbeing Board have voting rights.

In accordance with The Local Authority (Public Health, Health and Wellbeing boards and Health Scrutiny) Regulations 2013, if the Council's wishes to alter the voting rights, the board must first be consulted on any proposed amendments.

Substitute Members

Voting Board Members can send a substitute to represent them should they be unable to attend and if appropriate cast their vote.

Quorum

The quorum for the board will be attendance by 50% of the accountable bodies and 50% of the membership.