

PART 1

SUMMARY AND EXPLANATION

Summary and Explanation

1. The Council's Constitution

Kirklees Council has a Constitution which sets out how the Council operates and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

The Constitution is divided into 17 Articles which set out the basic rules governing the Council's business. More detailed procedures, responsibilities and Codes of Practice are provided in separate sections, which follow the Articles.

2. What's in the Constitution?

Article 1 of the Constitution commits the Council, working as a community leader in partnership with others, to providing high quality services that address inequalities and give opportunity for all, with governance arrangements that deliver efficient, open and accountable decision making.

Articles 2 – 17 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Role of the Mayor (Article 5)
- The Overview and Scrutiny Function (Article 6)
- The Executive (Cabinet) (Article 7)
- Regulatory and Other Committees (Article 8)
- The Standards Committee (Article 9)
- Joint Arrangements and Joint Committees (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)
- Health (Article 17)

The Schedule sets out which parts of the Constitution form the “executive arrangements” which are required by law.

3. How the Council Operates

The Council is composed of 69 Councillors with one third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree a **Code of Conduct** to ensure high standards in the way they undertake their duties. The Council's **Standards Committee** advises them on and monitors and reviews the Code of Conduct, recommends the adoption of protocols supplementary to the Code of Conduct, arranges training and establishes Sub-Committees to consider reports into alleged breaches of the Member Code of Conduct referred to it by the Monitoring Officer.

All Councillors meet together as the Council. **Meetings of the Council** are normally open to the public. Here Councillors decide the Council's overall policies and set the Budget each year. The Council appoints the Leader and Members of the Cabinet and it also appoints the various committees of the Council. At Council meetings, Members of the Council may:

- Put forward motions for debate on issues of concern;
- Question the Members of the Cabinet on their functions and the Council's services;
- Ask questions of the Chairs of other Council Committees and Council representatives on joint authorities such as the West Yorkshire Police Authority;
- Present petitions to the Council on behalf of local people;
- Debate and decide the Budget and major Council policies.

Members of the public are also entitled to ask questions at Council meetings; and to attend and speak as a deputation. Members of the public may also take part in debates which are specifically identified for that purpose.

4. How Decisions are Made

Some Council functions, such as decisions on planning applications or licensing matters, are the responsibility of the Council itself. The Council has set up committees to deal with most of these.

The Executive, which is known as the Cabinet, is the part of the Council which is responsible for most day to day decisions. It is made up of the Leader and between 2 and 9 other Council Members appointed by the Council. When major decisions are to be discussed or made, 28 days' notice must generally be given and also published in the Forward Plan on the Council's website. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. In practice all decision-making by the Cabinet is similarly open to the public.

The Cabinet has to make decisions which are in line with the Council's overall policies and Budget which have to be decided by the Council as a whole. If the Cabinet wishes to make a decision which is outside the Budget or policy framework, this must be referred to the Council as a whole to decide.

The Leader and Cabinet are allowed to delegate decision-making to Cabinet committees, to individual Cabinet Members or to officers. The Council or its committees can also delegate decision-making to sub-committees or to officers.

5. The Overview and Scrutiny Function

The Council appoints the Overview and Scrutiny Management Committee from among the non-executive Councillors to support the work of the Cabinet and the Council as a whole. The Overview and Scrutiny Management Committee co-ordinates and manages the work of any Scrutiny panels which may be set up. They look into matters of concern and make reports and recommendations which advise the Cabinet and the Council as a whole on its policies, Budget and service delivery. They also monitor the decisions of the Cabinet and can call in a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

6. The Council's Staff

The Council has people working for it (called officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some work in schools and may be responsible to the School's Governing Body. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and Members of the Council.

7. Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local citizens' advice bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example, as a parent or carer of a child at school or as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- Vote at local Elections if they are registered;
- Contact their local Councillor about any relevant matters of concern to them;
- Be treated equally and have equal opportunity with other citizens;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its committees, except where, for example, personal or confidential matters are being discussed;
- Petition to request a referendum on a mayoral form of Cabinet Participate in Council meetings as indicated in paragraph 3. above;
- Contribute to investigations by the Overview and Scrutiny Management Committee and Scrutiny Panels;

- Find out, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- Attend meetings of the Cabinet, particularly where key decisions are being discussed or decided, except where, for example, personal or confidential matters are being discussed;
- See reports and background papers and any record of decisions made by the Council and the Cabinet except where they contain personal or confidential matters;
- Complain to the Council about a problem with a Council service – a leaflet and form are available which explain how this can be done;
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints procedure;
- Complain in writing to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- At the time of the external audit of the Council's accounts, inspect those accounts and make their views known to the external auditor;
- Present deputations or ask questions at Council or Cabinet meetings.

A statement of the rights of citizens to inspect agendas and reports and attend the meetings (the Access to Information Procedure Rules) is set out in Part 4 of the Constitution and is available on request from Legal, Governance and Commissioning, 2nd Floor, High Street Buildings, Huddersfield, HD1 2ND or on the Council's website

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Governance and Democratic Services, Civic 3, Market Street, Huddersfield, HD1 2WG or telephone 01484 221000.

PART 2

ARTICLES OF THE CONSTITUTION

Contents

PART 2 1	
ARTICLES OF THE CONSTITUTION	1
ARTICLE 1 – THE CONSTITUTION	6
1.1 Powers of the Council	6
1.2 The Constitution	6
1.3 Purpose of the Constitution	6
1.4 Review of the Constitution	6
ARTICLE 2 - MEMBERS OF THE COUNCIL	7
2.1 Composition and Eligibility	7
2.2 Election and Terms of Councillors	7
2.3 Roles and functions of all Councillors	7
2.4 Conduct	9
2.5 Allowances	9
ARTICLE 3 - CITIZENS AND THE COUNCIL	10
3.1 Citizens' Rights	10
3.2 Citizens' Responsibilities	11
ARTICLE 4 - THE FULL COUNCIL	12
4.1 Meanings	12
4.2 Functions of the Council	12
4.3 Council Meetings	13
ARTICLE 5 - ROLE OF THE MAYOR	14
5.1 Role and Function	14
5.2 Chairing the Council meeting	14
5.3 First Citizen	14
5.4 Promotion of the Council	14
5.5 Ceremonial Role	14
5.6 Urgent Decisions	15
ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION	16
6.1 Overview and Scrutiny Management Committee	16
6.2 Standing Scrutiny Panels	17
6.3 Ad-hoc Scrutiny Panels and Joint Health Panels	18
6.4 Political Balance	19
6.5 General Role of the Scrutiny Function	19
ARTICLE 7 - THE EXECUTIVE	22
7.1 Title, Role and Transitional Provisions	22
7.2 Leader and Deputy Leader	22

7.3	Form and Composition of Cabinet	23
7.4	Other Cabinet Members	23
7.5	Terms of Office and Removal from Office	23
7.6	Removal from Office of the Leader	25
7.7	Proceedings of the Executive	25
7.8	Responsibility for Functions	25
7.9	Executive arrangements in the event of no leader being elected	26
	ARTICLE 8 – REGULATORY AND OTHER COMMITTEES	27
	ARTICLE 9 – THE STANDARDS COMMITTEE	28
9.1	Standards Committee	28
9.2	Membership	28
9.3	Role and Function	28
9.4	Sub-Committees	29
9.5	Responsibilities of the Monitoring Officer	29
	ARTICLE 10 – THIS PAGE IS BLANK	30
	ARTICLE 11 – JOINT ARRANGEMENTS	31
11.1	General Power of Competence	31
11.2	Joint Arrangements	31
11.3	Access to Information	32
11.4	Delegation to and from other local authorities	32
11.5	Contracting out	32
11.6	General	33
	ARTICLE 12 – OFFICERS	34
12.1	Management Structure	34
	c. Statutory officers	37
12.2	Functions of the head of paid service	38
12.3	Functions of the Monitoring Officer	38
12.4	Functions of the Chief Finance Officer	39
12.5	Duty to provide sufficient resources to the monitoring officer and chief finance officer	40
12.6	Conduct	40
12.7	Employment	40
	SCHEDULE OF PROPER OFFICER APPOINTMENTS	40
	LOCAL GOVERNMENT ACT 1972	40
	REPRESENTATION OF THE PEOPLE ACT 1983	44
	BUILDING ACT 1984	44
	LOCAL GOVERNMENT FINANCE ACT 1988	44
	LOCAL GOVERNMENT AND HOUSING ACT 1989	45

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976	45
HOUSING ACT 2004	45
HIGHWAYS ACT 1980	46
LOCAL GOVERNMENT ACT 2000	47
SECTIONS 9G, 9GA AND 105 – ACCESS TO INFORMATION ETC	47
LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION (ENGLAND) REGULATIONS 2012	47
LOCALISM ACT 2011	48
PUBLIC HEALTH ACT 1925	48
PUBLIC HEALTH ACT 1936	49
PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984	49
PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984	50
HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010	50
LOCAL GOVERNMENT ACT 2000	50
LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) (ENGLAND) REGULATIONS 2011	50
LOCAL GOVERNMENT ACT 2000	51
LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2012	51
TOWN AND COUNTRY PLANNING ACT 1990	51
PLANNING AND COMPULSORY PURCHASE ACT 2004	51
NEIGHBOURHOOD PLANNING (REFERENDUMS) REGULATIONS 2012	51
REPRESENTATION OF THE PEOPLE ACT 1983	51
LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006	51
TRANSPORT ACT 2000	52
BUS LANE CONTRAVENTIONS (PENALTY CHARGES, ADJUDICATION AND ENFORCEMENT) (ENGLAND) REGULATIONS 2005	52
FREEDOM OF INFORMATION ACT 2000	52
LOCAL GOVERNMENT AND HOUSING ACT 1989	52
LOCAL GOVERNMENT ACT 1992	52
LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001	52
REGULATION OF INVESTIGATORY POWERS ACT 2000	52
ANTI – SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2003	53
ARTICLE 13 – DECISION MAKING	54
13.1 Responsibility for decision making	54
13.2 Principles of decision making	54
13.3 Types of decision	54
13.4 Decision-making by the Full Council	55
13.5 Decision-making by the Executive	55
13.6 Decision-making by Officers	55
13.7 Decision-making by the Overview and Scrutiny Committees and Scrutiny Panels and Commissions	55
13.8 Decision-making by other committees and sub-committees established by the council	55
13.9 Decision-making by Council bodies acting as tribunals	56

13.10	Decision-making by Boards of council officers	56
13.11	Access to Information	56
	ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS	57
14.1	Financial management	57
14.2	Contracts	57
14.3	Court, Tribunal, Arbitration, Regulatory, or Other Similar Legal Proceedings	57
14.4	Authentication of documents for Legal Proceedings or procedures	57
14.5	Common Seal of the council	57
	ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION	59
15.1	Duty to monitor and review the Constitution	59
15.2	Changes to the constitution	59
	ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION	60
16.1	Suspension of the Constitution	60
16.2	Interpretation	60
16.3	Publication	60
	ARTICLE 17 – HEALTH	61
17.1	General Duties	61
17.2	Health and Wellbeing Board	61
17.3	Director of Public Health	61
17.4	Health Scrutiny Functions	61

ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

The council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

This constitution, with all its appendices, is the constitution of Kirklees Council.

1.3 Purpose of the Constitution

The purpose of the constitution is to:

- (i) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations, working together to achieve common objectives;
- (ii) provide a means of improving the delivery of services which meet the needs of local people;
- (iii) support the active involvement of citizens in the process of local authority decision making;
- (iv) help councillors represent their constituents more effectively;
- (v) promote equality, recognise diversity and make Kirklees a borough of opportunity for all;
- (vi) enable decisions to be taken efficiently and effectively;
- (vii) create a powerful and effective means of holding decision makers to public account;
- (viii) ensure that no-one will review or scrutinise a decision in which they were directly involved;
- (ix) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (x) ensure that the people who work for the council are treated fairly and that opportunities are provided to enhance their effectiveness;
- (xi) promote effective communication in all the council's activities.

1.4 Review of the Constitution

The council will monitor and evaluate the operation of the constitution as set out in Article 15.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition and Eligibility

(a) Composition

The council comprises 69 members, otherwise called councillors. Three councillors are elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State. The Local Government Boundary Commission may from time to time carry out a review of these arrangements.

(b) Eligibility

Only registered voters of the district or those who during the year prior to nomination have been living or working or owning and occupying land or buildings there are eligible to hold the office of councillor. No-one who is under 18 years of age is eligible.

2.2 Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all councillors will be held on the first Thursday in May every four years beginning in 2003, except that in 2005 and every fourth year thereafter there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later. These arrangements may change as the result of any review by the Local Government Boundary Commission.

2.3 Roles and functions of all Councillors

(a) Key Roles

The key roles of councillors are set out below:-

Leadership at Ward Level

- To lead and champion the interests of the local community and effectively represent the interests of the ward and its constituents.
- To meet and liaise regularly with local interested parties and involve and consult them on key council decisions.
- To support and promote citizenship locally and empower the community to participate in the governance of the area.
- To undertake case work for constituents and act as an advocate in resolving concerns or grievances.

- To communicate with local people and answer enquiries:
 - about decisions that affect them
 - about opportunities in the community
 - regarding the rights of constituents within Kirklees
 - as to why decisions are taken

Localism

- To participate constructively in the good governance of the area.
- To use influence as an elected representative to develop links between groups and communities in the Ward and local area.
- To forge local partnerships to ensure resources are used to meet the needs of the area.

Representation

- To inform the debate at council meetings and contribute to the effectiveness of the council meeting as the focus of visible leadership.
- To contribute to the formation and scrutiny of the authority's policies, budget, strategies and service delivery.
- To contribute to the scrutiny of decision making and review of the policies and services of the council.
- To represent the authority to the community and the community to the council.
- To develop and maintain a knowledge of the council and develop working relationships with its officers.
- To participate in the activities of any political group of which the councillor is a member.
- To represent the council on outside bodies and to participate effectively in the appointed role and, where appropriate, to represent those bodies within Kirklees.

Other

- To fulfil the legal (in accordance with the council's Code of Conduct for Councillors) and local requirements placed on an elected member.
- To prepare an annual report to be published every June.
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

(b) Rights and Duties

- Councillors will have such rights of access to such documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law.
- Councillors will not make public information which is confidential or exempt without the consent of the council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this constitution.

2.4 Conduct

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member / Officer Relations set out in Part 5 of this constitution and any other protocol on conduct which may be approved by the council on the recommendation of the Standards Committee.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this constitution.

ARTICLE 3 - CITIZENS AND THE COUNCIL

3.1 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this constitution:

a. Voting and Petitions

Citizens on the electoral roll for the area have the right to vote and (subject to the statutory requirement of a 5 year period between referendums) to sign a petition to request a referendum for an elected mayor form of constitution.

b. Information

Citizens have the right to:

- Attend the meetings of the council and its committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- Attend meetings of the Cabinet when key decisions are being considered;
- Attend other meetings of the Cabinet which have been agreed to be open to the public;
- Find out from the forward plan what key decisions will be taken by the Cabinet and when;
- See reports and background papers and any records of decisions made by the council and the Cabinet;
- At the time of the external audit of the Council's accounts, inspect the council's accounts and make their views known to the external auditor.

c. Participation

Citizens have the right to:

- Ask questions or take part in a deputation at council meetings;
- Submit petitions in accordance with the provisions of the Council's Petition Scheme and, in particular, to trigger a Full Council debate where a petition contains more than 3000 signatures;

- Take part in debates at council meetings which are specifically identified for that purpose;
- Ask questions at committee meetings or public meetings of the Cabinet or contribute to such meetings at the discretion of the Chair;
- Contribute to investigations by the Overview and Scrutiny Management Committee or panels.

Citizens are encouraged, before participating in any such meeting, to indicate what personal interest, if any, they have in the matter under discussion.

d. Complaints

Citizens have the right to complain to:

- The council itself under its complaints scheme;
- The Local Government and Social Care Ombudsman after using the council's own complaints scheme;
- The Council, via the Monitoring Officer, about a breach of the Members' Code of Conduct.

Complaints may also be raised with individual councillors.

e. Treatment

Citizens have the right to:

- Be treated equally with understanding and respect;
- Have equal opportunity with other citizens in accordance with the council's policies;
- Receive good quality services provided to best value principles.

3.2 Citizens' Responsibilities

Citizens are required to treat council members, employees, contractors and volunteers providing services with respect and must not be violent, abusive or threatening to them. In particular, if they are racially abused, the council has the responsibility to take appropriate action to stop this from happening again. No-one should wilfully harm things owned by the council, councillors or employees etc. The council asks that people remain polite and patient and use the complaints procedure if upset or aggrieved.

ARTICLE 4 - THE FULL COUNCIL

4.1 Meanings

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

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

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 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 Framework, the 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 Framework or contrary to or not wholly in accordance with the 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 which the 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.
- o. Approve the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer

4.3 Council Meetings

There are three types of Council meeting:

- The 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.

ARTICLE 5 - ROLE OF THE MAYOR

5.1 Role and Function

The Mayor and Deputy Mayor will be elected by the council annually at its annual meeting as set out in the Council Procedure Rules in Part 4 of this Constitution. The Mayor and in his/her absence (for whatever reason), the Deputy Mayor will have the roles and functions set out in the following paragraphs.

5.2 Chairing the Council meeting

The Mayor will have the following responsibilities:-

- (a) To uphold and promote the purposes of the constitution and to interpret the constitution, where necessary;
- (b) To preside over meetings of the full council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) To ensure that the council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account;
- (d) To promote public involvement in the council's activities.

5.3 First Citizen

The Mayor shall take precedence and shall be the first citizen of the Metropolitan Borough of Kirklees.

5.4 Promotion of the Council

The Mayor will, together with the Leader and the Cabinet and other members of the council, promote Kirklees as a whole and will act as a focal point for the community.

The Mayor will attend such civic and ceremonial functions as the council and he/she determines appropriate.

5.5 Ceremonial Role

The role of the Mayor is a symbol of authority, a symbol of an open society and an expression of social cohesion.

5.6 Urgent Decisions

The Mayor will act in accordance with the procedure for taking urgent decisions, in accordance with the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.

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 (OSMC) 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 OSMC will also co-ordinate, oversee and manage the performance of those functions carried out by overview and scrutiny panels.

The OSMC will have responsibility for the statutory requirements in relation to scrutiny of crime and disorder matters and Flood Risk Management Strategy.

The OSMC will also have responsibility for corporate services and financial issues.

The OSMC 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 OSMC and each Standing Panel each year.

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 the Chair of Overview and Scrutiny and the Lead Member of each of the Scrutiny standing panels. Any councillor, except a member of Cabinet, may be a member of the Management Committee. The council shall appoint the Lead Members (Chairs) of the standing Overview and Scrutiny Panels listed below.

Panels and Sub-Committees

6.1.3 The Overview and Scrutiny Management Committee will appoint a number of permanent and short term panels to carry out the overview and scrutiny function. All scrutiny panels will constitute formal subcommittees of the Overview and Scrutiny Management Committee. The Management Committee 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.

6.2 Standing Scrutiny Panels

6.2.1 The Overview and Scrutiny Management Committee will appoint the standing scrutiny panels set out in the left hand column of the following table to discharge an overview and scrutiny function in relation to the matters set out in the right hand column of the same table.

The following standing committees will be established but it is recognised that there is a need to ensure flexibility across areas of responsibility and they may need to adapt a more mobile and agile approach as required by the OSMC, for example panels may jointly examine and scrutinise matters where appropriate.

Panel	Scope
Environment and Climate Change	All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the Environment, Climate Change, Highways, Streetscene and Culture and activities relating to partnerships and partner bodies within the portfolio
Health and Adult Social Care	As above in relation to service provision for adults including Public Health and activities relating to Health partner bodies. The Panel’s role includes the specific responsibilities of the Council for scrutiny of health matters (see also 6.2.2 below)
Children’s	As above in relation to service provision for children and all matters considered by partnerships and partner bodies within the portfolio
Growth and Regeneration Panel	All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) responsible for) relating to skills, growth, regeneration and housing

Health and Adult Social Care Scrutiny Panel

6.2.2 The Health and Adult Social Care Scrutiny Panel will discharge the specific statutory responsibilities of the council for scrutiny of health matters which are:

- a) To review and scrutinise matters relating to the planning, provision and operation of the health service in the local authority area
- b) To request information to be provided by the relevant NHS body or health service provider, in relations to (i) above
- c) To make reports and recommendations to the relevant NHS body or health service provider
- d) In certain circumstances to refer NHS substantial configuration proposals to the Secretary of State for Health

Membership

6.2.2 The membership of any 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

There is a statutory requirement that when an issue is discussed relating to education matters that 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 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).

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 task-orientated, time-limited ('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

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) Except where the reports recommend referral to Council, 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 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 executive 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.

ARTICLE 7 - THE EXECUTIVE

7.1 Title, Role and Transitional Provisions

- 7.1.1 The leader of the Council and Cabinet who are in office at the time of the local elections in May 2010 shall remain in office until the annual meeting of the authority following those elections and the scheme of responsibility for the authority's executive functions set out in Part 3.3 of this constitution as at that time shall continue in force unless and until it is amended by the Leader appointed in accordance with article 7.2.2 below;
- 7.1.2 Subject to 7.1.1 above, the authority will operate executive arrangements under section 11(2A) of the Local Government Act 2000 (known as the leader and cabinet executive model) with effect from three days after the date of the ordinary elections of councillors to the authority to be held in May 2010;
- 7.1.3 Under the leader and cabinet executive model the Executive consists of a councillor elected as Leader by the authority and a minimum of two and a maximum of nine councillors appointed to the Cabinet by the Leader. The Executive will carry out all of the authority's functions which are not the responsibility of any other part of the authority, whether by law or under this constitution.

7.2 Leader and Deputy Leader

- 7.2.1 The Leader will be a councillor elected to the position of Leader by the authority.
- 7.2.2 The first Leader to be elected under the arrangements referred to at article 7.1.2 shall be elected at the annual meeting of the authority following the ordinary elections of councillors to the authority to be held in May 2010. If the authority fails to elect a Leader at that meeting the Leader shall be elected at a subsequent meeting of the authority.
- 7.2.3 Subsequent Leaders shall be elected by the authority whenever there is a vacancy in the office of Leader.
- 7.2.4 The Leader shall designate one of the other Cabinet members to be the Deputy Leader. The Leader shall give written notice to the authority's Chief Executive and Service Director – Legal, Governance and Commissioning of the appointment of the Deputy Leader and the appointment shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of the notice. The Leader, if they think fit, may remove the Deputy Leader from office and where a vacancy in the office of Deputy Leader occurs the Leader must appoint another person in their place. The Leader shall give written notice to the authority's Chief Executive and Service Director – Legal, Governance and Commissioning of any such removal of the Deputy Leader from office or appointment of a new Deputy Leader and the removal or appointment shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of such notice.
- 7.2.5 If for any reason the Leader is unable to act the Deputy Leader must act in the Leader's place.

7.2.6 If for any reason the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a member of the Cabinet to act in the Leader's place.

7.3 Form and Composition of Cabinet

7.3.1 The Cabinet will consist of the Leader, together with at least two, but no more than nine councillors appointed to the Cabinet by the Leader. One of the Cabinet members must be the Deputy Leader.

7.3.2 The Leader may appoint each Cabinet member to be responsible for a specific portfolio of functions. The Leader may make adjustments to the detail of those portfolios or add additional responsibilities as they consider appropriate in the light of operational need. Any such changes shall be reported to the next meeting of the Cabinet.

7.3.3 The Leader shall appoint one Cabinet member to be "lead member for children's services" for the purposes of section 19(1) of the Children Act 2004.

7.3.4 The Leader shall, within five working days of being elected as Leader, give written notice to the local authority's Chief Executive and Service Director – Legal, Governance and Commissioning of the details of which councillors have been appointed to Cabinet, of any portfolios of functions which have been allocated to individual Cabinet members and of which Cabinet member has been appointed as lead member for Children's Services. The Leader shall also notify the Chief Executive and Service Director – Legal, Governance and Commissioning if and when he/she makes any changes to these arrangements. Such arrangements shall take effect upon the day on which the Chief Executive gives written acknowledgment of receipt of such notifications.

7.4 Other Cabinet Members

7.4.1 Only councillors may be appointed to the Cabinet by the Leader. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Mayor nor Deputy Mayor may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of the Overview and Scrutiny Management Committee, or its panels.

7.5 Terms of Office and Removal from Office

7.5.1 The Leader's term of office shall commence upon the day of the Leader's election pursuant to article 7.2.1 or 7.2.2 and, unless article 7.5.2 applies, will expire on the day when the authority holds its first annual meeting after the Leader's normal day of retirement as a councillor. Accordingly the maximum term of office for the Leader is 4 years.

7.5.2 The Leader's term of office will end before the time specified in article 7.5.1 in the following circumstances:

7.5.2.1 The Leader resigns from office. Such resignation shall be effective when the authority's Chief Executive receives written notice of the resignation from the Leader.

- 7.5.2.2 The Leader is removed from office by resolution of the authority under article 7.6.1.
- 7.5.2.3 The Leader resigns as a councillor.
- 7.5.2.4 The Leader otherwise ceases to be a councillor, except in the circumstances provided for in article 7.5.1.
- 7.5.3 During any period during which the Leader is suspended by the authority's standards committee or by the First-tier Tribunal (Local Government Standards in England) from being a member of the authority the Deputy Leader shall act in the Leader's place and the Leader shall not be a member of the Cabinet during the term of any such suspension.
- 7.5.4 The Leader may not be removed from office other than in accordance with this article.
- 7.5.5 The Deputy Leader is to hold office from the day when they are appointed by the Leader until the end of the term of office of the Leader, unless:
- 7.5.5.1 The Deputy Leader is removed from office by the Leader in accordance with article 7.2.4. Such removal from office shall be effective when the authority's Chief Executive receives written notice of the removal from the Leader;
- 7.5.5.2 The Deputy Leader resigns as Deputy Leader;
- 7.5.5.3 The Deputy Leader ceases to be a member of the authority;
- 7.5.5.4 The Deputy Leader is acting as Leader pursuant to article 7.6.3 during a vacancy in the office of Leader, in which case the Deputy Leader shall continue to hold office until the election of a new Leader; or
- 7.5.5.5 The Leader resigns from or dies in office in which case the Deputy Leader shall act as Leader and continue to hold office until the election of a new Leader.
- And for the avoidance of doubt in the circumstances described in Articles 7.5.5.4 or 7.5.5.5 the Deputy Leader whilst acting as Leader shall be entitled to appoint a Cabinet in accordance with Article 7.3.
- 7.5.6 The individual Cabinet members are to hold office from the day when they are appointed by the Leader until the end of the term of office of the Leader, subject to article 7.5.6, unless:
- 7.5.6.1 They are removed from office by the Leader, or the Deputy Leader acting in the Leader's absence. Any such removal of a Cabinet member from office shall take effect upon the authority's Chief Executive receiving written notice of the removal from office, such notice to be given by the Leader or Deputy Leader as the case may be;
- 7.5.6.2 They resign as members of the Cabinet; or

7.5.6.3 They cease to be members of the authority.

7.6 Removal from Office of the Leader

- 7.6.1 The Leader may be removed from office by resolution of the authority.
- 7.6.2 No such resolution may be considered by the authority unless a notice of motion has been submitted in writing and delivered to the Service Director – Legal, Governance and Commissioning by 10.00 am on the tenth day before the date of the council meeting at which the motion is to be considered. The notice of motion must be signed by not less than one third of the members of the authority.
- 7.6.3 Where the Leader is removed from office in accordance with article 7.6.1 the authority shall elect a new Leader at the meeting which the Leader is removed from office or at a subsequent meeting. During any period during which the office of Leader is vacant the Deputy Leader will act as Leader.

7.7 Proceedings of the Executive

- 7.7.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this constitution. The Access to Information Procedure Rules also contain requirements which apply to the Executive.

7.8 Responsibility for Functions

- 7.8.1 The Leader will ensure that a list is maintained in Part 3 of this Constitution setting out which executive functions the Leader has allocated to himself / herself and which executive functions they have delegated to the Cabinet, specified individual members of the Cabinet, specified committees of the Cabinet or specified officers of the authority.
- 7.8.2 The Leader shall provide a copy of that list to the authority's Chief Executive and Service Director – Legal, Governance and Commissioning within five working days of being appointed as Leader and shall notify the Chief Executive and Service Director – Legal, Governance and Commissioning Support in writing of any amendments to that list. Following the appointment of a new Leader, all executive functions will vest in the Leader until the day upon which the Chief Executive gives written acknowledgment of receipt of such a list and any amendments to the list will not take effect until the day upon which the Chief Executive gives written acknowledgment of receipt of such notice of amendment.
- 7.8.3 Unless the Leader otherwise directs:
- 7.8.3.1 The Cabinet may arrange for the discharge of any of the executive functions delegated to it by the Leader to be exercised by a committee of the Cabinet or by an officer of the authority.

7.8.3.2 Any member of the Cabinet who has been delegated executive functions may arrange for any of those functions to be exercised by an officer.

7.8.3.3 Any committee of the Cabinet which has been delegated functions may arrange for any of its executive functions to be carried out by an officer

7.8.4 Article 7.8.2 shall not prevent the Leader, the Cabinet, a member of the Cabinet or a committee of the Cabinet from exercising functions which they have previously delegated.

7.9 Executive arrangements in the event of no leader being elected

7.9.1 If at any time there is no leader and no Deputy Leader in office, any act or function that could otherwise be performed by the Leader may be performed by the Chief Executive [who will act in consultation with the leaders of all political parties].

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

- 8.1 The council will appoint the committees referred to in Section 2 of Part 3 of this constitution to discharge the council functions described.
- 8.2 The council may from time to time appoint such other committees as it thinks fit to carry out appropriate functions which are reserved to the council (and not the Cabinet).
- 8.3 A member of the Cabinet may serve on a regulatory or other committee if otherwise eligible to do so as a councillor.

ARTICLE 9 – THE STANDARDS COMMITTEE

9.1 Standards Committee

Although it is not a requirement of the Localism Act 2011, Kirklees Council has established a Standards Committee.

9.2 Membership

The Standards Committee consists of seven councillors. The Independent Person (and deputy) appointed by Kirklees Council will be invited to attend all meetings of the Standards Committee as observers. The Chairperson shall have discretion to allow the Independent Person (and deputy) to address members of the Committee on any agenda items.

9.3 Role and Function

The Standards Committee has the following roles and functions:

- To promote and maintain high standards of conduct by members, including co-opted members;
- Establish sub-committees to consider reports prepared by the Monitoring Officer, or by an investigating officer acting on his/her behalf, into allegations that a member or co-opted member of the Council has failed or may have failed to comply with the Council's Code of Conduct;
- To monitor and review, as appropriate, the Members' Code of Conduct and to advise the Council on any changes;
- To provide advice and guidance to members and co-opted members on issues relating to the members Code of Conduct and ethical standards and to arrange the provision of training on such matters;
- The exercise of 1 to 4 above in relation to the parish and town councils wholly or mainly within Kirklees and the members and co-optees of those councils;
- To recommend to the council, if appropriate, the adoption of protocols relating to members' conduct supplementary to the Members' Code of Conduct and to determine procedures for dealing with allegations of breaches of such protocols;
- To consider and take action on any reports referred to it by the Corporate Governance and Audit Committee relating to the monitoring of the performance of councillors;

9.4 Sub-Committees

The Council has established one sub-committee as follows:

Standards Sub-Committee

Membership consists of three councillors selected from the Standards Committee by the Service Director – Legal, Governance and Commissioning. No group is entitled to more than one place on the sub-committee and the appointment of the Chairperson shall be determined by the members of the sub-committee on each occasion that they meet.

Role and functions

- To consider reports prepared by the Monitoring Officer, or by an investigating officer acting on his/her behalf, into allegations that a member or co-opted member of the Council has failed or may have failed to comply with the Council's Code of Conduct and to decide on what, if any, action should be taken against the subject member.
- To consider reports prepared by the Monitoring Officer, or by an investigating officer acting on his/her behalf, into allegations that a member or co-opted member of any parish and town councils wholly or mainly within Kirklees has failed or may have failed to comply with their council's Code of Conduct and to recommend to the relevant parish or town council what, if any, action should be taken against the subject member.

9.5 Responsibilities of the Monitoring Officer

The Council has delegated authority to the Monitoring Officer to:

- Administer the Standards regime for members and co-optees of the Council and to determine and resolve allegations of non-compliance with the Members' Code of Conduct in accordance with the approved arrangements for dealing with misconduct complaints set out in Part 5 of this Constitution.
- Administer the Standards regime for members and co-optees of the parish/town councils within the Kirklees administrative area, to seek to resolve complaints against those members and co-optees and to make appropriate recommendations to those parish/town councils.
- Grant dispensations to members and co-optees of the Council for the purposes of section 33 of the Localism Act 2011.

ARTICLE 10 – THIS PAGE IS BLANK

ARTICLE 11 – JOINT ARRANGEMENTS

11.1 General Power of Competence

The council or the Cabinet, may subject to restrictions and limitations, exercise its general power of competence¹ to make joint arrangements

In particular, the Cabinet may enter into a **Local Strategic Partnership** with other persons and bodies within Kirklees for the purposes of bringing together the public, private, business, community and voluntary sectors so that different initiatives and services support each other and work together. As at May 2008 this consists of the **Kirklees Partnership Board** and four **Local Public Service Boards** covering Safer Stronger Communities; Children and Young People; Adults and Healthier Communities; and Regeneration and Sustainable Development. Subject to the oversight of and decision-making by the Cabinet they also work together on and monitor progress on the Local Area Agreement for Kirklees.

Cabinet may vary these arrangements at any time in agreement with the partners concerned.

11.2 Joint Arrangements²

- a. The council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions, or to advise the council on such functions. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- b. The council may also establish such arrangements in respect of a mixture of executive and non-executive functions, but will require the agreement of the Cabinet before doing so. Where the council appoints more than one member to such a joint committee, at least one of those members must be a member of the Cabinet.
- c. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions³. Such arrangements may involve the appointment of joint committees with those other local authorities.
- d. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- e. The Cabinet may appoint members to a joint committee from outside the Cabinet where:-
 - (i) The joint committee relates to five or more local authorities;

¹ In accordance with Section 1 Localism Act 2011

² The Police Reform and Social Responsibility Act 2011 also requires the local authorities for the West Yorkshire Police Area to establish a Police and Crime Panel for the police area. City of Wakefield Metropolitan District Council is the support services authority for the Panel

³ Arrangements are established in accordance with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012

- (ii) The function concerned is required by statute to be exercised by a joint committee; or
- (iii) The joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

The political balance requirements do not apply to such appointments. The Cabinet may not appoint to joint committees anyone who is not a member of the council.

- f) Details of any joint such arrangements, including any delegations to joint committees will be found in the council's scheme of delegations in Part 3 of this Constitution.

11.3 Access to Information

- a. The Access to Information Rules in Part 4 of this Constitution apply.
- b. If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executives by or under the Local Government Act 2000.
- c. If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.4 Delegation to and from other local authorities

- a. The council may delegate non-executive functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- b. The Cabinet may delegate executive functions to another local authority or the executive of another local authority.
- c. The decision whether or not to accept such a delegation from another local authority to this local authority (but not to the Cabinet) shall be reserved to the council meeting unless otherwise specified in Part 3 of this Constitution.

11.5 Contracting out

The council, for functions which are not executive functions, and the Cabinet, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the council's agent under usual contracting principles, provided there is no delegation of the council's discretionary decision making.

11.6 General

The council or the Cabinet may enter into any other joint arrangements for any purpose for which they may lawfully do so.

ARTICLE 12 – OFFICERS

12.1 Management Structure

- a. **General.** The council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Appointments will be made in accordance with the Officer Employment Procedure Rules in Part 4 of this Constitution.
- b. **Chief Officers.** The council will engage persons for the following posts, who will be designated chief officers. They will have the responsibilities specified, but will also have the management responsibilities set out in the management structures contained in Part 7 of this Constitution. The details of the responsibilities of individual officers may be amended at any time by the Chief Executive.

Post: Chief Executive

Functions and areas of responsibility

- Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all officers)
- Provision of professional advice to all parties in the decision making process
- Together with the monitoring officer, responsibility for a system of record keeping for all the council's decisions
- Developing and pursuing shared priorities with local, regional and national parties
- Member/Officer relations
- The Chief Executive is also the Returning Officer for local elections and the council's Electoral Registration Officer
- Kirklees Local Strategic Partnership (together with the relevant Service Directors engaged in partnership working)

Post: Executive Director for Children and Families

Functions and areas of responsibility

- The post holder is the council's statutory Director of Children's Services carrying all the responsibilities which that role entails.
- Providing strategic and collaborative leadership for Children services
- Ensuring that local policy and strategy effectively reflects both statutory and regulatory requirements and the needs of the Kirklees Community as expressed in commissioning intentions

- Converting policy direction and statutory plans into strategy and action
- Working closely with portfolio holders, to determine and commission the delivery of core values for the council as a whole and in particular children and families
- Jointly championing outcomes for young people inside and outside Kirklees Council
- Effective corporate management and transformation of the council
- Establishing clear budgetary and performance accountability for commissioning intentions
- Safeguarding of children including effectiveness of Safeguarding Boards
- Management and commissioning of services for children
- Partnerships for children
- Youth Offending Team
- Schools, children's centres and lifelong learning
- Implementation and management of strategies for children

Post: Executive Director for the Economy and Infrastructure

Functions and areas of responsibility

- Providing strategic and collaborative leadership in services with particular regard to the Economy, Place and Infrastructure
- Providing expertise and influence to regional and sub-regional bodies as they develop the Leeds city region and LEP
- Converting policy direction and statutory plans into strategy and action
- Working closely with portfolio holders, to determine and commission the delivery of core values for the council as a whole and with particular regard to Economy, Place and Infrastructure
- Effective corporate management and transformation of the council
- Establishing clear budgetary and performance accountability for commissioning intentions
- Asset Management and Corporate Landlord
- Facilities Management
- Schools Catering and Cleaning

- Housing
- Health and Safety
- Highways and Streetscene
- Bereavement Services
- Building Services
- Public Protection
- Capital project review group
- Coordinated sustainable investment strategies
- Regeneration and skills strategies
- Local development framework and land use planning
- Town centre management
- Rural Strategies
- Service delivery partnerships
- Transport Strategy
- Economic Strategy

Post: Executive Director – Adults and Health

Functions and areas of responsibility

- The post holder is the Council's statutory Director of Social Services for Adults and all the responsibilities which that role entails
- The post holder is not the Council's statutory officer for the Director of Public Health and all the duties that role entails
- Providing strategic and collaborative leadership for Adults and Health Services
- Strategic partnerships with key stakeholders
- Converting national policy on health and care into clear direction and statutory plans into strategy and action
- Working closely with portfolio holders, to determine and commission the delivery of core values for the council as a whole and in particular regard to Adults
- Jointly championing outcomes for vulnerable adults

- Effective corporate management and transformation of the council
- Establishing clear budgetary and performance accountability for commissioning intentions
- Safeguarding including the effectiveness of safeguarding boards
- Management and commissioning of services for children and adults
- Partnerships for adults
- Health Partnerships and Effectiveness of the Health and Wellbeing Board
- Implementation and management of strategies for adults
- The local authority's duties to take steps to improve public health

c. **Statutory officers**

The council will designate the following statutory officers as shown below:

Legislation	Statutory Officer	Allocated to
s.4 Local Government & Housing Act 1989	Head of Paid Service	Chief Executive
s.6 Local Authority Social Services Act 1970	Director of Social Services (Adults)	Executive Director – Adults and Health
S.18 Children's Act	Director of Children's Services	Executive Director – Children and Families
s.151 Local Government Act 1972	Chief Finance Officer	Service Director – Finance, Information and Transactional Services
s.5 Local Government & Housing Act 1989	Monitoring Officer	Service Director –Legal, Governance and Commissioning
Part1A s.9FB Local Government Act 2000	Scrutiny Officer	Scrutiny & Governance Manager
Section 73A National Health Service Act 2006	Director of Public Health	Service Director – Policy, Intelligence and Public Health

- d. **Proper Officers.** The Council has appointed the Proper Officers listed in the Schedule to this Article.
- e. **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.2 Functions of the head of paid service

- a. **Discharge of functions by the council.** The head of paid service will report to full Council on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b. **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.
- c. **Granting political exemptions.** The head of paid service is responsible for assessing applications for and, where appropriate, approving exemptions from political restrictions made by Kirklees Council officers in respect of their own posts, and related matters.

12.3 Functions of the Monitoring Officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the head of the paid service and chief finance officer, the monitoring officer will report to the full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- b. **Supporting the Standards Committee.** The monitoring officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- c. **Receiving reports.** The monitoring officer will receive and act on decisions and reports in respect of complaints regarding a breach of the member code of conduct.
- d. **Assessing complaints and conducting investigations.** The monitoring officer will initially assess all standards complaints and will initiate investigations into those complaints as appropriate (in accordance with the Council's approved arrangements).
- e. **Proper officer for access to information.** The monitoring officer will ensure that decisions (whether relating to Council or executive functions), together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f. **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer, with other officers, as appropriate, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

- g. **Providing advice.** The monitoring officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors.
- h. **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- i. **Access to meetings and papers.** For these purposes the Monitoring Officer is entitled to have access to all meetings at which Council business is carried out and to all papers relating to such business.
- j. **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.
- k. **Granting dispensations.** The monitoring officer is responsible for assessing requests for and, where appropriate, granting dispensations to elected members and co-optees of the Council for the purposes of section 33 of the Localism Act 2011.

12.4 Functions of the Chief Finance Officer

- a. **Ensuring lawfulness of expenditure.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council, or to the Cabinet in relation to an executive function, and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.
- b. **Administration of financial affairs.** The chief finance officer will have responsibility for the administration of the financial affairs of the council.
- c. **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- d. **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors and will support and advise councillors and officers in their respective roles.
- e. **Give financial information.** The chief finance officer will provide financial information, as appropriate, or as required by law to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the monitoring officer and chief finance officer

The council will provide the monitoring officer and chief finance officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer / Member Relations set out in Part 5 of this Constitution.

12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

SCHEDULE OF PROPER OFFICER APPOINTMENTS

Under the terms of the Local Government Act 1972 (or other statute) a "Proper Officer" has been appointed in relation to certain statutory provisions. Where a reserve is specified they shall act in the absence of the specified Proper Officer.

LOCAL GOVERNMENT ACT 1972

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 83	To witness and receive declarations of acceptance of office by the: Mayor Deputy Mayor Councillors	Chief Executive (Deputy Chief Executive) Service Director – Legal, Governance and Commissioning Service Director – Legal, Governance and Commissioning
Section 84	To accept written notice of resignations from persons holding office as Mayor, Deputy Mayor or Councillor	Chief Executive (Deputy – Service Director – Legal, Governance and Commissioning)
Section 88(2)	Convening meeting of the Council to fill casual vacancy in office of Mayor	Service Director – Legal, Governance and Commissioning

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 89 (1)(b)	To accept written notice from two local government electors requiring election to fill casual vacancy on Council	Chief Executive
Section 100B(2)	Exclusion from public inspection of reports (or parts of reports) likely to be taken in absence of public	Service Director – Legal, Governance and Commissioning
Section 100B(7)(c)	Making available to the Press other documents already supplied to Members	Service Director – Legal, Governance and Commissioning
Section 100C(2)	Making of written summary in lieu of confidential minutes	Service Director – Legal, Governance and Commissioning
Section 100D(1)(a)	Compilation of list of background papers to a report	Executive Director responsible for the Service from which the report originated (in the case of a joint report the first-named Director; in the case of a report issued on behalf of all Directors - the Chief Executive)
Section 100D(5)	Identification of the background papers on which a report is based which have been relied on in preparing the report	Executive Director responsible for the Service from which the report originated (in the case of a joint report the first-named Director; in the case of a report issued on behalf of all Directors - the Chief Executive)
Section 100F(2)	Identification of documents not open to inspection by Members under Section 100F(1)	Service Director – Legal, Governance and Commissioning
Section 115(2)	Person to whom all officers (and former officers) shall pay monies received by them and due to the local authority	Service Director – Finance, Information and Transactional Services
Section 146(1)(a)	Statutory declarations in relation to securities on change of name of authority	Service Director – Finance, Information and Transactional Services (Deputy)
Section 151	Officer designated as being responsible for the	Service Director – Finance, Information and

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	administration of the financial affairs of the Council	Transactional Services (Deputy)
Section 191	Receipt of notices from Ordnance Survey in relation to ascertaining or locating local authority boundaries	Geographic Research & Information Team Manager
Section 225(1)	To receive and give receipt for any document required to be formally deposited	Service Director – Legal, Governance and Commissioning
Section 229(5)	Certification of photographic copies of documents for use in legal proceedings	Service Director – Legal, Governance and Commissioning
Section 234(1) & (2)	<p>The signing of formal notices, orders or other documents made or issued by the Council other than those under seal and other than those specifically delegated to another officer:</p> <p>Any document relating to electoral registration or any Parliamentary or Local Election</p> <p>All documents or categories of document for which provision is not made in relation to any other officer</p> <p>Any document authorising the payment or receipt of any sum of money</p> <p>The granting or refusal of planning permission, and other documents or notices relating to building control or planning (other than enforcement and stop notices)</p> <p>Any document relating to housing including notices pursuant to relevant statutory provisions</p> <p>Any document relating to environmental or public health</p>	<p>Chief Executive</p> <p>Service Director – Legal, Governance and Commissioning Service Director – Finance, Information and Transactional Service</p> <p>Executive Director - Place (Deputy – Executive Director – Place)</p> <p>Executive Director – Place (Deputy – Head of Housing Services)</p> <p>Head of Public Protection</p>

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	<p>including notices pursuant to relevant statutory provisions</p> <p>Any document relating to a matter which is, or is likely to be, legally contentious or any statutory notice (including enforcement or stop notices) where specific provision is not made elsewhere in the delegation scheme</p> <p>Any document of a category not specifically referred to above</p>	<p>Service Director – Legal, Governance and Commissioning</p> <p>The Executive Director responsible for the Service in question, or in default, the Service Director – Legal, Governance and Commissioning</p>
Section 236(9)	Duty to send copies of all byelaws made by the Council to parish and community councils to which they apply	Service Director – Legal, Governance and Commissioning
Section 238	Certifying printed copies of byelaws	Service Director – Legal, Governance and Commissioning
Section 248 – Local Government Act 1972	Duty to keep a Roll of the Freemen of the Borough	Chief Executive
Schedule 12 para 4(2)(b)	<p>Issue of service of summons to all meetings of Council except for Full Council and Annual Council</p> <p>Issue of service of summons to meetings of Full Council and Annual Council</p>	<p>Service Director – Legal, Governance and Commissioning</p> <p>Chief Executive</p>
Schedule 12 para 4(3)	Receipt of formal notification from councillors of alternative address for the service of summonses to attend meetings of Council	Service Director – Legal, Governance and Commissioning
Schedule 14 para 25(7)	Certification of copy resolutions under para 25 of Schedule 14 of the Local Government Act 1972	Service Director – Legal, Governance and Commissioning

REPRESENTATION OF THE PEOPLE ACT 1983

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 8	To act as Registration Officer for the registration of Parliamentary and Local Government Electors	Chief Executive (Deputy – Electoral Services Manager)
Section 28	To act as Acting Returning Officer at Parliamentary Elections	Chief Executive (Deputy – Electoral Services Manager)
Section 35	To act as Returning Officer for the election of councillors of the district and for the election of councillors of parishes within the district	Chief Executive (Deputy – Electoral Services Manager)

BUILDING ACT 1984

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 35A	To certify that evidence is sufficient to justify legal proceedings and the date on which the evidence was considered sufficient	Head of Capital Delivery and Facilities Management
Section 78	To take emergency action in relation to dangerous buildings and structures	Head of Capital Delivery and Facilities Management

LOCAL GOVERNMENT FINANCE ACT 1988

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 114	Duty to make a public report in cases of actual or anticipated financial misconduct	Service Director – Finance, Information and Transactional Services
Section 116	Notification to auditor of date, time and place of meeting to consider Section 114 report and of decision made at such meeting	Service Director – Finance, Information and Transactional Services

LOCAL GOVERNMENT AND HOUSING ACT 1989

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 2(4)	Officer with whom the list of politically restricted posts shall be deposited	Assistant Director – Support Services
Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Service Director – Governance, and Commissioning Support and Legal
Section 15, 16 and 17	To undertake all matters relating to the formal establishment of political groups within the membership of the Council	Head of Democracy

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 41	Certifying copy resolutions, orders, reports and minutes and copy instruments appointing officers to perform certain functions	Service Director – Legal, Governance and Commissioning

HOUSING ACT 2004

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 4	Receive complaints about the condition of residential premises and to carry out inspections of the premises or area	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)
Section 239(2) and (3)	To enter premises for the purpose of carrying out a survey or examination	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)
Section 249	To certify copies of designations under Sections 56 and 80 which purport to be made by the local housing authority	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)

HIGHWAYS ACT 1980

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 37	Officer with whom a certificate or copy order relating to the dedication of highways maintainable at the public expense shall be deposited	Head of Strategy and Design – Investment and Regeneration
Section 205	Officer responsible for preparing the specification, plans, sections, estimate and provisional apportionment of expenses relating to street works in private streets	Head of Strategy and Design – Investment and Regeneration
Section 210	To certify proposed amendments to estimates and provisional appointments relating to street works in private streets	Head of Strategy and Design – Investment and Regeneration
Section 212	Officer responsible for determining the final apportionment of expenses relating to street works in private streets	Head of Strategy and Design – Investment and Regeneration
Section 216	Officer responsible for settling the proportion of expenses to be paid by owners (other than railway and canal undertakers) within the final apportionment under the private street works code	Head of Strategy and Design – Investment and Regeneration
Section 295	Service of notice requiring owners of premises within a street to remove materials	Head of Strategy and Design – Investment and Regeneration

**LOCAL GOVERNMENT ACT 2000
SECTIONS 9G, 9GA AND 105 – ACCESS TO
INFORMATION ETC
LOCAL AUTHORITIES (EXECUTIVE
ARRANGEMENTS) (MEETINGS AND ACCESS TO
INFORMATION (ENGLAND) REGULATIONS 2012**

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 7	Exclusion of the whole or part of any report to the executive where the meeting is likely not to be open to the public	Service Director – Legal, Governance and Commissioning
Regulation 10	Informing the Chair of the Overview and Scrutiny Committee, by notice in writing, of a key decision to be made where publication of the intention to make a key decision under Regulation 9 is impracticable	Head of Democracy
Regulation 12	Producing a written statement of executive decisions made at meetings	Head of Democracy
Regulation 13	Producing a written statement of executive decisions made by individual members	Head of Democracy
Regulation 14	Ensuring that copies of records of executive decisions made and reports considered are made available for public inspection at the Council's offices and on the website	Service Director – Legal, Governance and Commissioning
Regulation 15	Making available for public inspection, at the Council's offices and on the website, a list of background papers and a copy of each of the documents in that list	Service Director – Legal, Governance and Commissioning
Regulation 16(5)	Determining whether documents contain exempt information	Service Director – Legal, Governance and Commissioning

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 16(7)	Determining whether compliance with the duty to make documents available for inspection by members will involve the disclosure of advice provided by a political adviser or assistant	Service Director – Legal, Governance and Commissioning
Regulation 20(2)(a)	Determining whether documents to be disclosed or made available for public inspection contain confidential information	Service Director – Legal, Governance and Commissioning
Regulation 20(2)(b)	Determining whether documents to be disclosed or made available for public inspection are likely to contain exempt information or the advice of a political adviser or assistant	Service Director – Legal, Governance and Commissioning

LOCALISM ACT 2011

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 28(6)	Receiving and dealing with complaints regarding member conduct	Service Director – Legal, Governance and Commissioning
Section 33	Granting dispensations to relieve members and co-optees from the restrictions in section 31(4)	Service Director – Legal, Governance and Commissioning

PUBLIC HEALTH ACT 1925

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 8	Receipt of notice in writing of appeal and grounds of appeal to the petty sessional court against a notice, direction, requirement, order or intended order	Service Director – Legal, Governance and Commissioning

PUBLIC HEALTH ACT 1936

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 79	Service of notice on owner or occupier of premises requiring removal of noxious matter	Head of Public Protection
Section 84	Certification in relation to the cleansing or destruction of filthy or verminous articles	Head of Public Protection
Section 85	Providing reports that persons and/or their clothing are verminous	Head of Public Protection
Section 284	Authentication of documents	Service Director – Legal, Governance and Commissioning
Section 285	Accepting service on behalf of the local authority of notices, orders, consents, demands or other documents	Head of Public Protection

PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 48	Certifying to a justice of the peace that the retention of a dead body in any premises would endanger the health of inmates of that building or an adjoining or neighbouring property	Head of Public Protection
Section 60	Accepting service on behalf of the local authority of notices, orders and other documents	Head of Public Protection

PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984 HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 2	Officer to be notified of suspected disease, infection or contamination in patients	Consultant in Communicable Diseases
Regulation 3	Officer to be notified of suspected disease, infection or contamination in dead persons	Consultant in Communicable Diseases
Regulation 6	Duty to disclose notification to others eg. Health Protection Agency	Consultant in Communicable Diseases

LOCAL GOVERNMENT ACT 2000 LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) (ENGLAND) REGULATIONS 2011

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 4(1)	Publication of verification number of local government electors for determining validity of petitions	Chief Executive
Regulation 4(5)	Power to require Electoral Registration Officer to provide information relevant to the verification number	Electoral Services Manager
Regulation 7(2)	Notifying post-announcement petition organiser of information	Chief Executive
Regulation 8(2)	Decisions to amalgamate petitions	Chief Executive
Regulation 8(3)	Decisions that petitions shall not be amalgamated	Chief Executive
Regulation 11	Responsibility for procedural requirements on receipt of petitions	Chief Executive
Regulation 13	Notifying petition organiser of validity of	Chief Executive

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	petition and that referendum will be held	
Regulation 14	Notifying petition organiser that petition is invalid and reasons	Chief Executive

LOCAL GOVERNMENT ACT 2000 LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2012

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 4(1)	Responsibility for publishing information and notices relating to the holding of a referendum	Chief Executive

TOWN AND COUNTRY PLANNING ACT 1990 PLANNING AND COMPULSORY PURCHASE ACT 2004 NEIGHBOURHOOD PLANNING (REFERENDUMS) REGULATIONS 2012

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 4(1)	Responsibility for ensuring that information is made available in relation to referendums	Chief Executive
Regulation 10	Determining publicity arrangements for cross-boundary referendum areas	Chief Executive

REPRESENTATION OF THE PEOPLE ACT 1983 LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Rule 50	Officer to be notified by Returning Officer of declaration of result	Head of Democracy

TRANSPORT ACT 2000 BUS LANE CONTRAVENTIONS (PENALTY CHARGES, ADJUDICATION AND ENFORCEMENT) (ENGLAND) REGULATIONS 2005

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Regulation 11(1)(c)	Proper Officer for the purposes of the 2005 Regulations	Head of Strategy and Design – Investment and Regeneration

FREEDOM OF INFORMATION ACT 2000

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 36	Application of Exemption from Disclosure	Service Director – Legal, Governance and Commissioning

LOCAL GOVERNMENT AND HOUSING ACT 1989 LOCAL GOVERNMENT ACT 1992 LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Schedule 1 Part II	Notifications to the Executive concerning appointments and dismissals	Head of People Services – Support Services

REGULATION OF INVESTIGATORY POWERS ACT 2000

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Sections 27, 28 and 29	Senior Responsible Officer for the purposes of RIPA (Officers empowered to authorise surveillance are specified in the Council's RIPA Policy)	Service Director – Legal, Governance and Commissioning

ANTI – SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2003

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Chapter 3 s.76, 77 & 78	Closure Orders	Service Director – Legal, Governance and Commissioning

Approved by Annual Council on 22 May 2013

ARTICLE 13 – DECISION MAKING

13.1 Responsibility for decision making

The council will issue and keep up to date a record of which part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this constitution. A record will also be kept (see Section G of Part 3 of the Constitution) of those bodies / working groups / boards within the council which do not have formal decision making roles but which have advisory responsibilities and functions.

13.2 Principles of decision making

The following principles apply to decision-making:-

- a. **Relevant considerations** - Due regard to all relevant considerations and disregard of all irrelevant factors;
- b. **Proportionality** - The action must be proportionate to the desired outcome;
- c. **Consultation** - There will be appropriate consultation and professional advice obtained from officers;
- d. **Human Rights** - All decisions should reflect respect for the Human Rights Act 1998;
- e. **Openness** - Be open about the decisions and actions the council takes;
- f. **Clarity** - Be clear in our aims and what the Council wants to achieve;
- g. **Options** - An explanation of the options considered and the reasons for decisions;
- h. **Lawfulness and Financial Propriety** - Decisions should be consistent with relevant legislation, common law and within the powers of the Council. Resources will be used carefully, lawfully and in the interests of the community we serve.

13.3 Types of decision

- a. **Decisions reserved to full council.** Decisions relating to the functions listed in Article 4.2 will be made by the full council and not delegated.
- b. **Key decisions**, which means an executive decision which is likely:
 - to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or

- to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The meaning for the purposes of this Council's functions is set out in rule 12 of the Access to Information Rules in Part 4 of this constitution.

A decision maker may make a key decision only in accordance with the requirements of the Access to Information Procedure Rules and the Executive Procedure Rules in Part 4 of this constitution.

13.4 Decision-making by the Full Council

Subject to Article 13.8, the council meeting will follow the Council Procedures Rules set out in Part 4 of this constitution when considering any matter.

13.5 Decision-making by the Executive

Decision making in relation to the discharge of executive functions is the responsibility of the Leader. The Leader may discharge executive functions personally, or may arrange for the discharge of those functions by the Cabinet, another Cabinet member, a committee of the Cabinet or an officer of the Council.

13.6 Decision-making by Officers

The delegation scheme for officers set out in Part 3 of the Constitution provides for the delegation of Council and Executive functions to the Council's chief officers and the Service Director – Legal, Governance and Commissioning as set out in Article 12.16. The chief officers may arrange for their delegated powers to be exercised by an officer of suitable experience and seniority. However the Chief Officer or Service Director – Legal, Governance and Commissioning remains responsible for any decision taken pursuant to the delegation arrangements.

13.7 Decision-making by the Overview and Scrutiny Committees and Scrutiny Panels and Commissions

The Overview and Scrutiny Committee and scrutiny panels and commissions will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this constitution when considering any matter.

13.8 Decision-making by other committees and sub-committees established by the council

Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this constitution which apply to them

13.9 Decision-making by Council bodies acting as tribunals

The council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

13.10 Decision-making by Boards of council officers

The chief executive has delegated authority to establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. Details of the currently established officer boards together with their terms of reference and decision-making powers are set out in Section H of Part 3 of the Constitution.

13.11 Access to Information

The Access to Information Procedure Rules set out in Part 4 of this constitution apply to all decision-making processes as specified in those Rules.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

14.1 Financial management

The management of the Council's financial affairs must be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this constitution.

14.2 Contracts

The procurement and execution of every contract made by the Council must comply with the Contract Procedure Rules set out in Part 4 of this constitution.

14.3 Court, Tribunal, Arbitration, Regulatory, or Other Similar Legal Proceedings

The Service Director – Legal, Governance and Commissioning is authorised to:

- institute, defend or participate in any Court, Tribunal, Arbitration, Regulatory, or other similar legal proceedings; and
- to withdraw or settle such proceedings (having consulted such officers and/or members as he/she reasonably considers appropriate in all the circumstances);

in any case where the Service Director – Legal, Governance and Commissioning reasonably considers that it is appropriate to do so.

14.4 Authentication of documents for Legal Proceedings or procedures

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

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

14.5 Common Seal of the council

The Common Seal of the Council will be kept in a safe place in the custody of the Service Director – Legal, Governance and Commissioning. A decision of the Council, or of any part of it made with statutory or delegated authority, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Service Director – Legal, Governance and Commissioning should be sealed. The affixing of the Common Seal will be attested by:-

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

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

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

ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the Constitution

The Corporate Governance and Audit Committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. A formal review will take place annually in time to allow any amendments to be considered by the council and adopted at the annual Council meeting.

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the constitution adopted by the council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the monitoring officer may either personally or through arrangement with other officers:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities or national examples of best practice.

15.2 Changes to the constitution

a. Approval

Changes to the articles of the constitution or the Procedure Rules will be approved by the full Council only after consideration of the proposals by the Corporate Governance and Audit Committee. This requirement will not apply to changes which are the necessary consequence of any other lawful decision of the council, its committees or the Cabinet.

b. Change from a leader and cabinet to a mayoral form of executive

The council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change to a mayoral form of executive and must hold a binding referendum before deciding whether to do so. No such referendum may be held within 5 years of a previous referendum.

ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

a. Limit to suspension

The Articles of this Constitution may not be suspended. Any of the Rules set out in Part 4 of this constitution may be suspended in the manner and to the extent permitted within those Rules and the law.

b. Procedure to suspend

A motion to suspend any rules will not be moved without notice at a meeting of the full council unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in Article 1.

16.2 Interpretation

The ruling of the Mayor, after consultation with the Chief Executive, as to the construction or application of this constitution or as to any proceedings of the council shall not be challenged at any meeting of the council.

16.3 Publication

- a. The Service Director - Legal, Governance and Commissioning will ensure that copies of this constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- b. The Service Director – Legal, Governance and Commissioning and will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

ARTICLE 17 – HEALTH

17.1 General Duties

The authority must in exercising any functions, have regard to its:

- joint strategic needs assessment; and
- joint health and wellbeing strategy.

17.2 Health and Wellbeing Board

The Council will appoint a Health and Wellbeing Board as set out in Part 3 Section B of this Constitution to discharge the functions described.

By law, the **minimum membership** of the Health and Wellbeing Board must include:

- At least one Councillor nominated by the Leader;
- A representative from each local Clinical Commissioning Group;
- The Director of Public Health;
- The Director of Children’s Services;
- The Director of Adult Social Services; and
- A representative of the local Healthwatch organisation.

Membership may also include such other persons or representatives of such other persons as the council or the Health and Wellbeing Board thinks appropriate.

The current membership of the Kirklees Health and Wellbeing Board is set out in Part 3 Section B of the Constitution.

All members of the Health and Wellbeing Board shall be able to vote unless full Council direct otherwise.

17.3 Director of Public Health

The council acting jointly with the Secretary of State will appoint a Director of Public Health in accordance with Section 73A NHS Act 2006.

17.4 Health Scrutiny Functions

The council has arranged for its health scrutiny functions to be discharged by the Health and Social Care Scrutiny Panel – see further Article 6.

PART 3

RESPONSIBILITY FOR FUNCTIONS

CONTENTS

Introduction

SECTION A
Responsibility for Local Choice Functions

SECTION B
Responsibility for Council (Non-Executive) Functions

SECTION C
Responsibility for Executive Functions

SECTION D
This page is blank

SECTION E
Overview & Scrutiny Management Committee

SECTION F
Scheme of Delegation to Officers

SECTION G
Advisory Committees/Panels

SECTION H
Boards of Council Officers

RESPONSIBILITY FOR FUNCTIONS

Introduction

1. Delegation is simply a way of allocating matters to the levels appropriate to ensure that the council's business is dealt with in the most efficient way possible.
2. This means that some matters will be considered and approved by all members of the council or the Executive, as appropriate, whereas others can be dealt with efficiently and properly by other bodies established for that purpose, or by individual Cabinet members or by officers.
3. The Financial Procedure Rules and the Contract Procedure Rules set out in Part 4 of the constitution contain some additional delegations of responsibility.
4. Unless specifically authorised, a body or individual holding delegated authority is not permitted to exercise delegated powers on a decision, the effect of which will be to negate a decision previously taken at a higher level.
5. Any person or body responsible for nominating, appointing or selecting members of any of the following:-
 - i Appeals Panels
 - ii Licensing Panels
 - iii Regulatory Panels
 - iv Strategic Planning Committee and the Area Sub-Committees
 - v Standards Committee

should ensure that no-one is selected to be a member of such committee, sub-committee or panel unless they have either received any relevant training already or will have received it before they are required to attend any meeting unless this is wholly impracticable in the particular circumstances (in which case, advice from the Service Director – Legal, Governance and Commissioning should be sought).

6. Delegated power will normally be exercised at the lowest level to which it has been given. However, all such powers will also be held by the delegating body and no delegation shall preclude the reference of matters for a decision to that body, except where action has already been taken in the exercise of delegated power. This provision is subject to any statutory requirements which may apply from time to time.
7. References to any statute or statutory provision shall be taken to include:-
 - (i) any statute or provision which may from time to time replace, amend or extend it;

- (ii) any orders, directions, regulations or codes made under it; and
 - (iii) any ministerial circulars or advice notes which relate to it.
8. Delegation of any power carries with it (subject to the relevant procedure rules) the power to decide to enter into, amend or terminate any agreement or contract, as appropriate, in order to implement any exercise of that power.
 9. Where an officer post to which any function has been delegated is renamed or is affected by a staffing reorganisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same relevant duties as the original post following that reorganisation.
 10. Any named officer may make arrangements for any function delegated to him or her to be exercised by a member of staff within his/her department whom he/she considers to be appropriate.

RESPONSIBILITY FOR FUNCTIONS

SECTION A

Responsibility for Local Choice Functions

The functions specified in Schedule II to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) will be allocated as set out in the Table below.

Function	Allocation
1. Local Act functions:	
(i) Any function which adds to or complements any function of the council	Council delegated to the relevant committee
(ii) All other functions	Executive (Cabinet)
2. Determining appeals against decisions made by or on behalf of the authority	The council, delegated to the Appeals Panel
3. Making arrangements for the hearing of appeals against exclusion of pupils from maintained schools	Executive (Cabinet)
4. Making arrangements for the hearing of schools admission appeals	Executive (Cabinet)
5. Making arrangements for the hearing of appeals by governing bodies over a requirement that they take pupils excluded from other schools	Executive (Cabinet)
6. Making arrangements for enabling questions to be put at council meeting on a discharge of the functions of the police authority	Council (delegated to Corporate Governance & Audit Committee)
7. Arrangements for appointments of members to the police authority	Council (delegated to Corporate Governance & Audit Committee)

8. Any function related to contaminated land	Executive (Cabinet)
9. The discharge of any function relating to the control of pollution or the management of air quality	Executive (Cabinet)
10. The service of an abatement notice in respect of a statutory nuisance	Executive (Cabinet)
11. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive (Cabinet)
12. The inspection of the authority's area to detect any statutory nuisance	Executive (Cabinet)
13. The investigation of any complaint as to the existence of a statutory nuisance	Executive (Cabinet)
14. The obtaining of information under Section 330 of the Town & Country Planning Act 1990 as to interests in land	Allocated to each of the Executive and the council (delegated to the Planning Highways Committee) so far as required for carrying out other functions allocated to those bodies
15. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Allocated to each of the Executive and the council (delegated to the relevant committees) so far as required for carrying out other functions allocated to those bodies
16. Making of agreements for the execution of highways works	Council - (delegated to the Planning & Highways Committee)
17. Appointments of individuals to outside bodies and revocation of such appointments	School governing bodies - Executive (Cabinet) All other such bodies - council (delegated to Corporate Governance & Audit Committee)
18. Power to make agreements placing staff at the disposal of other authorities	Executive (Cabinet)
19. Functions under section 106(1)	Council (authority delegated to

<p>Local Government & Public Involvement in Health Act 2007 relating to local area agreements (approval of draft LAA for submission under s.106(1))</p>	<p>Cabinet to agree minor amendments)</p>
<p>20. Functions under sections 106, 110, 111 and 113 Local Government & Public Involvement in Health Act 2007 relating to local area agreements (apart from approval of draft LAA for submission under section 106(1)).</p>	<p>Council (authority delegated to Cabinet to agree minor amendments)</p>
<p>21. Functions under part 6 Chapter 3 and Schedules 9, 10, 11 and 12 Localism Act 2011 relating to neighbourhood planning</p>	<p>Council (delegated to Neighbourhoods Committee and some further delegations to the Strategic Director of Economy and Infrastructure and appropriate officers)</p>

SECTION B

Responsibility for Council (Non-Executive) Functions

To discharge non-executive functions which are not reserved to full Council, the Council has established the following committees, sub-committees and panels:

- Licensing & Safety Committee
- Sub-committees of the Licensing & Safety Committee:
 - Regulatory Panels
 - Licensing Panels
- Appeals Panels
- Corporate Governance & Audit Committee
- Statutory Officer Dismissal Committee
- Strategic Planning Committee
- Sub-committees of the Strategic Planning Committee:
 - Planning (Heavy Woollen) Area Sub-committee
 - Planning (Huddersfield) Area Sub-committee
 - Neighbourhoods Committee
- Personnel Committee
- Sub-committees of the Personnel Committee:
 - Appointment Panels
 - Employee Relations Sub-Committee
- Standards Committee
 - Standards Sub-Committee

The terms of reference of these committees, sub-committees and panels and their delegated powers are set out in the following pages.

Many of the functions referred to below are further delegated to officers as set out in Section F of this Part of the Constitution.

Licensing and Safety Committee

Membership

15 Members of the Council

Terms of Reference

This Committee constitutes the Licensing Committee for the purposes of the Licensing Act 2003 and the Gambling Act 2005 and has delegated authority in respect of all the Council's functions under those Acts or regulations made under them which may be delegated, including (2003 Act) licensing of premises and persons and (2005 Act) licensing of premises and other licences, permits etc. in respect of gambling and connected activities set out in the Act. This includes but is not limited to:-

1. To recommend to the Executive/Council a Statement of Licensing Policy, or any revisions to such Policy, in accordance with the Licensing Act 2003.
2. To recommend to the Executive/Council a three year Licensing Policy or any revisions to such policy in accordance with the Gambling Act 2005.
3. To exercise all licensing functions under the Licensing Act 2003 including determining and dealing with applications for licences, certificates, temporary events and other notices and all variations, transfers, withdrawals and reviews of such matters.
4. To exercise all licensing and related functions allocated to the local licensing authority under the Gambling Act 2005, including determining and dealing with applications for licenses, certificates, permits, registration, temporary use of premises and other notices and all variations, transfers, surrenders, revocations, reviews of such matters (but not including the power to pass a resolution not to issue casino licences under section 166 of the 2005 Act).
5. To establish the Licensing Panels, consisting of three Members, and arrange for the discharge of all or some of the functions under the 2003 and 2005 Acts to be exercised by the Panels.
6. To make arrangements for authorised persons of the Council to discharge those functions which may be delegated to an Officer under the terms of the 2003 or 2005 Act.
7. To consider and determine any other functions which may properly be referred to this Committee by the Council under the terms of the 2003 or the 2005 Act, including the setting of fees and the initiation of prosecution for offences.
8. To receive reports from the Licensing Panels as required.

9. To determine all applications referred to the Committee by either the Licensing Panels or Officers.
10. To consider all policy matters under the terms of the 2003 and 2005 Acts with the referral of appropriate recommendations to Council for adoption.

Delegated authority in respect of all other licensing and registration functions which are not, by virtue of any legislation, present or future, the responsibility of the Executive and which are not specifically delegated to any other Committee or required by legislation to be carried out by the full Council. This includes:-

1. To establish Regulatory Panels to carry out such licensing and registration functions other than the 2003 and 2005 Acts functions as the Committee may delegate.
2. All the Council's functions relating to the power of designating alcohol control zones under sections 12 – 15 of the Criminal Justice and Police Act 2001.
3. All the Council's functions relating to smoke free legislation under the Health Act 2006 and associated regulations.

Delegated authority in respect of functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Regulatory Panels

(Sub-committees of the Licensing & Safety Committee)

Membership

Any five members of the Licensing and Safety Committee selected by the Service Director – Legal, Governance and Commissioning.

Terms of Reference

1. Power to issue cinema and cinema club licences.
2. Power to issue theatre licences.
3. Power to issue licences to sexual entertainment venues.
4. Power to license sex shops and sex cinemas.
5. Power to license performances of hypnotism.
6. Power to register premises for acupuncture, tattooing, ear-piercing, and electrolysis.
7. Power to license pleasure boats and pleasure vessels.
8. Power to license market and street trading.
9. Power to license dealers in game and the killing and selling of game.
10. Power to license scrap yards.
11. Power to issue, amend, or replace, safety certificates (whether general or special) for sports grounds.
12. Power to issue, cancel, amend, or replace, safety certificates for regulated stands at sports grounds.
13. Power to issue fire certificates.
14. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:-
 - (a) an exchange of lands affected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to the Acquisition of Land Act 1981 (c.67) or
 - (b) an order under section 147 of the Inclosure Act 1845 (c.8 and 9 Vict. C118).
15. Power to register variation of rights of common.

16. Power to sanction persons to collect for charitable and other causes.
17. Power to license agencies for the supply of nurses.
18. Power to sanction use of parts of buildings for storage of celluloid.
19. Power to make, vary or revoke closing orders with respect to take-away food shops.
20. Power to register premises or stalls for sale of goods by way of competitive bidding.
21. Power to license premises for the breeding of dogs.
22. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
23. Power to register animal trainers and exhibitors.
24. Power to license zoos
25. Power to license dangerous wild animals.
26. Power to license knackers' yards.
27. Power to grant consent for the operation of a loudspeaker.
28. Power to issue licences for the movement of pigs.
29. Power to license the sale of pigs.
30. Power to license collecting centres for the movement of pigs.
31. Power to issue a licence to move cattle from a market.
32. Power to approve meat products premises.
33. Power to approve premises for the production of minced meat or meat preparations.
34. Power to approve dairy products establishments.
35. Power to approve egg products establishments.
36. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
37. Power to approve fishery products premises.

38. Power to approve dispatch or purification centres.
39. Power to register food business premises.
40. Power to license the employment of children.
41. Power to approve premises for the solemnisation of marriages.
42. Power to revoke/refuse to grant permits under the Pollution, Prevention and Control (England and Wales) Regulations 2000 and authorisations under the Environmental Protection Act 1990.
43. Power to approve the commencement of proceedings in the High Court in respect of offences under the Environmental Protection Act 1990 and the Pollution, Prevention and Control (England and Wales) Regulations 2000.

Delegated authority in respect of functions under any of the "relevant statutory provisions" within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Licensing Panels

(Sub-committees of the Licensing & Safety Committee)

Membership

Any three Members of the Licensing and Safety Committee selected by the Service Director – Legal, Governance and Commissioning.

Terms of Reference

1. To exercise all licensing functions under the Licensing Act 2003 including determination and dealing with applications for licences, certificates, temporary events and other notices and all variations, transfers, withdrawals and reviews of such matters.
2. To exercise all licensing and related functions allocated to the local licensing authority under the Gambling Act 2005, including determining and dealing with applications for licenses, certificates, permits, registration, temporary use of premises and other notices and all variations, transfers, surrenders, revocations, reviews of such matters.
3. To consider and determine any other functions referred to the Panel by the Council or the Licensing and Safety Committee under the terms of the Licensing Act 2003 or the Gambling Act 2005.
4. Power to register pool promoters.
5. Power to grant track betting licences.
6. Power to license inter-track betting schemes.
7. Power to grant permits in respect of premises with amusement machines.
8. Power to register societies wishing to promote lotteries.
9. Power to grant permits in respect of premises where amusements with prizes are provided.
10. To provide feedback reports to the Licensing and Safety Committee, as necessary, on any matters determined under these Terms of Reference.
11. To refer any matter, if necessary, for determination to the Licensing and Safety Committee.

Appeals Panel

Membership

Any 3 members of the Council selected by the Service Director –Governance, Commissioning and Legal from a panel of 15.

Terms of Reference

To determine any appeal or application which is at any time to be determined by a Council Committee, but not specifically delegated or referred to any other Committee, including:-

1. Appeals against decisions on education discretionary awards;
2. Appeals arising in connection with the allocation of free school transport;
3. Appeals against decisions of the Director for Children & Young People's Service regarding applications for boarding education, and such other matters as may relate to preferential treatment being accorded to individual children;
4. To review the decision of the Director for Communities & Well-Being on the details of any registered complaint, at the request of the complainant, in accordance with the Directorates complaints procedure;
5. To resolve disagreements, etc. between the Directorate for Communities and Well-Being and organisations involved in the provision of care services in accordance with the Community Care Disagreement Procedures established as a result of the NHS and Community Care Act 1990;
6. Appeals from applicants to the Housing Register in respect of officer decisions on:-
 - (a) access to the Housing Register;
 - (b) determination of homelessness status;
 - (c) elements of housing need taken into account when making assessments;
 - (d) offers of accommodation.

Corporate Governance and Audit Committee

Membership

Seven members, plus the following four ex-officio members with rights to speak but not vote:

- Member of the Cabinet with responsibility for Corporate Governance
- The Chair of the Overview & Scrutiny Management Committee,
- The Chair of the Standards Committee
- Person having specialist knowledge of treasury management (to be appointed and attend as required).

No leaders of any group shall be a member of the Committee

Terms of Reference

Delegated authority in respect of all powers and duties set out below and all other Council functions not required to be determined by the full Council and not delegated to any other committee:

1. To be responsible for:
 - 1.1. Monitoring the operation of the Council's Constitution and keeping its terms under review, including all procedure rules
 - 1.2. Making recommendations to the Council for any change or additions to the procedure rules or Articles of the Constitution or executive arrangements
2. To determine all matters relating to the adoption and operation of the Members' Allowances Scheme including recommendation to the Council of the adoption of or amendment to any such Scheme
3. To keep under review the portfolios of the Cabinet and the terms of reference and delegations of Council functions to committees and formally appointed bodies and officers
4. To consider the Council's arrangement relating to accounts including
 - (a) the approval of the statement of accounts and any material amendments of the accounts recommended by the auditors
 - (b) to keep under review the Council's financial and management accounts and financial information as it sees fit
5. To consider the Council's arrangements relating to the external audit requirements including:

- (a) the receipt of the external audit reports so as to;
 - (i) inform the operation of the Council's current or future audit arrangements
 - (ii) provide a basis for gaining the necessary assurance regarding governance prior to the approval of the Council's accounts
- 6. To consider the Council's arrangements relating to internal audit requirements including:
 - (a) considering the Annual Internal Audit report, reviewing and making recommendations on issues contained therein
 - (b) monitoring the performance of internal audit
 - (c) agreeing and reviewing the nature and scope of the Annual Audit Plan
- 7. To review the adequacy of the Council's Corporate Governance arrangements. This will include (but not be limited to) the following:
 - 7.1. Internal control and risk management;
 - 7.2. Oversight of whistleblowing and the Council's whistleblowing policy;
 - 7.3. Oversight of the complaints process and the role of the Local Government Ombudsman;
 - 7.4. Oversight of Information Governance and the role of the ICO;
 - 7.5. To review and approve the annual statement of Corporate Governance.
- 8. To agree and update regularly the Council's Code of Corporate Governance, monitoring its operation and compliance with it, and using it as a benchmark against performance for the annual Statement of Corporate Governance.
- 9. To designate the Head of Paid Service, the Monitoring Officer and all statutory "proper officers".
- 10. To approve payments or provide other benefits in cases of maladministration as required and make recommendations arising from any review of a report of the Local Government and Social Care Ombudsman
- 11. Following a decision of Council to undertake a community governance review to agree the terms of reference for and conduct such a review, making recommendations to Council who will determine the outcome of such reviews.
- 12. Functions relating to elections and parishes set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (or any replacement or amendment of it)
- 13. Charities and charitable trusts (so far as not the responsibility of Cabinet).
- 14. Responsibility for reviewing and challenging all treasury management activities.

15. To determine appointments of individuals to outside bodies (except school governing bodies) and revocation of such appointments.
16. To determine nominations for charitable trustees in cases where there has been failure reach agreement.
17. To receive updates and monitor compliance with the Council's Regulation of Investigatory Powers Act (RIPA) policy.

Statutory Officer Dismissal Committee

Membership

5 Members of the Council (One to be a member of Cabinet) and two independent persons

Terms of Reference

Delegated responsibility in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 for the following:

1. To give advice, express its views and make recommendations to full Council as to the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief of Finance Officer.
2. To keep under review the suspension of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.

Strategic Planning Committee (Major Planning Applications)

Membership

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

Terms of Reference

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

This includes:

Planning and Development Management

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

24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.
27. Powers relating to the protection of important hedgerows.
28. Powers relating to the preservation of trees.
29. Powers relating to complaints about high hedges.

Additional Notes and Interpretation – Strategic Planning Committee

1. The Strategic Planning Committee (Major Planning Applications) will generally only deal with full and outline planning applications for Major development proposals as set out in the Scheme of Delegation 2023. All Major Planning Applications are delegated decisions unless the relevant Chair considers otherwise or ward members exercise their right of referral with the Chairs agreement or if significant representations against the Officers recommended decision are received or if the application is a significant Departure from the Development Plan Local Plan 2019 (or any future updates). Any reduction in S106 obligations from Local Plan 2019 (or any future updates) requirements will also be reported to Strategic Planning Committee for determination.
2. Ward Members' rights to refer planning applications to the District Wide Planning Committee (Minor and Other planning applications) remain unaffected (subject to the Chair's confirmation that the reasons are valid).
3. Ward members' rights to refer Planning Applications either to the Strategic Planning Committee (Major Planning Applications) or the District Wide Planning Committee (Minor and Other planning applications) for determination will not, in the normal course of events, extend to discharges of planning conditions or applications under section 96A of the Town and Country Planning Act 1990 (non-material amendments to planning permissions). The reason for this is that the statutory timescales within which decisions relating to these submissions must be made by the LPA are too short to allow for Committee determinations. Officers will continue to notify relevant ward members of such applications through the 'weekly lists' and will take into account comments made before making their final decisions.
5. It is good practice to carry out site visits for planning applications. Site visits will be carried out upon planning application at a Committee unless discretion is exercised. The chair in consultation with officers will decide whether to exercise this discretion.

Highways and Transportation

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

Revised April 2023

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

Revised July 2024

35. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.
36. Power to prepare map and statement by way of consolidation of definitive map and statement.
37. Power to designate footpath as cycle track.
38. Power to extinguish public right of way over land acquired for clearance.
39. Power to authorise stopping-up or diversion of highway (including Section 247 of the Town & Country Planning Act 1990).
40. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.
41. Power to extinguish public rights of way over land held for planning purposes.
42. Power to enter into agreements with respect to means of access.

Revised April 2023

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

District-Wide Planning Committee

Membership

9 Members of the Council

Terms of Reference

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

This includes:

Planning and Development Management

1. Power to determine application for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into agreements regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice Revised April 2023
15. Power to issue an enforcement notice.
16. Power to apply for an injunction restraining a breach of planning control.
17. Power to determine applications for hazardous substances consent, and related powers.
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
19. Power to require proper maintenance of land.
20. Power to determine application for listed building consent, and related powers.
21. Duties relating to applications for listed building consent 30
22. Power to serve a building preservation notice, and related powers.
23. Power to issue an enforcement notice in relation to demolition of listed building in conservation area.

24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.
27. Powers relating to the protection of important hedgerows.
28. Powers relating to the preservation of trees.

Additional Notes and Interpretation – District-Wide Planning Committee

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

Neighbourhoods Committee

Membership

6 Members of the Council on a ratio of 2:2:1:1

Terms of Reference

- (i) To process all applications that are submitted to the Authority for the making of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders in accordance with the requirements of Part 6 Chapter 3 and Schedules 9, 10, 11 and 12 of the Localism Act 2011 and all applicable subordinate legislation, including:
 - Receiving and responding to consultation
 - Appointing an independent examiner, making necessary arrangements for holding an examination and participating in the examination
 - Determining content of representation at examination
 - Considering the recommendations of the examiner
 - Confirming that draft proposals meet all necessary requirements including general conformity with strategic policies contained in the core strategy
 - Making decisions whether to decline to consider the proposals, refuse the proposals or initiate a referendum
 - Extending the area in which a referendum will take place as considered appropriate

- (ii) To process all applications for the designation of a Neighbourhood Forum in accordance with the requirements of Part 6 Chapter 3 and Schedule 9 of the Localism Act 2011 and all applicable subordinate legislation and to make decisions to designate or refuse to designate those Forums and to withdraw an organisation or body's designation as a Neighbourhood Forum in appropriate circumstances.

- (iii) To process all applications for the designation of Neighbourhood Areas in accordance with the requirements of Part 6 Chapter 3 and Schedule 9 of the Localism Act 2011 and all applicable subordinate legislation and to make decisions to designate or refuse to designate those Areas.

Personnel Committee

Membership

9 Members of the Council

Terms of Reference

Delegated responsibility for:-

1. Appointment of staff and determination of their terms and conditions of appointment, including disciplinary procedures and including negotiations and consultation with trade unions over issues relating to terms and conditions [N.B. all appointments below Service Director level are required to be delegated to officers];
 2. To establish at the appropriate time sub-committees of members to act as appointment panels for the appointments of the Chief Executive, Chief Officers, and designated Deputy Chief Officers (as defined in Section 2(8) of the Local Government and Housing Act 1989).
 3. To determine which Deputy Chief Officer posts should be designated to be appointed by a sub-committee of members.
 4. To determine the mode of appointment to the post of Chief Executive, Deputy Chief Executive and Executive Directors.
- N.B. There are statutory requirements relating to delegation of and procedures for appointment of staff. These are set out in the Officer Employment Procedure Rules in Part 4 of the Constitution.

Appointment Panels

(if not specifically appointed by the Personnel Committee) (Sub-committees of the Personnel Committee)

Membership

The Leader or the Leader's nominee, together with at least two other members of the Council selected by the Service Director – Legal, Governance and Commissioning in consultation with the Chair of the Personnel Committee. The Chair of Overview and Scrutiny may select a representative to attend as observer.

Terms of Reference

To select in accordance with agreed procedures the individual for appointment to a specific post.

Employee Relations Sub-Committee

(Sub-Committee of the Personnel Committee)

Membership

8 members of the Council on a ratio of 3:3:2.

Quorum

3 members (providing that these are not all from the same political group).

Terms of Reference

Delegated responsibility for:

1. Following a referral from the Assistant Director Support Services, to review decisions of an Officer Appeal Panel relating to employment matters in situations where it is alleged that:
 - (a) The findings of an Officer Appeal Panel are based on a judgement that is considered perverse ie the rationale for the decision of the panel is not supported by the evidence submitted and there is evidence that is contrary to the findings; or
 - (b) Due process has not been followed.
2. Following the review, to make one of the following recommendations:
 - (a) To confirm that the process followed by the panel and/or the judgement reached by the panel was appropriate and reasonable and that the final decision should stand;
 - (b) To determine that the process followed by the panel and/or the judgement reached by the panel was not appropriate and that either:
 - (i) The panel should reconsider its findings in the light of the comments of the Sub Committee; or
 - (ii) A new Officer Appeal Panel should be convened to re-hear the appeal.
 - (c) To determine whether the process followed and/or judgement of the original service hearing was inappropriate and/or unreasonable and whether this had been taken into consideration by the Officer Appeal Panel and, if so:
 - (i) To ask the panel to reconsider the case taking these views into account; or
 - (ii) If feasible, ask for the case to be re-investigated/re-heard

with a new commissioning manager etc.

3. To hear disputes that have previously been presented to the Central Negotiating Team and which result in either or both parties disagreeing with the outcome.

Standards Committee

The membership and role and function of this committee and the Standards Sub-Committee are set out in Article 9 of Part 2 of this Constitution.

SECTION C

Responsibility for Executive Functions

The Executive are responsible for the discharge of all executive functions. As stated in Article 7 of this Constitution, the Executive consists of the Leader of the Council and a minimum of two and a maximum of nine councillors appointed to the Cabinet by the Leader.

Cabinet members each have a portfolio of responsibility which is allocated by the Leader. The Leader may also determine the extent, if any, of the decision making responsibility delegated to individual Cabinet members.

Role and Responsibilities of a Cabinet Member

The duties of a cabinet member are:

- (1) To have the responsibility for, and provide a lead on, the initiation of policy.
- (2) To decide the executive action to be taken in implementing those matters of Council policy allocated to them within their portfolio, seeking advice from the Executive Management Group and Service Directors where appropriate.
- (3) To take personal responsibility, and to be held accountable, for any decisions taken, and to share with the appropriate service managers responsibility for the performance of services within their portfolio.
- (4) To respond to or deal with any issues arising at council meetings relating to their portfolio.
- (5) To act as spokesperson within and outside the authority on those services and functions within their portfolio.
- (6) To be a member of, and attend, Cabinet Committees and to share the collective responsibility for decisions taken by the Cabinet.
- (7) To act as an advocate for the council within the Authority and outside.
- (8) To provide regular reports on progress and to undertake consultation on decisions as required.
- (9) To attend Overview and Scrutiny Committee and Scrutiny Panels to discuss decisions taken or support the policy formulation process.
- (10) To attend relevant Cabinet Committees and Executive Briefing Sub Groups

- (11) To develop partnership working with other agencies and contribute as a key player to delivering a partnership agenda through the Local Public Service Boards.
- (12) To represent the council on outside bodies.
- (13) To represent the council and contribute the Kirklees perspective on national, regional and sub-regional bodies.
- (14) To consult interested parties, ward councillors and citizens as part of the development and review of policy.
- (15) As part of the Cabinet to be involved in:
 - providing support to all councillors to help them develop constructive roles as Ward Members
 - leading the community planning process for the council
 - the consultation on, and drawing up of, the revenue and capital budgets
 - leading the search for continuous improvement
 - taking decisions on resources and priorities to deliver the strategies and budget approved by full council
 - promoting and participating in Member development

KIRKLEES COUNCIL
NOTICE UNDER ARTICLE 7 OF KIRKLEES COUNCIL CONSTITUTION

I give notice under Article 7.2.4 and 7.3.4 of the Kirklees Council Constitution that I wish to make the changes to the Cabinet portfolio of functions described below, including the Councillors appointed as Deputy Leader and with Statutory Responsibility for Children.

Executive Functions and Delegations to the Cabinet and others including officers will remain as set out within Part 3 of the Council's Constitution.

Name	Description of Portfolio or other responsibility
Carole Pattison	Leader and Culture
Moses Crook	Deputy Leader and Transport and Housing
Graham Turner	Finance and Regeneration
Viv Kendrick	Children' Services (Statutory responsibility for Children)
Beverley Addy	Adult Social Care and Health
Munir Ahmed	Environment and Highways
Amanda Pinnock	Education and Communities
Tyler Hawkins	Corporate

Leader the Council

Signed



Date 19/07/2024

DELEGATIONS

The Executive may arrange for the discharge of any of their executive functions by a committee of the Executive, an individual member of the Executive or an Officer of the authority. Any arrangements made for the discharge of executive functions by a committee of the Executive, an individual member of the Executive or an Officer do not prevent the Executive from exercising those functions.

The Executive may also arrange for the discharge of any of their executive functions by a joint committee (pursuant to s.20 Local Government Act 2000 and s.101(5) Local Government Act 1972) or by the executive of another local authority (pursuant to s.19 Local Government Act 2000 and s.101(1) Local Government Act 1972).

The Executive have established the following arrangements for the exercise of executive functions:

1. Cabinet Committees

The Executive have established the committees referred to below.

Membership of the committees shall be as set out below. In addition, all members of the Executive shall constitute a **panel of substitute** members to be available to replace members of Cabinet committees at any meeting during the municipal year as and when required.

Once a Cabinet committee meeting has started with a substitute member in attendance, the member who has been substituted will be entitled to attend the meeting only as an observer.

Only members of the Executive may be members of Cabinet committees, however each committee may arrange for non-executive councillors or other individuals to attend meetings of the committee. Those people have all the same rights as to notification, attendance and speaking etc, as members of the committee other than the right to participate in a vote.

(a) Local Issues – Cabinet Committee

Membership:

Two Cabinet members with responsibility for the Place Portfolio and one Cabinet member with responsibility for the Corporate Services Portfolio.

Ward councillors will be invited to attend and make representations, as appropriate, in relation to any matters affecting their wards.

Terms of Reference:

I hereby approve the Terms of Reference for the Cabinet Committee – Local Issues, as set out below:

To consider and ultimately determine whether to uphold or overrule objections to the establishment of pedestrian crossings, the installation of road humps and other traffic calming measures, the making of speed limit orders, traffic regulation orders or on-street or off-street parking places orders;

- i. To consider all highways petitions including those referred for consideration and/or decision from Council following a Council debate;
- ii. To consider reports on disposals of Council assets, with a capital value not exceeding £1,000,000, that have previously been approved by officers.
- iii. To consider and determine requests for the ally gating of footpaths under section 129A to 129G of the Highways Act 1980
- iv. To consider and determine all matters relating to the use of 20mph zones and 20mph speed limits in accordance with the approved criteria.
- v. To consider and determine all matters in relation to local ward councillor objections to proposed highway improvements on the districts strategic network.

(b) Asset Committee – Cabinet Committee

Terms of Reference:

Delegated authority to consider and determine the following matters in circumstances that fall outside the current Officer Delegation Scheme¹:

- i. Disposal of land and buildings up to the value of £1 million.
- ii. All formal Councillor objections to proposals for Officers to take decisions on assets in accordance with the Officer Delegation Scheme.
- iii. Asset transfers in accordance with the Council's Asset Advancement Policy².
- iv. The future use of public buildings, including town halls and other buildings that provide services to the public.
- v. The allocation of resources in the Corporate Landlord Managed section of the Capital Plan.

- vi. Changes to the terms of leases and/or covenants.
- vii. Petitions on building issues referred for consideration and/or decision from the Council following a Council debate.

Notes:

- 1. 'Officer Delegation Scheme' means the scheme of decisions that can be taken by officers as described in Section F of Part 3 of the Council's Constitution and as may be delegated from time to time by Directors, the Service Director –Governance, Commissioning Support and Legal and the Director of Public Health to other Officers in the Council.
- 2. 'Asset Advancement Policy' means the policy which was agreed by Cabinet on 8 October 2013.

2. Delegations to Officers

Officers may discharge any executive function delegated to them by the Executive and included in the Officer Scheme of Delegation set out in Section F of this Part of the Constitution.

3. Delegations to District Committees

The terms of reference of District Committees include or may from time to time include delegated responsibility for certain executive functions.

4. Delegations to Kirklees Neighbourhood Housing

Housing Management functions are delegated under Section 27 of the Housing Act 1985 to the council's arms-length company Kirklees Neighbourhood Housing, to the extent specified in the agreement with that company.

5. (i) Delegations to Joint Committees

The Executive may establish joint committees with one or more local authorities to exercise functions which are executive functions. Any joint committee appointed in accordance with those arrangements may, subject to the terms of those arrangements, discharge those executive functions on behalf of the Executive.

The following joint committees have been established to discharge certain executive functions:

- a. West Yorkshire Joint Services Committee dealing with trading standards, archives, archaeology and grants to voluntary organisations

- b. Yorkshire Purchasing Organisation originally established under an agreement dated 3 December 1976
- c. Yorkshire and Humberside Regional Broadband Consortium established under an agreement dated 22 June 2001
- d. Leeds City Region Leaders' Board
- e. The Parking and Traffic Regulations Outside London Adjudication Joint Committee
- f. West Yorkshire Police and Crime Panel
- g. One Adoption West Yorkshire

(ii) Delegations to other local authorities

The Executive may arrange for the discharge of any of their executive functions by the executive of another local authority.

The Council has agreed the following arrangements for the exercise of certain executive functions by other local authorities:

- a Discharge by Birmingham City Council of the Council's function relating to the enforcement of Part III of the Consumer Credit Act 1974 (illegal money lending investigations and prosecutions) – approved by Cabinet on 15 October 2008).
- b Discharge by the Executive of Wakefield Metropolitan District Council of the Council's functions for making payments of loans approved under the "Breathing Space" scheme (the regional mortgage assistance loan scheme) – approved by Cabinet on 13 October 2009.
- c Delegation to Sheffield City Council of the Council's functions relating to the administration and payment of Home Appreciation Loans under the Regulatory Reform (Housing Assistance) Order 2002 – approved by Cabinet on 13 September 2006.
- d Discharge by Leeds City Council, Wakefield Council, Bradford Metropolitan Council, Calderdale Council and City of York Council of the Council's functions relating to the enforcement of Hackney and Private Hire matters under the Local Government (Miscellaneous Provisions) Act 1976 and the Town and Police Clauses Act 1847
- e Discharge by Calderdale Council of the Council's statutory SEND advice and support functions under the Children and Families Act 2014 and associated regulations – approved by Cabinet on 17 April 2018.

Where joint arrangements with one or more other local authorities in respect of the discharge of an executive function cease to have effect, the Leader shall have power to make new joint arrangements to discharge those functions jointly with other local authorities and/or the executives of other local authorities as appropriate.

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SECTION E

Overview & Scrutiny Management Committee

Pursuant to Article 6 of Part 2 of this Constitution, the Council may establish Standing Panels and it may appoint task-orientated, time limited ('ad-hoc') scrutiny panels (as appropriate) to discharge the functions set out in that Article and in s.21 of the Local Government Act 2000.

Membership of the Committee and its Panels are set out in Article 6. The terms of reference are set out in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution.

SECTION F

Scheme of Delegation to Officers

General Provisions

1. A Scheme of Delegation has been introduced that is founded on the principle of delegation “by exception”. That means that the delegating body delegates everything that can lawfully be delegated (both non-executive and executive functions) to a Strategic Director or, in appropriate circumstances, to the Service Director – Legal, Governance and Commissioning, the Service Director – Finance, or the Director for Public Health, save for exceptions which are listed. Therefore the listing is of what is not delegated, as opposed to a listing of what is (although a number of specific delegations are referred to for clarity and the avoidance of doubt).
2. Officers may only exercise the delegated powers in this Scheme in accordance with:
 - a) All relevant statutory requirements including the principles of public law and the provisions of the Human Rights Act 1998, statutory guidance and statutory codes of practice; and
 - b) The provisions of this Constitution (including the provisions of the Access to Information Procedure Rules relating to the taking of key decisions); and
 - c) The revenue and capital budgets of the Council, subject to any variation thereof permitted by the Council’s Financial Procedure Rules.
3. Officers may not exercise delegated powers where:
 - a) The matter is reserved to the Council by law or by the Council’s Constitution;
 - b) The matter is a function which cannot by law be discharged by an officer;
 - c) The Council, the Executive or Committee, Sub-committee or Panel has determined that the matter should be discharged otherwise than by an officer;
 - d) In relation to executive functions, the Leader of the Council or the relevant Cabinet member has directed that the matter should be referred to the Executive for determination;
 - e) In relation to non-executive functions, the Chair of a Council Committee, Sub-committee or Panel has directed that the matter should be referred to the appropriate Committee, Sub-committee or Panel for determination;
 - f) The decision would be contrary to any approved policies and plans of the Council.
4. The Scheme provides for the delegation of authority to the relevant Strategic or Service Director or the Director of Public Health (as appropriate). However, the

relevant Strategic or Service Director or the Director of Public Health may arrange for such delegated authority to be exercised on their behalf by an officer of appropriate experience and seniority. The Strategic Director, or Service Director or the Director of Public Health (as appropriate) shall remain personally responsible for any decision taken on their behalf pursuant to the delegation arrangements.

5. All decisions taken must be clearly recorded and must clearly identify the officer responsible for taking the decision.
6. Each Strategic Director, Service Director and the Director of Public Health will prepare Service Schemes of Delegations which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly establish which officers have been given authority to make decisions under the delegated powers of the Strategic Directors, Service Directors or the Director of Public Health, the extent of the delegated authority of those officers and any terms, conditions and/or limitations subject to which those delegations must be exercised. All service schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.
7. Where an officer has delegated authority to discharge functions by virtue of any provision of this Constitution other than the Scheme of Delegation set out in Section F, or by virtue of a specific decision of the Council, a Committee, Subcommittee, Panel or the Executive, whether made before or after the adoption of this Scheme, the absence of that delegation from this Scheme shall not be treated as preventing the exercise of that delegation.
8. Where an officer has delegated authority to discharge functions in consultation with the relevant Cabinet member, in the absence of that Cabinet member the officer may discharge such function in consultation with the Leader instead (or in the Leader's absence, in cases of urgency, with the Deputy Leader).
9. Where the delegation provides for discharge of a function in consultation with the Leader, in the absence of the Leader the officer may discharge the function, in cases of urgency, in consultation with the Deputy Leader instead.
10. This Scheme describes particular functions as executive functions and non-executive functions for illustrative purposes only, and misattribution of a function as executive or non-executive shall not be treated as preventing the exercise of the delegation.
11. "Function" for the purposes of this Scheme of Delegation is to be construed in a broad and inclusive fashion and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
12. Where relevant, the delegations within this Scheme also include the appointment of the Chief Officer as "proper officer" for the purpose of any function delegated to him/her under these arrangements.

Chief Executive

The holder of the post of Chief Executive is designated the Head of Paid Service for the purposes of section 4 of the Local Government and Housing Act 1989 and shall have overall corporate and operational management responsibility for the Council, its officers, the functions it carries out and the services it delivers.

The duties of the Head of Paid Service are to report to the Council where necessary setting out proposals with respect to the co-ordination of the Council's functions, the number and grades of staff required and the organisation, appointment and proper management of the Council's staff.

Subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements and, without prejudice to the foregoing, the Chief Executive shall have power to discharge and is responsible for those functions and areas assigned to him/her in Article 12.1b of the Constitution.

The Chief Executive may also:

- (a) Discharge any function of the Council and Executive which has not been specifically delegated to another officer, committee or otherwise reserved by full Council or the Executive and may direct any Chief Officer not to exercise a delegated function in special circumstances unless they are required to do so by law.
- (b) Discharge any act or function in accordance with Article 7.9 of the Constitution
- (c) Deal with emergencies and disasters and the carrying out of civil defence functions
- (d) Take emergency action in the following circumstances:

The Chief Executive (or any Strategic Director nominated from time to time by the Chief Executive, or if any such Strategic Director is not available or if no such nomination has been made, any Strategic Director) is empowered, in consultation with the Leader or relevant Committee Chair (unless the urgency makes this impracticable) to make decisions on any issues in circumstances which he/she reasonably considers to be an emergency, reporting to the Cabinet or relevant Committee as soon as possible thereafter.

- (e) Establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. He/she has power to determine the membership and terms of reference of the officer boards that are established. He/she also has power to determine the decision-making arrangements of such boards including the delegation of authority to the Chair of each officer board to make such decisions as he/she considers appropriate.

Strategic Director for Children, Families and Communities (DCS)

The holder of the post of Strategic Director for Children, Families and Communities is the statutory officer for the purposes of Section 18 of the Children Act 2004 and is responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Directorate for Children, Families and Communities and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements to:

A. Learning matters

Executive Functions

1. Discharge all of the education and learning functions and responsibilities conferred on or exercisable by the local authority, except those excluded by Section 18(3) of the Children Act 2004, that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

Without prejudice to the generality of the above, such functions and responsibilities referred to in A1 above include, but are not limited to:

- (a) Transforming the school system;
- (b) 14-19 education and skills and adult learning;
- (c) School and early years improvement;
- (d) Inclusive learning;
- (e) Learning support for vulnerable children and young people;
- (f) Promoting and supporting school attendance
- (g) School and early years planning and school admissions.

B. Family Support and Child Protection matters

Executive Functions

1. Discharge all of the functions and responsibilities conferred on or exercisable

by the Council, which are Social Services functions and responsibilities (within the meaning of the Local Authority Social Services Act 1970) so far as they relate to children together with the Council's youth offending functions under the Crime and Disorder Act 1998 that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include, but are not limited to:

- (a) Support for children and families;
- (b) Safeguarding of children including effectiveness of Kirklees Safeguarding of Children Board;
- (c) Social care and assessment;
- (d) Services for disabled children;
- (e) Corporate parenting for Looked After Children;
- (f) Integrated youth support;
- (g) Specialist support for children with special needs and additional needs;
- (h) Implementation and management of strategies for children;
- (i) Partnerships for children;
- (j) Children's Trust;
- (k) Managing, developing and leading strategic commissioning for children's social care;
- (l) Driving Service Quality and development;
- (m) Independent Review and advocacy;
- (n) Cross-sector Development;
- (o) Regulation and Quality;
- (p) Cross-directorate Strategic Support;
- (q) Strategic Partnerships and Commissioning relevant services to support these functions and responsibilities.

C. Communities (Safety)

Executive Functions

Discharge all of the communities safety functions and responsibilities conferred on or exercisable by the local authority, that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive

subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

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

- a) Community Safety, particularly dealing with Anti-Social Behaviour;
- b) Preventing violent extremism; and
- c) Compliance with the statutory requirements set out under sections 36–41 of the Counter Terrorism and Security Act 2015.

Strategic Director Growth and Regeneration

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

Investment and Regeneration

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

Non-Executive Functions

1. All functions and responsibilities of the Council as:

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

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

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

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

B. Highways Transportation and Public Rights of Way matters

Non-Executive Functions

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

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

- (1) Matters are referred to the relevant Planning Committee as specified in paragraph 3 of the General Provisions and in the following cases:
 - i) where the delegated officer so decides:

- a) with the agreement of the Chair of the relevant Planning Committee; or
 - b) due to the significant volume of local opinion (including through Parish/Town Councils);
- ii) where the Chair of the relevant Planning Committee so requests;
- iii) where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request;
- iv) where there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal);
- v) taking into account i) to iv) above in respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking or re-enacting that Act with or without modification) unless the chair of the relevant planning committee considers matters do not require determination by the planning committee and can remain delegated to the relevant Strategic Director.

Executive Functions

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

- Local Highway Authority (within the meaning of s.1 Highways Act 1980);
- Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981);
- Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000);
- Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991);
- Traffic Authority (within the meaning of section 1 of the Housing Act 1985);

Matters relating to highways transportation, public rights of way, on and off street car parking (including enforcement) and highways development management not included within the terms of reference of the Strategic Planning Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice

functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Determinations relating to any proposed increases to on or off street car parking tariffs.

Without prejudice to the generality of the above such functions and responsibilities referred to in B2 above include but are not limited to:

- (a) To respond to consultation requests on the highways/traffic implications of planning applications.

C. Highways Matters

Non-Executive Functions

1. All functions and responsibilities of the Council as Local Highway Authority included within the terms of reference of the Planning and Highways Committee and its sub-committees (apart from public rights of way strategy and enforcement, highways transportation and highways development management) subject to the exceptions that:

Matters are referred to the Strategic Planning Committee/relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions above and in the following cases:

- i) Where the delegated officer so decides:
 - a) with the agreement of the Chair of the Strategic Planning Committee or Chair of the relevant Planning Area Sub-Committee (as appropriate); or
 - b) due to the significant volume of local opinion (including through Parish/Town Councils).
- (ii) Where the Chair of the Strategic Planning Committee or Chair of the relevant Planning Area Sub-Committee (as appropriate) so requests.
- (iii) Where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request.
- (iv) Where there is not majority support for the proposed action by the 3 ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).

Executive Functions

1. All functions and responsibilities of the Council as Local Highway Authority (excluding car parking) not included within the terms of reference of the Strategic Planning Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

D. Building Control Matters

Non-Executive Functions

1. All functions and responsibilities of the Council relating to building control and registration included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Licensing and Safety Committee as specified in paragraph 3 of the General Provisions above, and in the following cases:

- i) Where the delegated officer so decides with the agreement of the Chair of the Licensing and Safety Committee.

Executive Functions

2. All functions and responsibilities of the Council relating to building control and registration not included within the terms of reference of the Licensing and Safety Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Matters are referred to the relevant Cabinet Committee in the following cases:

- i) Determinations as to the naming and re-naming of streets in the cases of dispute.

E. General Streetscene Matters

Executive Functions

1. All functions and responsibilities of the Council relating to:

- a) Refuse collection;
- b) Waste disposal;
- c) Street cleaning;
- d) Centralised transport;
- e) Parks and Grounds Maintenance;
- f) Police Community Support Officers/Rangers;
- g) Landscape Architects;
- h) Dog Wardens.

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

Matters are referred to the Executive in the following cases:

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

F. Housing

Strategic Housing

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's housing strategy, including commissioning, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above

Management of Kirklees Homes & Neighbourhoods

Executive Functions

1. Discharge of all functions and responsibilities of the Council, as local housing authority, and the discharge of all functions and responsibilities of the Council relating to the management of Kirklees Homes & Neighbourhoods that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above; and
- ii) Determination of applications for reimbursement of costs incurred by former tenants in building home extensions

G. Economic & Skills Strategy

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's economic and skills strategy, including commissioning, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

H. Regeneration and Business Support Matters

Executive Functions

All functions and responsibilities of the Council relating to its regeneration, and business support activities and direction (including implementation of the Council's economic and skills strategy, town centre management and events, commercial estate management, regeneration projects, inward investment and the management of markets) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

I. Asset Management

Executive Functions

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

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

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

Matters are referred to the Executive in the following cases:

As specified in paragraph 3 of the General Provisions above as well as ;

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

J. Routine Enforcement Matters

Non- Executive Functions

1. Power to require the proper maintenance of land under s215 of the Town and

Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

Executive Functions

2. All functions and responsibilities of the Council relating to the enforcement of all legislation within the remit of the Directorate for Growth and Regeneration including, but not limited to, environmental protection, dog related legislation, highways, housing and town and country planning legislation (as appropriate) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Strategic Director Adults and Health

The holder of the post of Strategic Director Adults and Health is the statutory officer for Section 6 of the Local Authority Social Services Act 1970 and is responsible for the strategic direction and overall management and delivery of the local authority's functions relating to commissioning and Adult Social Care (other than those public health functions for which the authority's Director of Public Health is directly statutorily responsible under the NHS Act 2006 the Health and Social Care Act 2012 and related regulations) without prejudice to the foregoing, the Director shall have power, subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements, to discharge the functions set out below:

A. Adult Social Care

Executive functions

1. Discharge all of the functions and responsibilities of the Council relating to adult social care matters that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in A1 above include but are not limited to:

- (a) Safeguarding of adults including effectiveness of Kirklees Safeguarding Adults Board;
- (b) Implementation and management of strategies and operations for adults and older people;
- (c) Social Care Transformation and Integration.
- (d) Partnerships for adults.

B. Personalisation and Commissioning Matters (Adults)

Executive functions

1. Discharge all of the functions and responsibilities of the Council relating to commissioning services for Health and Social Care that are not by virtue of any

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

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include, but are not limited to:

- a) Managing, developing and leading strategic commissioning for adult social care;
- b) Driving Service Quality and development;
- c) Independent Review and advocacy;
- d) Cross-sector Development;
- e) Regulation and Quality;
- f) Cross-directorate Strategic Support;
- g) Strategic Partnerships and Commissioning.

C. Libraries, Registrars and Customer Contact

Executive functions

- (1) Discharge all of the functions and responsibilities of the Council relating to commissioning services for Libraries, Registrars and Customer Contact that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 above include, but are not limited to:

- a) Libraries and registrars;
- b) Customer Contact Centres.

D. Bereavement Matters

Executive Functions

1. All functions and responsibilities of the Council relating to bereavement services (including cemeteries, crematoria and burial grounds) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

E. Communities Town and Public Halls, Sport and the Arts

Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to Town & Public Halls, the arts matters and sports matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in E1 above include but are not limited to:

- (a) Arts and Creative Economy;
- (b) Events, festivals and concerts;
- (c) Museums, galleries and heritage;
- (d) Town and Public Halls;
- (e) Catering, cleaning and caretaking (Facilities Management);
- (f) Sport and Physical Activity;

Strategic Director – Corporate Strategy, Commissioning and Public Health

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

The Strategic Director is the holder of the post of Director of Public Health (DPH) and is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006.

A. Public Health Matters

Discharge of all functions and responsibilities of the Council relating to Public health by virtue of any legislation present or future not prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within this Part that have been allocated to the Executive including

Executive Functions

- a) taking appropriate steps to improve the health of the people in the authority's area¹;
- b) dental public health²;
- c) joint working with the prison service³;
- d) the medical inspection of pupils and the weighing and measuring of children⁴;

¹ Section 2B of the 2006 Act. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making available the services of any person or any facilities; and providing grants or loans

² As prescribed by the Secretary of State under Section 111 of the 2006 Act

³ In relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners - Section 249 of the 2006 Act

⁴ Under Schedule 1 of the 2006 Act

- e) research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise⁵;
- f) planning for, or responding to, emergencies involving a risk to public health;
- g) co-operating with arrangements for assessing risks posed by violent or sexual offenders⁶
- h) any public health function of the Secretary of State (or functions exercisable in connection with those functions)
 - which the authority is required by regulations to exercise⁷; or
 - in respect of which arrangements have been made⁸;
- i) any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;
- j) the oversight of clinical governance arrangements;
- k) making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act 2003; and
- l) provision of contraceptive services⁹.

Matters are referred to the Executive in the following cases:

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

B. Strategic Environmental Matters

Executive Functions

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's environmental strategy not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have

⁵ For any purposes in connection with the authority's functions in relation to the health service – paragraph 13 of Schedule 1 of the 2006 Act

⁶ Under Section 325 Criminal Justice Act 2003

⁷ Section 6C(1) and (3) of the 2006 Act

⁸ Under Section 7A of the 2006 Act

⁹ Under Schedule 1 of the 2006 Act

been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

C. Intelligence and Performance

Non-Executive Functions

1. All functions and responsibilities of the Council relating to intelligence and performance matters subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

Executive Functions

2. All functions and responsibilities of the Council relating to intelligence and performance matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 and C2 above include but are not limited to:

- (a) Intelligence; and
- (b) Performance.

D. Information Technology Matters

Executive Functions

1. All functions and responsibilities of the Council relating to its information technology activities and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in D1 above include but are not limited to:

- a) IT Strategy and Change.

E. Support Services Matters

People Services

Non-Executive Functions

1. In addition the Strategic Director may discharge of all functions and responsibilities of the Council included within the terms of reference of the Personnel Committee (save for the appointment of staff at Service Director level and above), subject to the exceptions that:

Matters are referred to the Personnel Committee in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Determinations as to the grading of posts of the Chief Executive and Strategic Directors;
- iii) Sanctioning of compulsory redundancy proposals for Strategic Directors;
- iv) Sanctioning of early retirement/voluntary severance or ill health retirement proposals for Strategic Directors;
- v) Decisions as to the implementation of the discretionary areas of nationally negotiated agreements relating to rates of pay and terms and conditions of employment; and
- vi) Approval of all local terms and conditions of employment including discretionary holiday days.

Matters are referred to a panel appointed by the Personnel Committee in the following cases:

- (i) Any grievance raised by the Chief Executive.

Executive Functions

2. Discharge of all functions and responsibilities of the Council relating to human resources that are not included within the terms of reference of the Personnel Committee and are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

F. General Service Support

Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to general service support including, but not limited to:

- (a) Leadership, management and workforce development;
- (b) Learning and Organisational Development;
- (c) Communications and Marketing
- (d) Employee Healthcare;
- (e) Payroll;
- (f) Recruitment and Temp Direct;
- (g) Pensions; and
- (h) Emergency Planning and Corporate Health and Safety.
- (i) Policy

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

Matters are referred to the Executive in the following cases:

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

G. Working with Communities

Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to working with communities and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:
 - a) Locality working;
 - b) Place-based working;
 - c) Area working and Local governance;
 - d) Consulting and engaging with communities;
 - e) Supporting partnership working and managing key partnerships;
 - f) Support and strengthening the voluntary and community sector;
 - g) Corporate Improvement Priorities.

H. Licensing Matters

Non-Executive Functions

1. All functions and responsibilities of the Council relating to Licensing included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Licensing and Safety Committee or the Licensing Panel (as appropriate) as specified in paragraph 3 of the General Provisions above, and in the circumstances set out in Section 10(4) of the Licensing Act 2003 and Section 154(4) of the Gambling Act 2005.

Matters are referred to the Licensing and Safety Committee as specified in paragraph 3 of the General Provisions above.

The Strategic Director Environment and Climate Change is authorised to discharge the following applications:

- i) Grant and renewal of a Hackney Carriage or Private Hire Drivers Licence;
- ii) Suspend or revoke a Hackney Carriage or Private Hire Drivers Licence.

I. Environmental Services

Non-Executive Functions

1. All functions and responsibilities of the Council relating to environmental services (including environmental health, public health, environmental protection, pollution control, contaminated land, health and safety, food safety and animal welfare) and included within the terms of reference of the Licensing and Safety Committee, subject to the exceptions that:

Matters are referred to the Licensing and Safety Committees or the Regulatory Panels (as appropriate) as specified in paragraph 3 of the General Provisions above and in the following cases:

- i) Refusals to grant licences under:
 - a) Section 1 Animal Boarding Establishments Act 1963;
 - b) Section 1 Breeding of Dogs Act 1973 as amended by the Breeding and Sale of Dogs (Welfare) Act 1999;
 - c) The Caravan Sites and Control of Development Act 1960 as amended by the Local Government (Miscellaneous Provisions) Act 1982;
 - d) Section 1 Dangerous Wild Animals Act 1976;
 - e) The Performing Animals Act 1925;
 - f) Section 1 Pet Animals Act 1951;
 - g) Section 269 Public Health Act 1936;
 - h) Section 1 Riding Establishments Act 1964 and Section 1 Riding Establishments Act 1970;
 - i) The Zoo Licensing Act 1981 and the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002.
- ii) Refusals to approve arrestment plant for furnaces under Section 6 Clean Air Act 1993;
- iii) Refusals to approve plant for arresting grit and dust under Section 8 Clean Air Act;
- iv) Refusals to grant prior approval for noise levels from construction sites under Section 61 Control of Pollution Act 1974;
- v) Refusals to grant consent to exceed registered levels in noise abatement zones under Section 65 Control of Pollution Act 1974;
- vi) Refusals of authorisations in respect of prescribed processes under Section 6 Environmental Protection Act 1990;
- vii) Revocation of authorisation for non-payment of subsistence fee under Section 8(8) Environmental Protection Act 1990;
- viii) Initial consideration of appeals against the revocation of authorisations

- under Section 8(8) Environmental Protection Act 1990;
- ix) Revocation of authorisation where the prescribed process has not been carried on for a period of 12 months under Section 12 Environmental Protection Act 1990;
 - x) Initial consideration of appeals against the revocation of authorisations under Section 12 Environmental Protection Act 1990;
 - xi) Refusals to issue permits under Part II Regulation 10 Pollution Prevention and Control (England and Wales) Regulations 2000;
 - xii) Accepting the surrender of permits under Part II Regulation 19(8) Pollution Prevention and Control (England and Wales) Regulations 2000;
 - xiii) Revocation of permits under part II Regulation 21 Pollution Prevention and Control (England and Wales) Regulations 2000;
 - xiv) Authority to institute proceedings in the High Court under Part II Regulation 33 Pollution Prevention and Control (England and Wales) Regulations 2000.
2. Power to require the proper maintenance of land under Section 215 of the Town & Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

Executive Functions

3. All functions and responsibilities of the Council relating to environmental services (including environmental health, public health, environmental protection, pollution control, contaminated land, health and safety, food safety and animal welfare) not included in the terms of reference of the Licensing and Safety Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Service Director – Legal, Governance and Commissioning

The holder of the post of Service Director – Legal, Governance and Commissioning is designated as the Council’s Monitoring Officer and is also responsible for the strategic direction and overall management and delivery of the legal functions and responsibilities of the Legal, Governance and Monitoring Service and without prejudice to the foregoing shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

A. Legal Matters

General

These functions can be either Executive or Non-Executive depending on the circumstances.

All functions and responsibilities of the Council relating to legal matters including:

- a) to take any action necessary to give effect to a decision of the Council, the Executive, the Overview and Scrutiny Management Committee or any committee, sub-committee or panel of the Council;
- b) the making, issuing or serving of orders and notices;
- c) to institute, conduct, prosecute, defend, withdraw or settle any legal proceedings on behalf of the Council;
- d) to commence and conduct any other legal action on behalf of the Council for the purpose of protecting the Council’s interests;
- e) to instruct Counsel and professional advisers, where appropriate;
- f) to determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council under statutory powers;
- g) To authorise an external property auctioneer to sign, as agent for the Council, a Sale Memorandum to record the property price and terms of condition of sale.

Executive Functions

All Executive functions and responsibilities of the Council relating to legal matters including:

- a) to give undertakings on behalf of the Council;

- b) to prepare, sign or apply the Council's common seal to documents;
- c) to authorise other officers to apply the Council's common seal in accordance with Article 14.5 of Part 2 of the Constitution and to sign documents that are not required to be under seal;
- d) to complete all property transactions and contractual arrangements where terms have been agreed by the Council, its committees or sub-committees or Directors acting under the scheme of delegation;
- e) to authorise officers who are not admitted solicitors to appear in the Magistrates' Court on behalf of the Council pursuant to Section 223(1) of the Local Government Act 1972.
- f) to authorise officers of the Council to conduct actions on behalf of the Council in the County Court before a District Judge pursuant to Section 60 of the County Court Act 1984, in respect of:
 - the recovery of possession of houses or other property belonging to the Council; and
 - the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house.
- g) to accept on behalf of the Council the service of notices, orders and legal procedures;
- h) to exercise the functions of the Council pursuant to Section 1 of the Crime and Disorder Act 1998 (Anti-Social Behaviour Orders);
- i) to determine exemptions under Section 36 of the Freedom of Information Act 2000; and
- j) to postpone the Council's statutory charge where a property is mortgaged to an approved lending institution under the Housing Act 1985, is mortgaged to another lending institution, or where a secure loan is required from the original approved lending institution or from another approved lending institution, subject in each case to consultation with the Service Director for Streetscene and Housing and all costs incurred by the Council in the granting of the postponement being met in full by the applicant.

B. Governance & Democratic Services Matters

Non-Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to governance and member relations (including elections) subject to the exceptions that:

Matters are referred to Council:

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

Matters are referred to Corporate Governance and Audit Committee:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 above include but are not limited to:

- (a) The determination (in consultation with Group Business Managers) of nominations to outside bodies in circumstances where the Council or, in default, the Corporate Governance & Audit Committee have agreed in principle to nominate representatives and the political ratios; and
- (b) All such nominations will be reported for information to the Corporate Governance & Audit Committee.

Executive Functions

2. Discharge of all functions and responsibilities of the Council relating to governance, member relations and information management not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

C. Risk

Non-Executive Functions

1. All functions and responsibilities of the Council relating to risk matters subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

Executive Functions

2. All functions and responsibilities of the Council relating to risk matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

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

- a) Risk Management;
- b) Internal Audit;
- c) Insurance;
- d) Corporate Customer Standards and Complaints.

Procurement

Executive Functions

- a) Discharge of all functions and responsibilities of the Council relating to its Procurement Service.

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

Matters are referred to the Executive in the following cases:

- As specified in paragraph 3 of the General Provisions above.

Service Director – Finance

The holder of the post of Service Director – Finance is designated as the officer responsible for the proper administration of the Council’s financial affairs pursuant to s151 of the Local Government Act 1972 and is responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Directorate and, without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

A. Strategic Financial Advice and Accounting

Non-Executive Functions

1. All functions and responsibilities of the Council relating to strategic financial advice and accounting subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

Executive Functions

2. All functions and responsibilities of the Council relating to strategic financial advice and accounting that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above such functions and responsibilities referred to in A1 and A2 above include but are not limited to:

- (a) Strategic Finance;
- (b) Business and finance advice to directorates; and
- (b) Treasury Management.

3. **Determination of Council Tax Base**

Cabinet on 17th January 2023 & Council on 22nd February 2023 delegated to the Section 151 Officer the determination of the Council Tax Base for 2024/25

onwards, in consultation with the Portfolio Holder (Corporate), pursuant to the Local Government Finance Act 1992 and the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012. N.B. this relates to Executive and Non-executive functions.

B. Customer & Exchequer Services Matters

Executive Functions

1. All functions and responsibilities of the Council relating to its customer and exchequer services and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

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

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include but are not limited to:

- (a) Customer Strategy;
- (b) Customer Contact (KD, KIP, LIC);
- (c) Housing Benefits;
- (d) Revenues and Income;
- (e) Advice;
- (f) Client Financial Affairs
- (g) Free School Transport
- (h) Free School Meals
- (i) Disabled Parking Badges

SECTION G

Advisory Committees/Panels

Youth Council

Membership consists of up to 32 young people aged 11-18 who meet regularly to discuss issues important to them. The Youth Council can refer issues to Cabinet or Scrutiny for discussion and decision.

It has responsibility for:

- Undertaking projects/activities to tackle issues
- Having some input into budget setting for Children and Young People's Service
- Advising Councillors on young people's views
- Linking up with locality based youth groups
- Referring issues for consideration by Cabinet and Scrutiny, as appropriate

Considering issues referred from Cabinet and Scrutiny, as appropriate

Budget Advisory Board

Membership consists of the Leader and Deputy Leader of each of the Groups who are party to the Budget Implementation Agreement dated 16 February 2011.

- The Board will meet as and when required to consider and comment on proposals, options or recommendations relating to the implementation of Budget decisions regarding business contained within the Budget Implementation Agreement, agreed at Council on 23 February 2011.
- The Board will only meet when proposals have been sufficiently developed for submission to the decision making body.
- The Board will make comments and/or recommendations to inform discussion and deliberations at the decision making body i.e. Cabinet or Council, relating to the budget issue under consideration.

SECTION H

Boards of Council Officers

In November 2016, the Chief Executive made changes to the structure and makeup of Senior Officer Meetings to manage the business of the Council. The different meetings are described below and a chart illustrating their relationships is attached:

- The Executive Team consists of the Chief Executive, Deputy Chief Executive and Directors. This is the principal Officer meeting, responsible for the coordination of activity across the Officer Board Meetings landscape.
- The New Council Board consisting of the Chief Executive, Deputy Chief Executive and Directors. The New Council Board provides leadership and coordination on work within the council to implement the New Council.
- The Redesign Board consisting of all Assistant Directors. The Redesign Board provides a link between the New Council Board and the full range of change and improvement activities that relate to the delivery of New Council. The Board resolves individual and cross project issues and provides assurance to the New Council Board that proposals are robust and deliverable.
- The Management Planning Forum consists of the Chief Executive, Deputy Chief Executive, Executive Directors and Service Directors. The Management Planning Forum facilitates collaboration on work undertaken collectively by Executive Directors, Service Directors and other Senior Officers.
- The Council Manager Group consists of the Chief Executive, Deputy Chief Executive, Executive Directors, Service Directors and all of the other senior managers (Grades 17-19) This is the forum for the sharing of information, including setting out key strategies to the Councils Senior Management Team
- Partnership Boards consist of Councillors, Executive Directors, Service Directors and other Council Officers, working with senior representatives from the Councils Partner organisations. Partnership Boards coordinate the activities of the Council and Partners on cross cutting areas of work such as services for children and economic resilience.

The Chief Executive and Deputy Chief Executive sets the agendas for these meetings drawing on a forward programme of business that provides a core spine and constant reminder of the key items of management and strategic business that require attention by officers and elected members. These arrangements reflect the significant number of strategic issues which require input from more than one service or portfolio area. The forward programme of business combines work generated by Cabinet Members and their portfolio briefings with strategic work associated with the management of the Council's budget and workforce.

Each of the items in the forward programme is allocated to an Executive Director or a Service Director to consider and develop. Some of these items may also require attention within some informal networks and working groups. Executive Team and Management Planning Forum are supported by such groups, comprising individual directors, assistant directors, and other officers as are necessary to discharge their business.

However, all significant recommendations for the change which the lead officers and/or groups do propose have to be referred to the Executive Team for consideration and approval.

The items and recommendations for action that require consideration or formal decisions are also shared with the Leader and Cabinet, Leaders, Overview and Scrutiny and Council, as appropriate

PART 4:
RULES OF PROCEDURE

Part 4 of the Council's Constitution consists of 8 documents which describe how we conduct ourselves in meetings and make decisions about certain matters as follows:

[4.1 Council Procedure Rules](#)

[4.2 Access to Information Procedure Rules](#)

[4.3 Budget & Policy Framework Rules](#)

[4.4 Executive procedure Rules](#)

[4.5 Overview & Scrutiny Procedure Rules](#)

[4.6 Financial Procedure Rules](#)

[4.7 Contract Procedure Rules](#)

[4.8 Officer Employment Procedure Rules](#)

COUNCIL PROCEDURE RULES

Amended by Annual Council on 22 May 2024

Contents

COUNCIL PROCEDURE RULES	1
Introduction	4
(A) Meetings of the Council	4
1. Annual Meeting of the Council	4
2. Ordinary and Additional Meetings of Council, Notice of and Summons to Meetings	6
3. Budget Meeting.....	7
4. Quorum of Council	7
5. Order of Business	7
6. Limitation of Business	10
7. Minutes	11
8. Announcements by the Mayor, Leader of the Council, Cabinet Members and Chief Executive	11
9. Presentation of Petitions by Members of the Council and Members of the Public	11
10. Deputations	12
11. Questions by Members of the Public at Council, Committee, Sub-Committee, Boards and Panel meetings.....	14
12. Written Questions by Members	16
13. Procedure at Council Meetings in Relation to Reports and/or Minutes of Cabinet and Committees.....	17
14. Notices of Motion.....	19
15. Motions and Amendments Which May Be Moved Without Notice	21
16. Termination and Adjournment of Meeting.....	23
17. Opposition Priority Business.....	23
18. Rules of Debate.....	24
19. Motion to Make Statutory Calculations and to set Amounts of Council Tax 29	
20. Motion affecting persons employed by the Council	30
21. Members Conduct	31
22. Disturbance by the Public.....	31
23. Previous Decisions and Motions	31
24. Voting	32
25. Failure to Attend Meetings.....	33
26. Interests of Members which are not Disclosable Pecuniary Interests.....	33
27. Interpretation of these Rules	33
(B) Members and Officers Etc	34
28. Leaders and Business Managers	34
29. Inspection of Documents	34

30.	Orders Regarding Works; Inspection of Lands, Premises, etc	35
31.	Representation of the Council on Other Bodies	35
32.	Interest of Officers in Contracts	35
33.	Third Party Recording of Committees, Boards and Panels	35
34.	Confidentiality of Meetings and Recording of Proceedings	36
(C)	Relating To Committees, Sub-Committees, Panels Etc	37
35.	Appointment of Committees, Sub-Committees and Panels.....	37
36.	Observer Attendance by Councillors at Committees, Sub-Committees or Panels	39
37.	Attendance by Members of the Public - Permission to Speak.....	39
38.	Appointment of Chairs and Deputy Chairs of Committees and Sub-Committees/Panels, Lead Members of Scrutiny Panels and Appointments to Outside Bodies, etc	40
39.	Quorum of Committees, Management Boards, Sub-Committees and Panels	41
40.	Meetings of Committees, Sub-Committees and Panels and Agenda Papers.....	42
41.	Procedure Rules to apply to Committees, Sub-Committees and Panels	42
42.	Voting in Committees, Sub-Committees or Panels.....	43
43.	Working Parties, etc	43
44.	Reports to Council.....	43
45.	Reports of Sub-Committees and Panels	44
(D)	Miscellaneous.....	44
46.	Variation and Revocation of Procedure Rules.....	44
47.	Suspension of Procedure Rules	44
48.	Standards of Conduct in Public when representing the Council	44
49.	Appointment of Leader or Mayor Other than at Annual Meetings of Council	45
50.	Relevant Definitions	45
51.	Remote Meetings	45

Introduction

Any references to being present at any meeting in these rules is now to be interpreted as including being in attendance remotely at any relevant meeting that may still take place remotely.

A procedure rule for remote meetings, Rule 51, is included and the existing rules should be interpreted in light of the provisions of that rule.

(A) Meetings of the Council

1. Annual Meeting of the Council

(1) Timing and Business

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

At the Annual Meeting, the agenda will be as follows:

CIVIC AND PROCEDURAL

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

ELECTION OF THE EXECUTIVE

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

CONSTITUTIONAL BUSINESS

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

(2) Selection of Councillors on Committees

At the Annual Meeting, the Council will:

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

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

Dates of Council Meetings

- (1) All meetings of the Council, with the exception of:
 - any called as Extraordinary Meetings; or
 - changes made to meeting dates as proposed by the Corporate Governance and Audit Committee and agreed by Council during the municipal year,

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

Extraordinary Meetings

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

Venue and Start Time

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

Council Summons

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

Chair of Meeting

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

3. Budget Meeting

The Council may specify that one meeting will solely be the Council's budget meeting. At that meeting the only items will be to agree the budget, the capital programme and the level of Council tax for the following financial year, together with any issues connected with the budget and anything else which the Mayor in consultation with the Chief Executive considers appropriate for inclusion.

4. Quorum of Council

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

5. Order of Business

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

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

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

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

PROCEDURAL

- a) To choose a person to preside if the Mayor and Deputy Mayor are absent.
- b) Announcements by the Mayor or the Chief Executive.
- c) To receive apologies.
- d) To approve as a correct record and sign the Minutes of the previous meeting of the Council.
- e) To receive declarations of interest.
- f) To receive petitions submitted by Members of the Council.
- g) To receive any petitions/hear depositions from Members of the Public.
- h) To receive any public questions.
- i) To receive and consider any petitions referred in accordance with the Council's Petitions Scheme.
- j) To receive Minutes of meetings of the West Yorkshire Combined Authority.

DECISION MAKING

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

WRITTEN QUESTIONS BY MEMBERS OF THE COUNCIL

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

CABINET AND COMMITTEES

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

MEMBER MOTIONS

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

GENERAL

- q) Other matters for consideration by Council including reports back on resolutions from previous Council meetings.
- r) To deal with any business expressly required by statute to be dealt with by the Council.

(3) In addition to those items at (1) of this Rule, the following items shall be included in meetings designated as **Key Discussion Meetings** (provided that there is sufficient such business at any one meeting) and such business shall follow on from that set out in (1) of this Rule as follows:

KEY ISSUES

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

OVERVIEW & SCRUTINY

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

MEMBER MOTIONS

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

GENERAL

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

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

6. Limitation of Business

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

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

7. Minutes

Correct Record

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

Accuracy

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

Submission to Council

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

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

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

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

Presentation of Petitions

- (1) Petitions on issues on which the Council has powers or duties or which affect the area of Kirklees may be presented by a Member or any member of the public resident or operating a business within Kirklees to any meeting of the Council (except the meetings of Annual, Budget or Extraordinary Council) or an appropriate Committee, Sub-Committee or Panel meeting.
- (2) When a petition is received at a Council meeting the petitioner shall have a maximum of one minute to present their petition and no discussion shall take place on the item. There shall be no response at the meeting. The Mayor/Chair will acknowledge receipt.

Referral of Subject Matter

- (3) The Mayor may direct that the subject matter of a petition be referred to an appropriate Service Director for investigation and report to Cabinet or an appropriate Committee. Once a petition has been submitted additional signatories cannot be subsequently added.

9a. Council's Petition Scheme – Council Debates

In accordance with the Council's Petition Scheme (as approved by Cabinet on 6 June 2012), if a validated petition contains more than 3000 signatures, the Petition Organiser (or their representative) will be permitted to present their petition to a future meeting of the Council, subject to the validation of the petition. If the matter is listed for a Petition Debate the Petition Organiser (or their representative) will be permitted a maximum of five minutes to present their petition to the meeting, prior to the Council debating the matter (for a maximum of fifteen minutes). Where a debate is requested this will be scheduled within a reasonable time period.

A Council debate shall not be listed in relation to matters upon which the Council is currently undertaking a consultation process.

A petition may not be debated if a similar subject matter has previously been listed for debate in the previous 6 months.

10. Deputations

Receiving of Deputations

- (1) Any member of the public resident or operating a business in Kirklees may make deputations on issues on which the Council has powers or duties or which affect the area of Kirklees which may be received at any meeting of the Council (except the meetings of Annual, Budget or Extra-Ordinary Council) or at any meeting of an appropriate Committee, or Sub-Committee relevant to its terms of reference. The Mayor/Chair in consultation with the Chief Executive shall have discretion to decide whether or not to hear the deputation.
- (2) Any request to make a deputation should be submitted at least 3 clear working days prior to the meeting. A copy of the deputation speech must accompany the request.
- (3) The Council will not receive more than four deputations at any ordinary meeting.
- (4) The suitability of a Deputation shall be determined by the Chief Executive in consultation with the Mayor/Chair. In doing that the Chief Executive will consider which may be the most appropriate meeting to consider the Deputation, whether it is Council or if there is a more appropriate committee, forum or body to respond to the Deputation. Eligible deputations shall be heard in the order in which permission is granted.

- (5) The Council shall not normally receive a deputation on a matter that has been the subject of a deputation in the previous six months.
- (6) The Council shall not debate any matter raised by a deputation when it is presented.

Deputations which will not be received

- (7) A deputation will not be received if the Chief Executive considers that it includes references to the following:
 - (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.
 - (b) Information relating to complaints made under statutory provisions which have not been finally dealt with.
 - (c) Matters relating to items already listed on a public agenda or listed for consideration by a committee including, but not limited to the Council, Cabinet or a committee, sub-committee, panel or officers.
 - (d) Information concerning the merit of applications relating to planning, licensing and other administrative or regulatory matters.
 - (e) Information of a personal nature or which is defamatory, offensive, frivolous, repetitive or vexatious.
- (8) Deputations with the sole or predominant purpose of promoting any company's or individual's own business interests or financial position will not be permitted.

Size of Deputation and Speech

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

Referral of Subject Matter

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

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

Who Can Ask A Question?

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

When Questions Cannot Be Asked

(2) Questions may not be asked at:

- (a) the Annual Council Meeting;
- (b) the Budget Council Meeting;

or during the period from:

- (c) the announcement of a General Election to polling day (inclusive); or
- (d) the publication of the notice of ordinary elections for the Council to polling day (inclusive).

Questions Which Will Not Be Answered

- (3) Questions will not be answered if the Chief Executive considers that they include references to the following:
 - (a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.
 - (b) Questions relating to complaints made under statutory provisions which have not been finally dealt with.
 - (c) Questions about the merit of applications or other matters currently before the Council, Cabinet or a Committee, Sub-Committee, Panel or Officers for determination in respect of which the Council is under a

duty to act quasi-judicially.

- (d) Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious.

Questions To Be Within Terms of Reference

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

Time Allowed for Questions

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

Answers to Questions at meetings of the Council

- (6) A written answer will be provided to a written question and will be given to the questioner and Councillors the day before the meeting. The question and answer will then be taken as read at the meeting itself and need not be read out.

A copy of all written questions and written answers circulated at the meeting will be attached to the published agenda for the meeting.

Additional Questions

A member of the public who has put a written question may, if they are in attendance and, with the consent of the Chair, ask one supplementary question relating to the response on the same subject.

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

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

An answer may take the form of:

- (a) a direct oral answer; or

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

Recording in Minutes

- (7) The Service Director - Legal, Governance and Commissioning shall record in the Minutes of the meeting the question(s) and the name of the respondent. Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility.

Questions Ruled Out of Order

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

Referral of Subject Matter

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

12. Written Questions by Members

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

The following provisions shall apply to written questions by Members which must be received by the Service Director - Legal, Governance and Commissioning three clear working days before the Council meeting.

- (1) Any member of Council may submit up to three written questions to the Leader of the Council, a member of the Cabinet, a Chair of a Committee, Sub-Committee or Panel or a spokesperson of a Joint Committee or External Body, as defined at Rule 13 (4).
- (2) The Mayor/Chair in consultation with the Chief Executive may determine that a question shall not be answered where the question appears defamatory, vexatious or requires the disclosure of confidential or exempt information.

(3) A written answer will be provided to a written question and will be given to the questioner and to Councillors the day before the meeting. The question and answer will then be taken as read at the meeting itself and need not be read out.

(4) An answer will take the form of:

(a) a written question and answer is attached to the published agenda for the meeting.

(5) When an answer to a written question has been given, the Member who asked it may, if they are in attendance, ask one supplementary question relating to the response on the same topic. Subject to the Mayor/Chair's discretion a 3-minute time limit applies for individual supplementary questions to be put.

(6) A written question, as well as any supplementary question, must be relevant to the Terms of Reference or powers or duties of Cabinet or of the relevant Committee / Sub-Committee / Panel / Joint Committee or External Body or affect the area of Kirklees and should not be of a personal nature or one which is defamatory, offensive, frivolous, repetitive or vexatious.

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

Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility for a period of 12 months.

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

(1) Minutes for Information / Reports which require approval

(i) Any matter expressly referred to Council by Cabinet or a Committee for determination shall be dealt with first.

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

(2) Questions/Comments on Cabinet Minutes

(i) The Minutes of Cabinet shall be submitted to Ordinary meetings of the Council followed by those of the Cabinet Committee – Local Issues.

(ii) Prior to the start of questions to Cabinet Members, Portfolio Holders may make a report, not exceeding 10 minutes in length per Cabinet Member,

setting out his / her Portfolio Plan for the municipal year, or on progress against that Plan.

Comments and statements by Cabinet Members shall not exceed 30 minutes in duration including any questions arising from the information provided. All Cabinet Members will be required to make Council aware of their Portfolio Plan at the start of the municipal year either verbally or in writing circulated to all Members and to report on progress against that Plan at least once in the municipal year.

- (iii) Questions may be asked by any Member of any Cabinet Members whether on a specific matter contained within the minutes or any matter generally which is in the portfolio of the Cabinet Member. There is no restriction on the number of questions Members may ask within the allotted time but each individual Member is only permitted to ask one question together with one supplementary question at any one time.
- (iv) Any Member may, in addition to or instead of exercising their rights under Rule 13(2)(iii), comment once for a maximum of five minutes on any item within the Cabinet minutes presented to the meeting.
- (v) The Leader/Cabinet Portfolios will be listed on the agenda. This item will provide the opportunity for questions to be asked of the Cabinet Members listed.
- (vi) Subject to (5)(i) of this Rule, Cabinet members will have a right of reply.

(3) Questions / Comments on Committee Minutes

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

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

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

- (i) Any Member may ask the Chair of the relevant Committee/Sub-Committee/Panel or the Lead Member of a Standing Scrutiny Panel a

question upon any item within the Terms of Reference of that Committee/Sub-Committee/ Panel or Standing Scrutiny Panel (as applicable). Any Member may also ask a question of the relevant spokesperson for any of the Joint Committees or external bodies (including regional and sub-regional bodies) identified in Rule 13(4)(ii).

(ii) For the purposes of this Rule, questions may be asked of spokespersons or representatives of the following Joint Committees or External Bodies:

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

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

(iii) The list of persons (by virtue of position) to whom questions can be asked will be set out in the agenda.

(5) Time Permitted

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

14. Notices of Motion

Submission of Motions

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

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

(2) Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) Motions, including previous Motions that have not been resubmitted in accordance with Council Procedure Rule 14(3) will be listed after Motions submitted in

accordance with Council Procedure Rule 14(3). Any further motions, ie, new motions or previous motions deemed withdrawn in accordance with CPR 14(3), will be listed after the re-submitted motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.

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

Recording of Motions

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

Motions Which Have Revenue Effects

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

Relevance

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

Motions Not Accepted

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

Withdrawal

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

Inclusion on Council Agenda

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

in the order they were received.

Moving of Motions

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

Receipt of Amendments

- (11) Any proposed amendment to a Motion which has been included in the summons for a meeting, shall be delivered to the Service Director – Legal, Governance and Commissioning no later than 10.00am on the day prior to the Council Meeting. Any amendments will be published at 5pm the day before the meeting.

Motions on Identical Subjects

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

Alterations to Motions and Amendments

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

Need for Debate

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

15. Motions and Amendments Which May Be Moved Without Notice

The following motions and amendments may be moved without notice:

- (1) Appointment of a Chair of the meeting at which the motion is moved.
- (2) Questioning the accuracy of the Minutes of the previous meeting of the Council.

- (3) To change the order of business in the Agenda.
- (4) Reference to Cabinet a Committee, Sub-Committee or Panel for further consideration.
- (5) Appointment of Leader or a Committee, or Member thereof arising from an item on the Agenda for the meeting.
- (6) That leave be given to withdraw a motion.
- (7) Motions and amendments in respect of urgent business under Rule 6.
- (8) That the Council proceed to the next business.
- (9) Motions under Rule 11(5) and 11(9) as to questions by electors at Council Meetings
- (10) Amendments to any motion to approve the recommendations of the Cabinet or a Committee.
- (11) That the question be now put.
- (12) Amendments to any Motion except amendments to notices of motion pursuant to Rule 14(8) and (9) or where notice is required under Rule 19.
- (13) That the debate be now adjourned.
- (14) That the Council do now adjourn.
- (15) Adoption of reports of Officers and any consequent resolutions.
- (16) Suspending these Rules in accordance with Rule 47.
- (17) Motion to exclude the public.
- (18) That a Member named under Rule 21 be not heard further or leave the meeting.
- (19) Giving consent or leave of the Council where the consent or leave of the Council is required by these Rules.
- (20) That the subject matter of an announcement made by the Mayor, or the Chief Executive under Rule 8 be referred to Cabinet or the appropriate Committee, Sub-Committee or Panel.
- (21) Motions under Rule 16 to continue a Council meeting after 9.00 p.m.
- (22) That the Council do now adjourn for discussion in smaller groups or in some other form.

16. Termination and Adjournment of Meeting

- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time and may incorporate a scheduled break of the meeting as required.
- (2) A meeting of the Council (except the Annual Meeting and Budget Council) shall terminate at 9.00 p.m. unless a Member moves, prior to 9.00pm, a motion that the meeting shall continue until (i) a later time (to be specified in the motion) or (ii) the conclusion of the business of the meeting. If the motion is seconded it shall be put to the meeting without comment.
- (3) If the motion is passed the meeting shall continue until the time specified or until the conclusion of the business of the meeting.
- (4) At 9.00 p.m. or such later time as the Council has agreed, the Mayor shall have the discretion to grant an additional period of time to allow the item under consideration at that time to be concluded. Otherwise, the Mayor shall:
 - (a) allow no further points of order to be raised by any other Member.
 - (b) interrupt the discussion of the item being considered by the meeting.
 - (c) allow the proposer of the motion then under consideration a maximum of five minutes to reply to the debate unless he/she seeks leave to withdraw the motion.
 - (d) put (without discussion) all of the questions necessary to dispose of that motion, unless the motion is withdrawn.
 - (e) put (without discussion) all of the questions necessary to complete the consideration of any reports of Cabinet or any Committee, which are on the Agenda for the meeting, unless the Member appointed to preside in any such body (or a person on his/her behalf) indicates a wish to the contrary.
- (5) Where proceedings are in progress either at 9.00 p.m. or at a later time (specifically agreed by the Council in accordance with a motion to that effect), the provisions of Rule 24(3) as to recorded votes shall not apply.
- (6) Following any processes outlined above, the Mayor shall finally close the meeting.

17. Opposition Priority Business

- (1) This Rule applies where there is a majority group of members of the Council.
- (2) A minority group may require that any one item of business placed on the Agenda for any Council meeting be treated as opposition priority business.

Such a requirement will only be considered if the Leader of that Group has submitted it in writing to the Chief Executive at least seven days before the Council meeting.

- (3) Where the Chief Executive receives more than one such request for a meeting, he/she shall decide which shall be selected so as to ensure that as far as is possible each minority group's share of opposition priority business reflects the relative size of those groups in the period from the last Annual Meeting of the Council.
- (4) Service Director - Legal, Governance and Commissioning shall indicate on the Agenda which item of business (if any) is to be treated as opposition priority business.
- (5) If consideration of an item of opposition priority business has not begun two hours after the start of the meeting it will be brought forward and considered immediately after the conclusion of the item of business then under discussion.

18. Rules of Debate

Motions and Amendments

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

Seconders Speech

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

List of Names of Those Wishing to Speak

- (4) During the debate Members should indicate their wish to speak by use of their individual voting console. The Mayor shall have absolute discretion to alter the order of those wishing to speak and may close the list at any time. This provision does not apply to:
 - the Mayor
 - the mover of the original motion
 - the seconder of the original motion who has reserved the right to speak

- Members rising on a point of order or to provide a personal explanation
- persons moving motions and amendments under Rule 15

Addressing the Mayor

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

Content and Length of Speeches

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

Additional Time For Speeches

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

When a Member May Speak Again - Adoption of Reports

- (8) On a motion to adopt the report of Cabinet or a Committee, a Member may speak once in general regarding the report. In addition, he/she may move or second or speak to one amendment only on each item in the report requiring a decision by the Council.

When a Member May Speak Again - Other Motions

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

Exceptions to Speaking Only Once

(10) The requirement that a Member shall only speak once shall not prevent a Member from speaking:

- (i) in exercise of a right to reply,
- (ii) on a point of order,
- (iii) by way of personal explanation.

Amendments to Motions

(11) An amendment shall be relevant to the motion and shall be either:

- (b) to refer a subject of debate to Cabinet or a Committee, for consideration or reconsideration;
- (c) to leave out words;
- (d) to leave out words and insert or add others;
- (e) to insert or add words;

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

Discussion of Amendments

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

Motion as Amended

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

Withdrawal of Motion/Amendment

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

Right of Reply

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

Motions which may be moved during debate

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

Closure Motion

- (17) A Member may move without comment at the conclusion of a speech of another Member "That the question be now put", "That the debate be now adjourned" or "That the Council do now adjourn". If such a motion is seconded, the Mayor shall proceed as follows:-
- (a) On a motion "that the question be now put", the Mayor shall put this motion to the vote, unless he or she is of the opinion that the matter before the meeting has not been discussed sufficiently. If the motion 'that the question be now put' is voted on and carried, the Mayor will allow the proposer of the original motion the right to reply under

paragraph (15) above before putting the motion under discussion to the vote.

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

Point of Order and Personal Explanation

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

Relaxation by the Mayor of Rules of Debate

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

Mayor's Authority

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

Mayor's Casting Vote

- (25) The Mayor, or in their absence, the person presiding at the Council meeting, shall have a second or casting vote in the case of an equality of votes.

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

Motion referred from Cabinet

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

Motion distributed by the Leader

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

Amendments

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

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

Notification of Amendments

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

Debating the Motion and Amendments

- (5) (i) The Mover of any Amendment to the Budget Motion shall speak for no longer than ten minutes, or for the same time taken by the Mover of the Budget Motion, whichever is the longer.

- (ii) If a motion or an amendment described in paragraphs (1), (2) and (3) above is not carried at the Council meeting, further motions and amendments may be moved and seconded without notice for consideration and determination. Copies of these additional motions or amendments must be made available to each Member of the Council by the mover or seconder before any debate begins.
- (iii) In the event that an amendment is approved, thereby becoming the substantive motion, this resolution shall become the Council's budget and no further amendments shall be debated or voted upon.
- (iv) In order to engage in a full debate about the Budget and amendments these rules will allow reference to be made by a member in the Budget debate, to the Budget Motion and / or any amendments submitted by a political group related to the budget during their contribution to the debate whether that be when speaking on the Budget Motion or an amendment to it.

Limitations

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

Recording of Votes relating to Council Tax etc

- (7) Immediately after any vote is taken at a Budget Decision Meeting of the Council on any decision or amendment relating to the approval of the General Fund, or the statutory calculation for the setting of the Council Tax, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
 - (8) For the purposes of Rule 19 (7):
 - a) "Budget Decision" means a meeting of the Council at which it:
 - (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(b); or
 - (ii) issues a precept under Chapter 4 of the Part 1 of that Act;
- and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.

20. Motion affecting persons employed by the Council

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

21. Members Conduct

Member not be heard

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

Member to leave the meeting

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

General Disturbance

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

Mayor's Power to Adjourn

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

22. Disturbance by the Public

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

23. Previous Decisions and Motions

Motion to rescind a previous decision

- (1) No motion to rescind any decision taken within the preceding six months, and no motion or amendment with the same effect as one which has been rejected within the preceding six months, shall be proposed unless notice

has been given in accordance with Rule 14 and has been signed by at least 10 Members of the Council. When any such motion or amendment has been disposed of by the Council, no similar motion may be proposed within a further period of six months.

Motion similar to the one previously rejected - exceptions

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

24. Voting

Show of Hands / Voting Equipment

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

Casting Vote

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

Recorded Vote

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

Ballots

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

Right to require individual votes to be recorded

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

Voting on Appointments (including Mayor and Leader)

- (6) If there are more than two persons nominated for any appointment to be filled by the Council (including the election of the Mayor and the Leader) and there is no overall majority vote in favour of one person, the following procedure will apply. The name of the person who has received the least

number of votes will be struck off the list of nominations and a fresh vote will be taken. This procedure will continue until a majority vote is given in support of one of the persons nominated.

25. Failure to Attend Meetings

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

(2) For the purpose of this Rule a meeting of the Authority shall include:-

- the Council, Cabinet or any Committee, Sub-Committee or Panel; or
- any Joint Committee or Joint Board which has Council functions delegated to it;
- any other body at which the Member represents the Council.

26. Interests of Members which are not Disclosable Pecuniary Interests

(1) Any Member who has an interest which is not a Disclosable Pecuniary Interest as described in paragraph 5 of the Council's Code of Conduct in any matter shall comply with the requirements of that Code in respect of that interest ("Other Interest").

(2) A Member of the Council may declare in a register kept by the Service Director - Legal, Governance and Commissioning his/her membership of any organisation which requires details of its aims, duties or membership to be kept secret. This register will be open to public inspection during office hours.

27. Interpretation of these Rules

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

(B) Members and Officers Etc

28. Leaders and Business Managers

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

29. Inspection of Documents

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

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

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

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

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

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

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

31. Representation of the Council on Other Bodies

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

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

32. Interest of Officers in Contracts

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

33. Third Party Recording¹ of Committees, Boards and Panels

- (1) The Council wants to be open and transparent in the way in which it conducts its decision-making.

¹ This includes both video and audio recording.

- (2) Recording is allowed at all meetings of the authority² to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- (3) Filming or other recording of all meetings of the authority, whilst those meetings are to the public, is permitted^{3 4}.
- (4) Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the meeting of their intentions to record prior to the commencement of the meeting.
- (5) Recordings may only be taken overtly from the area designated for the public and;
 - a. Recording devices must be in silent mode;
 - b. No flash or additional lighting is permitted;
 - c. Recordings must be taken from one fixed position and must not obstruct others from observing proceedings.
- (6) The Chair of a meeting has the authority to instruct that recordings be stopped where⁵:
 - a. The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed;
 - b. There is public disturbance or a suspension/ adjournment of a meeting;
 - c. The recording has become disruptive or distracting to the good order and conduct of the meeting;
 - d. Continued recording is against the wishes of an individual⁶.

34. Confidentiality of Meetings and Recording of Proceedings

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

² Including full Council, committees (boards and panels) established by full Council.

³ In accordance with any regulations relating to such matters.

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

⁵ In all cases recording equipment must be switched off.

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

the item, or if the person concerned has a legal right to inspect the document.

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

35.Appointment of Committees, Sub-Committees and Panels

(1) The Council at its Annual Meeting will establish those Committees which are required by law and such other Committees as are deemed necessary to carry out the work of the Council during the municipal year. The Council may at any other time establish new Committees, which are considered necessary to carry out the work of the Council.

(2) The Council subject to any statutory provision:-

- (i) shall not appoint any Member of a Committee so as to hold office later than the next Annual Meeting of the Council;
- (ii) may at any time dissolve a Committee or alter its membership.
- (iii) shall not appoint the Leader, the Deputy Leader of the Council or any Members of the Cabinet as members of the Overview and Scrutiny Committee or its Panels;
- (iv) shall require the post holders of Scrutiny Lead Panel Members – Children (including those who attend Children Homes Regulations 44 visits) and Adoption Panel Members to undertake an Enhanced DBS check in accordance with the DBS policy. The Monitoring Officer may require other members to undertake an enhanced DBS check at her discretion where such checks are justified.

Appointment of Sub-Committees, Panels etc

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

- (v) shall not appoint any Member of a Sub-Committee or Panel so as to hold office later than the next Annual Meeting of the Council
- (vi) may at any time dissolve a Sub-Committee or Panel or alter its membership, and
- (vii) may delegate to any such Sub-Committee or Panel any power or duty delegated to the Committee by the Council.

(4) A Committee may establish other Sub-Committees or Panels at any time in the municipal year.

Membership of Committees, Sub-Committees, Panels etc

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

Proportional Representation of Political Groups not to apply

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

Substitute Members

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

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

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

Notice of Substitutes cannot be revoked

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

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

- (10) The membership of a Sub-Committee or Panel may include persons who

are not Members of the Committee by which the Sub-Committee or Panel was appointed.

- (11) Except in cases required by law or permitted by law and agreed by the appointing body, no co-opted member of any Committee, Sub-Committee or Panel shall be entitled to vote on any matter considered by it.

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

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

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

Any member of the public attending a Committee, Sub-Committee, or Panel (or any other meeting open to the public) may, with the permission of the Mayor/Chair, speak on any item of business to be transacted at that meeting. This speaking right

shall not apply to persons who have presented a deputation on the same subject matter at the same meeting. That person shall not be permitted to remain in the meeting when consideration is being given to confidential or exempt information.

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

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

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

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

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

Committee or Panel has no delegated powers and can only make recommendations.

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

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

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

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

42. Voting in Committees, Sub-Committees or Panels

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

43. Working Parties, etc

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

44. Reports to Council

- (1) The Chair may request the Service Director - Legal, Governance and Commissioning to include in the report of a Committee, a reference to any particular matters which were considered in the meeting.

(2) In accordance with the Agenda for the Council meeting.

(a) The Chair of a Committee, (or in their absence any other Member of the Committee) shall propose a motion to seek the Council's approval on any matter expressly referred by the Committee, to Council for determination.

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

45. Reports of Sub-Committees and Panels

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

(D) Miscellaneous

46. Variation and Revocation of Procedure Rules

(1) Any motion to add to, vary or revoke these or any other Procedure Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

(2) Paragraph (1) of this Rule shall not apply to any review of Procedure Rules proposed at the Annual Meeting of the Council or to a specific recommendation by the Cabinet or a Committee to the Council to add to, vary or revoke any Procedure Rules.

47. Suspension of Procedure Rules

(1) At any meeting a motion may be moved to suspend the use of any of the preceding Procedure Rules for any item(s) of business included on the Agenda for that meeting. The Motion should specify the relevant Council Procedure Rule/s to be suspended.

(2) A motion to suspend Procedure Rules shall not be moved without notice unless at least one-half of the Members of the Council, Committee, Sub-Committee or Panel are present.

48. Standards of Conduct in Public when representing the Council

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

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

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

50. Relevant Definitions

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

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

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

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

51. Remote Meetings

- (1) This Council Procedure Rule applies where a Committee or Panel meeting may take place lawfully remotely.
- (2) This means where the Council is able to hold meetings without all, or any, of the members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing.
- (3) The ‘place’ at which the meeting is held may be a Council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address, or a conference call telephone number.

- (4) In order for members to be able to attend meetings of the Council remotely, they need not be physically present, provided they are able to hear and be heard (and, where possible, see and be seen by) other Councillors and members of the public attending remotely or in person.
- (5) The Procedure Rules in this Constitution apply to remote meetings in the same way as they do for other meetings of the Council except where they conflict, in which case this Procedure Rule takes precedence over other Procedure Rules in relation to the governance of remote meetings.

Process

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

Voting

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

Access to information

- (11) The requirement to ensure meetings are open to the public includes access by remote means, including video conferencing, live webcast and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.
- (12) Any requirements for the authority to ensure publication, posting or making available a document for inspection at offices of the Council include publication on the Council's website.

ACCESS TO INFORMATION PROCEDURE RULES

Access to Information Procedure Rules

1. Scope of These Rules

These rules apply to all meetings of the Council, the Overview and Scrutiny Management Committee and Scrutiny Panels, the Standards Committee and regulatory and other Council committees (together called meetings). Rule 14 provides for their application to meetings of the Cabinet, Cabinet committees and of individual Cabinet members with officers for decision-making.

The Council is governed by the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as amended and the Openness of Local Government Bodies Regulations 2014.

2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend Meetings

Members of the public may attend all such meetings subject only to the exceptions in these rules.

4. Notices of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Ramsden Street, Huddersfield. Except in the case of a Council meeting, this requirement may be reduced when a meeting is called on shorter notice in cases of urgency. The notice will specify the business proposed be transacted at the meeting.

5. Access to Agenda and Reports before the Meeting

Unless a meeting is called on shorter notice in cases of urgency, the Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

Where reports are prepared after the summons has been sent out, the Head of Governance shall make each such report available to the public as soon as the report is completed and sent to councillors.

Where copies of the agenda and reports open to the public are not made available for inspection in this way, an item of business will not be considered unless by reason of special circumstances, which shall be specified in the minutes, the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

6. Supply of Copies

Copies of those documents and notices which are published on the Council's website in accordance with these rules and also in accordance with the Executive Procedure Rules, will be made available on inspection by the public on request during office hours at the authority's offices at Town Hall, Ramsden Street, Huddersfield.

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs, if the Head of Governance thinks fit.

7. Access to Records of Decisions

7.1 Records of Decisions Taken at Meetings

For six years after a meeting, the Council will make available for inspection, and following a request made on behalf of a newspaper, and on payment being made of postage, copying or any other necessary charge, the Head of Governance will arrange to supply copies of the following:

- (a) the minutes of the meeting (or records of decisions taken, together with reasons, for all meetings of the executive) excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public

7.2 Records of Decisions Taken By Officers¹

As soon as reasonably practicable after a significant operational decision taken by an officer in relation to a Council Function, the officer will produce a written record of

¹ In accordance with The Openness of Local Government Bodies Regulations 2014, a written record of the decision and the reasons for it, together with the date of the decision, produced in accordance with any other statutory requirement, will be sufficient to satisfy the requirement to produce a written record set out in this rule,

the decision and arrange for its publication on the Council's website together with the report in relation to the decision made. The record will include;

- A record of the decision including the date it was made,
- A statement of the reasons for it,
- Details of any alternative options considered and rejected by the officer at the time of making the decision, and
- A record of any interest declared by any Executive Member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

The written record will be retained and made available for inspection by the public for a period of six years beginning with the date of the decision to which it relates.

Following a request and on payment being made of postage, copying or any other necessary charge, the Head of Governance will arrange to supply a copy of the delegated decision notice and report in relation to an officer decision.

8. Background Papers

8.1. List of background papers

The Head of Governance will ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report.

This requirement does not include published works or those which disclose exempt or confidential information or in the case of Cabinet reports, the advice of a political advisor, if any, or any draft report or document.

8.2. Public inspection of background papers

- (a) A copy of each of the documents listed will be:-
 - (i) published on the Council's website at the same time as the report is available for public inspection, and
 - (ii) made available to a member of the public during office hours at the authorities offices at the Town Hall, Ramsden Street on payment of the Council's reasonable fee.
- (b) The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall, Ramsden Street, Huddersfield. These Rules constitute that written summary.

10. Exclusion of Access by the Public to Meetings

- 10.1 The Head of Governance will exclude access by the public to reports which in his/her opinion contain confidential information, (as defined in Rule 11).
- 10.2 If the Head of Governance thinks fit, access by the public may also be excluded in respect of reports which in his/her opinion relate to items during which, in accordance with exempt information rules, the meeting is likely not to be open to the public.
- 10.3 Such reports will be marked 'Not for publication' together with 'confidential information' or the exemption relied upon.
- 10.4 Where an exemption is relied upon, any such report must contain the reasons why, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11 Confidential Information – Requirement to Exclude Public Access

The public² must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

Confidential information means³

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information which cannot be publicly disclosed by Court Order or another Act. Generally, personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

12 Exempt Information – Discretion to Exclude Public Access

- 12.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:
 - (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and

² Members of the Council and officers attending the meeting in the course of their employment shall not be considered to be members of the public

³ Care should be taken to ensure that partners are aware of this definition of Confidential Information which will apply to information which they choose to share with the Council

(b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 12.5 below) the description of the exempt information giving rise to the exclusion of the public.

(c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

12.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

12.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

12.4 Exempt information means⁴ information falling within the following categories, (subject to any relevant conditions specified below).

NB the numbering of the categories reflects that which is set out in schedule 12A to the Local Government Act 1972, as currently amended.

12.5 Categories

Category	Condition
1. Information relating to any individual	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts or the Charities Act 2011.

⁴ Care should be taken to ensure that partners are aware of this definition of Exempt Information which will apply to information which they choose to share with the Council

	“Financial or business affairs” includes contemplated, as well as past or current, activities
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the crown and employees of, or office holders under the authority	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information “Labour relations matters” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. (a) Information which reveals that the authority proposes -To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b)To make an order or direction under any enactment	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Conditions

Information falling within categories 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

13. Exclusion of Access by the Public to Reports

If the Head of Governance thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 12, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed and, where relevant, an explanation of why this is considered to be in the public interest.

14. Application of Rules to the Cabinet and Key Decisions

14.1 Rules 15 – 25 apply to the Cabinet and its committees and, unless otherwise stated, to executive decisions taken by individual Cabinet Members and Officers. Unless the Council otherwise agrees, Rules 1-13 will also apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 13 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is an executive decision which is likely:

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards.

These expressions are further explained in Rules 14.2, 14.3 and 14.4 below.

14.2 For this purpose, expenditure or savings with a gross full year effect of over £500,000 in any one case will be regarded as significant. Decisions having a particular significant effect on a single ward may also be treated as if they were key decisions. This figure applies to any service or function. However, this does not include:-

- Bids for funding of £500,000 or greater made by the Council to third parties where a further report will be submitted for approval of the scheme, should the bid be successful;
- Expenditure which is, in the view of the Service Director – Legal, Governance and Commissioning, inevitable for the day to day provision of services (e.g. day to day supplies, payment of energy bills etc.) provided that such expenditure could reasonably be regarded as having been in the contemplation of members when the revenue budget was approved.
- Expenditure incurred as a result of decisions made by the Director of Finance in accordance with the approved Treasury Management Policy.
- Grants to and from the Council and loans from the Council (in accordance with the Financial Procedure Rules)

- 14.3** A decision will be significant in terms of its effects on a community if it is likely to have a significant impact, whether positive or negative, (e.g. in environmental, physical, social or economic terms) on people living or working in that community. However, matters will not be key decisions simply because the result would be, for instance, that work would be carried out in two or more wards irrespective of the impact. A decision-maker may seek advice from the Chief Executive or the Service Director – Legal, Governance and Commissioning on whether any proposed decision should be regarded as significant for these purposes.
- 14.4** A decision will not be a key decision if it is a direct consequence of implementing a key decision. So, for example, once the details of a capital scheme of £500,000 have been approved, the submission of a report to approve a select list of tenderers for that scheme will not be a key decision.
- 14.5** If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the document by which it is to be decided, then it must also comply with Rules 1 – 13 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings whose sole purpose in respect of that particular decision is for officers to brief members and for members to seek further advice and information from officers to assist them in making a decision at the appropriate time.
- 14.6** It should be noted that the requirements relating to key decisions being taken in public do not apply when such decisions are taken by officers.

15. Procedure before taking Key Decisions

Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:

a document has been published in accordance with the requirements below, which state:

- That a key decision is to be made on behalf of the Council
- The matter in respect of which the decision is to be made
- Where the decision maker is a decision making body, its name and a list of its members and, where the decision maker is an individual, that individual's name, and title if any.
- The date on which, or the period within which, the decision is to be made

- A list of the documents submitted to the decision maker for consideration in relation to the matter on which the decision is to be made
- Details of any principal groups whom the decision maker intends to consult in relation to the intended decision

At least 28 clear days before a key decision is to be made, the document referred to in paragraph 15 will be made available for inspection by public notice.

16. General Exception

If a matter which is likely to be a key decision has not been included in the document, then subject to Rule 17 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until for a period of 28 days to allow a notice of the intention to take a key decision in accordance with Rule 15;
- (b) the Head of Governance has informed the chair of the Overview and Scrutiny Management Committee, or the relevant panel (or if there is no such person able to act, each member of that committee or panel) in writing, by notice, of the matter to which the decision is to be made;
- (c) the Head of Governance has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Head of Governance complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

17. Special Urgency

If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the Overview and Scrutiny Management Committee or the relevant panel that the taking of the decision cannot be reasonably deferred. If there is no such chair, or if the chair is unable to act, then the agreement of the Mayor or in his/her absence the Deputy Mayor will suffice.

18. Report to Council

18.1 When the Overview and Scrutiny Management Committee or Panel can require a report

If the Overview and Scrutiny Management Committee or the relevant panel thinks that a key decision has been taken which was not:

- (a) included in the document; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Management Committee or panel chair, or the Mayor/Deputy Mayor under Rule 17;

the Committee or panel may require the executive to submit a report to the Council within such reasonable time as the committee or panel specifies. The power to require a report rests with the committee or panel, but is also delegated to the Head of Governance, who shall require such a report on behalf of the committee or panel when so requested by the Chair.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Committee or panel.

Such a requirement should not be made without the advice of the Chief Executive and/or the Service Director – Legal, Governance and Commissioning having first been sought.

18.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the leader is of the opinion that it was not a key decision the reasons for that opinion.

If the Council takes the view that a decision was a key decision and that the appropriate procedure has not been followed, the validity of that decision will nevertheless not be affected.

19. Record of Decisions

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Head of Governance will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

20. Cabinet Meetings Relating To Matters Which Are Not Key Decisions

Cabinet meetings relating to matters that are not key decisions will be held in public.

21. Notice of Private Meeting of the Cabinet

Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

22. Attendance at Private Meetings of the Cabinet

The Council may determine rules for the attendance of other Council members at permitted private meetings.

23. Executive Briefing

Rule 3 of the Cabinet Procedure Rules provides for executive briefing meetings. Rule 14.6 of these Rules, insofar as it relates to the discussion of a key decision, will apply to such meetings, but otherwise these Rules shall not apply.

24. Decisions by Individual Members of the Executive

24.1 Cabinet Member Decision Meetings

An individual member of the Cabinet may take decisions on matters which have been delegated to him/her only at a meeting between that member and relevant Council officers at which he/she can receive and consider reports and advice. Such meetings will be treated in the same way as if they were meetings of the Cabinet or its committees and these Rules will therefore apply to such decision making as specified in Rule 14. No such decision may be made by an individual Cabinet member at any other time. Nor should any individual Cabinet member make any prior commitment to make any particular decision.

24.2 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Head of Governance to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, any conflict of interest declared and a note of any dispensation granted by the local authority's standards committee. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant. Records of such decisions will also be reported to the next appropriate meeting of the Cabinet.

24.3 Access to reports before decisions made

Where an individual member of the Cabinet or an officer receives a report which he/she intends to take into consideration when he/she makes a key decision, he/she shall not make that decision until the report has been available for public inspection for at least five clear days.

25. Overview and Scrutiny Management Committee - Access To Documents

25.1 Rights to copies

Subject to Rule 25.2 below, the Overview and Scrutiny Management Committee or an Overview and Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to any business transacted at a meeting of the Cabinet.

25.2 Limit on rights

The Overview and Scrutiny Management Committee or panel will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser

The decision as to who is entitled to any Committee document is the responsibility of the Monitoring Officer.

26. Additional Rights of Access for Members

26.1 Material relating to previous business

Any member may, for the purposes of his/her duty as a councillor, inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) (b) or (c) below applies:

- (a) it contains exempt information other than information within category 6 set out in Rule 12 of these Rules, or within category 3 except information relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (b) it contains the advice of a political adviser; or
- (c) the member has a prejudicial interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

26.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or control of the Cabinet which relates to any key decision unless;

- (a) It contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) It contains the advice of a political adviser

The decision as to who is entitled to any Committee document is the responsibility of the Monitoring Officer.

26.3 Nature of rights

These rights of a member are additional to any other right he/she may have.

26.4 Officer attendance at political group meetings

Officers may be called upon to attend and report to meetings of political groups. Their input should be limited to providing information and advice on Council business. They should not be involved in advising on political business and should not be expected to be present at meetings or parts of meetings when matters of political business are to be discussed.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

Budget & Policy Framework

Procedure Rules

1. The framework for executive decisions

- 1.1 The council will be responsible for the adoption of its budget and policy framework as set out in Article 4 of this Constitution. Once the budget or policy within the framework is in place, it will be the responsibility of the Cabinet to implement it.
- 1.2 The Cabinet will be responsible for developing, adopting and implementing all other policies.

2. Process for developing the framework

- 2.1 The Cabinet will publicise through the forward plan and other methods, a time table for making proposals to the council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of that timetable.
- 2.2 Consultation may include the submission to the council of an early issues paper on any proposed strategy or plan for debate.
- 2.3 The Chairs of the Overview and Scrutiny Management Committee and any relevant panel will also be notified. The consultation period shall in each instance be not less than four weeks, unless the requirements of any statutory or government time table or other deadline make this impracticable.
- 2.4 At the end of that period, the Cabinet will draw up draft proposals having regard to the responses to that consultation. As part of its consideration of the proposals, it is open to the Overview and Scrutiny Management Committee or panel to consult, investigate, research or report in detail with policy recommendations. The Cabinet will take any such response into account in drawing up the firm proposals for submission to the council and its report to the council will reflect the comments made by consultees and the Cabinet's response.
- 2.5 Once the Cabinet has approved the firm proposals, the Chief Executive will refer them to the council for decision.

3. Procedure for conflict resolution - plans and strategies

- 3.1 This procedure applies in relation to those plans and strategies forming the policy framework of the council as set out in Article 4 of this Constitution.
- 3.2 Where the Cabinet has submitted a draft plan or strategy to the council for its consideration and, following consideration of that draft plan or strategy, the council has any objections to it, the council must, before taking any further decision in relation to it, inform the Leader of those objections and must

require the Cabinet to reconsider the draft plan or strategy within no less than 5 working days after the date the Leader receives that information and those instructions.

3.3 Within that period, the Leader may:-

- (a) Submit to the council a revision of the draft plan or strategy as amended by the Cabinet, with the Cabinet's reasons for any amendments; or
- (b) Inform the council of any disagreement that the Cabinet has with any of the council's objections and the Cabinet's reasons for any such disagreement.

3.4 When that period has expired, the council must, when making any further decision relating to the relevant plan or strategy, take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the council's objections and the Cabinet's reasons for that disagreement, which the Leader has submitted to the council or informed the council of within the period specified.

3.5 Where an amendment to a draft plan or strategy has been submitted under Council Procedure Rule 13(9), 14(8) or 14(14), the Leader may at any time, whether before or after a vote on the amendment has been taken, indicate on behalf of the Cabinet that he/she accepts the amendment. In these circumstances, the amendment will be regarded as incorporated in the draft strategy before Council and not (for the purposes of rules 3.2 to 3.4 above) as an objection to it.

4. Procedure for conflict resolution - revenue budget

4.1 This procedure applies to the estimates and calculations relating to the revenue budget and Council tax specified in paragraph 6 of Part II of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001 ("a revenue budget").

4.2 Subject to Rule 4.5 where before 8th February in any financial year, the Cabinet submits to the council for its consideration a revenue budget in relation to the following financial year and following consideration of that budget, the council has any objections to it, it must, before taking any further decision on that budget, inform the Leader of those objections and must require the Cabinet to reconsider the revenue budget, within no less than 5 working days after the date the Leader receives that information and those instructions.

4.3 Within that period the Leader may:

- (a) submit to the council a revision of the revenue budget as amended by the Cabinet with the Cabinet's reasons for any amendments; or

- (b) inform the council of any disagreement which the Cabinet has with any of the council's objections and the Cabinet's reasons for any such disagreement
- 4.4 When that period has expired, the council must when making any further decision relating to the revenue budget, take into account any amendments made to it that are included in any revised revenue budget, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the council, or informed the council of, within the period specified.
- 4.5 Rules 4.2 to 4.4 shall not apply in relation to calculations or substitute calculations which the council is required to make in accordance with Sections 52 (I), 52 (J), 52 (T) or 52 (U) of the Local Government Finance Act 1992 (provisions relating to Council Tax capping).
- 4.6 Where a revenue budget is submitted to the council by the Cabinet on or after 8th February in any financial year, the procedure in paragraphs 4.2 to 4.4 will not apply.
- 4.7 Where an amendment to a revenue budget has been submitted under Council Procedure Rule 18 the Leader may at any time, whether before or after a vote on the amendment has been taken, indicate on behalf of the Cabinet that he/she accepts the amendment. In these circumstances, the amendment will be regarded as incorporated in the revenue budget before Council and not (for the purposes of Rules 4.2 to 4.4 above) as an objection to it.

5. Decisions outside the budget or policy framework

- 5.1 Subject to the provisions of Rules 7 (virement) and 8 (mid-year changes) the Cabinet, committees of the Cabinet, individual members of the Cabinet and any area committees, officers or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the council, then that decision may only be taken by the council, subject to Rule 6 below.
- 5.2 If such bodies or persons want to make such a decision, they shall take advice from the monitoring officer, and/or the chief financial officer and any other relevant officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of the former officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 6 (urgent decisions outside the budget and policy framework) shall apply.

6. Urgent decisions outside the budget or policy framework

- 6.1 The Cabinet, committees of the Cabinet, individual members of the Cabinet, or officers or joint arrangements discharging executive functions may take a decision which is contrary to the council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken after taking reasonable steps to seek advice from the monitoring officer and/or the chief financial officer, and:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) if the chair of the Overview and Scrutiny Management Committee or of a relevant scrutiny panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the relevant scrutiny chair's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the relevant scrutiny chair, the consent of the Mayor and, in the absence of both, the Deputy Mayor, will be sufficient.

- 6.2 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

7. Virement

Virement (the transfer of resources from one activity within the budget to another) is permitted in accordance with the provisions of Rule 2 of the Financial Procedure Rules set out in Part 4 of the Constitution. Variation of the capital programme is permitted in accordance with the provisions of Rule 3 of those Rules. Any virement or variation which is not permitted by those Rules must be approved by the council.

8. Mid-year changes to policy framework

- 8.1 The responsibility for agreeing the budget and policy framework lies with the council, and decisions by the Cabinet, individual members of the Cabinet, or officers or joint arrangements discharging executive functions must be in line with it. No changes to any plan or strategy which make up the policy framework or decisions which are not in accordance with it may be made by those bodies or individuals except those changes or decisions:
- (a) which are permitted by the terms of the plan or strategy itself or by a decision of the council at the time of its adoption;
 - (b) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
 - (c) necessary to ensure compliance with the law, ministerial direction or government guidance;
 - (d) in relation to the policy framework in respect of a policy which would normally be agreed annually by the council following consultation, but

where the existing policy document is silent on the matter under consideration;

- (e) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

8.2 The Cabinet may also make changes to the detail of any such plan or strategy if the change will have the effect of furthering any one or more target, objective or desired outcome specified in that plan or strategy. The record of such decision must specify the relevant target etc. and say in what way it will have that effect.

8.3 If a decision is taken and implemented which is subsequently determined to be outside the budget or policy framework or permitted decisions, that will not affect the validity of that decision.

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

9.1 The procedures for call-in of such decisions is set out in Rule 19 of the Overview and Scrutiny Procedure Rules.

EXECUTIVE PROCEDURE RULES

Executive Procedure Rules

1. How Does The Executive Operate?

1.1 Who may carry out executive functions?

1.1.1 The discharge of executive functions is the responsibility of the Leader. In accordance with Article 7 of this constitution the Leader shall appoint a Cabinet and a Deputy Leader.

1.1.2 The Leader may discharge executive functions personally, or may arrange for the discharge of those functions by

1.1.2.1 the Cabinet; or

1.1.2.2 another Cabinet member; or

1.1.2.3 a committee of the Cabinet; or

1.1.2.4 an officer of the Council.

1.1.3 The discharge of executive functions under rule 1.1.2 is a matter for the Leader. The Council has no authority to prevent the Leader from making such arrangements as the Leader thinks fit for the discharge of executive functions and in particular has no authority to prevent the Leader from arranging for executive functions to be discharged by an individual member of the Cabinet.

1.2 Further Delegation of Executive functions

1.2.1 Where by virtue of rule 1.1.2 any functions may be discharged by the Cabinet then, unless the Leader otherwise directs, the Cabinet may arrange for the discharge of any of those functions—

1.2.1.1 by a committee of the Cabinet, or

1.2.1.2 by an officer of the Council.

1.2.2 Where by virtue of rule 1.1.2 any functions may be discharged by a member of the Cabinet, then, unless the Leader otherwise directs, the member of the Cabinet may arrange for the discharge of any of those functions by an officer of the Council.

1.2.3 Where by virtue of rule 1.1.2 any functions may be discharged by a committee of the Cabinet, then, unless the Leader otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the Council.

1.2.4 Any arrangements made by virtue of rules 1.1.2, 1.2.1, 1.2.2 or 1.2.3 by the Leader, the Cabinet, a Cabinet member or a committee of the Cabinet for the discharge of any functions by the Cabinet, a Cabinet member, a committee of the Cabinet or officer are not to prevent Leader, Cabinet, a Cabinet member or committee of the Cabinet by whom the arrangements are made from exercising those functions.

1.2.5 Where executive functions are delegated or further delegated pursuant to rule 1.1 or rules 1.2.1 to 1.2.4, the Cabinet, a committee of the Cabinet or a member of the

Cabinet to whom the delegation has been made may arrange for those functions to be discharged:

- 1.2.5.1 by an area committee of the authority, and such an arrangement may include provision for the area committee to arrange for the allocation of any of those functions to an officer of the authority; or
- 1.2.5.2 by another local authority (within the meaning of section 101 of the Local Government Act 1972) or by the executive of another local authority (within the meaning of Part II of the Local Government Act 2000) provided that the statutory requirements in respect of such arrangements are complied with; or
- 1.2.5.3 by way of the joint exercise of those functions with another local authority or authorities or their executives as the case may be under arrangements provided for in section 101(5) of the Local Government Act 1972 (which deals with arrangements for the joint discharge of functions by two or more local authorities) provided that the statutory requirements in respect of such arrangements are complied with.

1.2.6 Any arrangements for the discharge of functions under rules 1.2.5.1 or 1.2.5.2 shall not prevent the person or body making those arrangements from exercising those executive functions.

1.3 The council's scheme of delegation and executive functions

1.3.1 The council's scheme of delegation in so far as it relates to executive functions will be subject to approval by the Leader and may only be amended by the Leader. The details of delegations of executive functions approved by the Leader shall be set out in Part 3 of this constitution as required by Article 7. Any change to such delegations which are approved by the Leader will be reported to the next Cabinet and council meetings.

1.4 Conflicts of interest

1.4.1 Where the Leader has a conflict of interest this should be dealt with as set out in the council's Code of Conduct for Members in Part 5 of this constitution.

1.4.2 If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the council's Code of Conduct for Members in Part 5 of this constitution

1.4.3 If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Cabinet member or an officer of the council, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the council's Code of Conduct for Members in Part 5 of this constitution.

1.5 Cabinet meetings – when and where?

1.5.1 The Cabinet will meet as often as is required to transact the business of the Executive efficiently and effectively. The Cabinet shall meet at the Town Hall, Huddersfield unless otherwise specified by the Leader.

1.6 Public or private meetings of the Cabinet?

1.6.1 Cabinet meetings will normally be held in public. The Access to Information Rules in Part 4 of this constitution set out the relevant requirements and specify when meetings of the Cabinet may be held in private.

1.7 Principles of executive decision making

1.7.1 The Leader and the Cabinet will have regard to the principles of decision making set out in Article 13.2 of this constitution.

1.8 Quorum

1.8.1 The quorum for a meeting of the Cabinet, or a committee of Cabinet, shall be not be less than two in any case.

1.9 How are executive decisions to be taken and recorded?

1.9.1 Executive decisions which are to be taken by the Leader or an individual member of Cabinet will be taken and recorded in accordance with the Access to Information Rules in Part 4 of this constitution.

1.9.2 Executive decisions which are to be taken by the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the constitution.

1.9.3 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet.

2. How Are Cabinet Meetings Conducted?

2.1 Who presides?

2.1.1 The Leader or in their absence, the Deputy Leader will preside at any meeting of the Cabinet at which one of them is present. In their absence, a person appointed to do so by those present shall preside.

2.2 Who may attend?

2.2.1 The details of who may attend meetings of Cabinet and of Cabinet Committees, including rights of the public, are set out in the Access to Information Rules in Part 4 of this constitution and in those Council Procedure Rules which are applied to the Cabinet by Rule 4 of these Rules.

2.3 What business?

2.3.1 At each meeting of the Cabinet, the following business will be conducted:-

- 2.3.1.1 Consideration of the minutes of a previous meeting;
- 2.3.1.2 Declarations of Interest, if any;

- 2.3.1.3 Consideration of items to be discussed in private (at public meetings only);
- 2.3.1.4 To receive any petitions and hear any deputations from members of the public (public meetings only);
- 2.3.1.5 Public question time (public meetings only);
- 2.3.1.6 Up to half an hour for oral questions by Councillors;
- 2.3.1.7 Matters referred to the Cabinet (whether by the Overview and Scrutiny Management Committee, an Overview and Scrutiny panel or by the council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- 2.3.1.8 Consideration of reports from the Overview and Scrutiny Management Committee and panels and determination of any appropriate course of action on the issues so raised for report back to that committee or its appropriate panel;
- 2.3.1.9 Matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Voting

- 2.4.1 Voting at Cabinet meetings will be by show of hands. The Chair will have a second or casting vote.

2.5 Consultation

- 2.5.1 All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee or relevant panels, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.6 Who can put items on the Cabinet agenda?

- 2.6.1 The Leader will decide upon the schedule for the meetings of the Cabinet. They may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Head of Governance will comply with the Leader's requests in this respect.
- 2.6.2 Any member of the Cabinet may require the Head of Governance to make sure that an item is placed on the agenda of the next appropriate meeting of the Cabinet for consideration.
- 2.6.3 The Head of the Paid Service, Monitoring Officer or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Governance to call such a meeting in pursuance of their statutory duties.

2.7 Reports to Council

2.7.1 The Leader may determine which items of business at any meeting shall be the subject of a report to the council.

3 Cabinet Briefing

3.1 The members of the Cabinet may also, if they wish, meet informally with officers for briefing, advice and discussion of any matters relating to their functions. Such briefings may follow an agreed agenda but will not constitute meetings of the Cabinet. No decisions can be taken at such meetings. The Access to Information Procedure Rules will not apply to such meetings, except as specified in Rule 22 of those Rules.

4 Application of Council Procedure Rules

4.1 The Council Procedure Rules referred to below will apply to meetings of the Cabinet as they apply to meetings of committees:-

Rule 9 - Deputations

Rule 10 - Petitions by Members

Rule 11 - Questions by members of the public

Rule 34 - Confidentiality of meetings and recording of proceedings

Rule 36 - Observer attendance by Members

Rule 37 - Attendance by members of the public - permission to speak

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, including the four 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 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.
- (ii) Have overall responsibility for the work programme and co-ordinate and monitor progress on the work programmes of any Overview and Scrutiny Panel.
- (iii) 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.
- (iv) Agree arrangements for managing overview and scrutiny business (including the call-in of Executive decisions) within the scope of more than one panel.
- (v) 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.
- (vi) Undertake initial explorations on requests/proposals for scrutiny reviews and recommend appropriate action.

- (vii) Receive proposals from the Scrutiny standing panels for planned in-depth scrutiny reviews, investigations and reports on issues relating to the Council's functions and determine the appropriate action.
- (viii) Appoint task-orientated, ('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.
- (ix) Agree terms of reference and work plans of ad-hoc review panels and Councillor Call for Action Scrutiny Panels and monitor their progress.
- (x) Advise ad-hoc review panels and Councillor Call for Action Scrutiny Panels on the contents of reports.
- (xi) Consider and formally agree the reports of all ad-hoc Panels, Councillor Call for Action Scrutiny Panels and standing panel review reports and submit them to Cabinet and/or relevant agencies for response and action.
- (xii) 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.
- (xiii) Co-ordinate training and development arrangements for Overview and Scrutiny Management Committee and panel members and co-opted members.
- (xiv) Review experience and develop learning in relation to the overview and scrutiny role.
- (xv) Identify good practice in relation to the overview and scrutiny role and develop common practices for all panels that reflect good practice.
- (xvi) Recommend to the Council the protocols and procedure rules through which the scrutiny function will operate.
- (xvii) Monitor and review the effect of and consequence of the call-in of Executive decisions, including those taken through the scheme of delegation.
- (xviii) Undertake an annual review of the effectiveness of the overview and scrutiny role.
- (xix) 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.

- (xx) Review the constitution relating to overview and scrutiny and make recommendations for modification and improvement.
- (xxi) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxii) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies.
- (xxiii) 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 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) Through the use of pre-decision scrutiny to scrutinise and contribute to the development of strategic proposals prior to decisions being taken by the Cabinet / Cabinet Committee;
- (iv) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (v) 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;
- (vi) Have an overview of the practice and policy of the relevant service areas;
- (vii) 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;
- (viii) 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;

- (ix) Ensure that the communities of Kirklees and specific users of services are able to be involved in and inform the work of the panels;
 - (x) Promote the work of the panels, including through the local media;
 - (xi) Develop focused programmes of work and identify the most appropriate means of progressing such work;
 - (xii) Scrutinise the work of the Partnerships 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 Adult Social Care Scrutiny Panel will in addition include the specific responsibilities of the Council for the scrutiny of health. Statutory responsibilities in respect of the Community Safety Partnership will be vested in the Overview and Scrutiny Management Committee.
- 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, ('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.

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 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 comprise the Chair of Overview and Scrutiny and the Lead Members of the scrutiny standing panels and reflect the political composition of the Council, unless the Council decides otherwise in accordance with the appropriate legal procedures.

4. Co-optees

The Overview and Scrutiny Management Committee will agree the appointment of non-voting co-optees for Committee or panels.

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 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 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 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 Service Director Legal, Governance and Commissioning in accordance with Council Procedure rule 40(4) 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

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 may be drawn from the membership of the Overview and Scrutiny Management Committee or from 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.

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 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.

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 Governance and Democratic Services 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 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.

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 Executive Director/Service 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.

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.

14.6 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 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 Directors/ 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 Service Director Legal, Governance and Commissioning, 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 pm 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 Executive Team 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 Service Director Legal, Governance and Commissioning 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 – eg 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 (eg 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, the following will apply:-

- (i) Written notice must be given to the Service Director Legal, Governance and Commissioning 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 Governance Team to make this easier
- (ii) The notice shall (where possible) include supporting evidence and reasons to illustrate how the decision making principle(s) have been breached
- (iii) The validity of a call in request will be considered and determined by Service Director, Legal Governance and Commissioning in consultation with the Chair of Overview and Scrutiny

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 Service Director Legal,

Governance and Commissioning 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 Service Director Legal, Governance and Commissioning 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 Service Director Legal, Governance and Commissioning will also notify all Members that this decision has been called-in.
- 18.8 The Service Director of Legal, Governance and Commissioning , and in his/her absence the Chief Executive - 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 Service Director of Legal, Governance and Commissioning, 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 Service Director of Legal, Governance and Commissioning or in his/her absence the Chief Executive.
- 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 Service Director Legal, Governance and Commissioning.

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 Head of Governance and Democratic Services 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.

KIRKLEES COUNCIL

FINANCIAL PROCEDURE RULES

July 2024

Introduction

These Financial Procedure Rules set out the framework which the Council will use in managing its financial affairs. They set out levels of responsibility and give authority to the Cabinet, Members and Officers and are intended to promote good practice in the use of public funds.

A guide to the Financial Procedure Rules will be published on the Intranet to help users understand and implement good financial management. Users should contact the Chief Finance Officer or their staff if assistance or clarification is needed.

Contents

Introduction	2
Financial Procedure Rules Definitions	4
1. Financial Governance	7
2. Revenue Budget Preparation and Management Revenue Budget.....	9
3. Capital investment plan preparation and management	14
4. Financial systems and procedures.....	17
5 Internal audit.....	18
6. Insurance	21
7. Assets	21
8. Security	23
9. Treasury management.....	25
10. Banking arrangements, cheque signing and imprest accounts	26
11. Income.....	27
12. Payment of invoices.....	30
13. Purchasing cards	32
14. Salaries, wages and pensions.....	33
15. Travel, subsistence, and other allowances.....	34
16. Taxation	34
17. Gifts and hospitality.....	35
18. Working with clients and contractors	35
19. Unofficial and voluntary funds.....	36
20 Financial control of partnerships, joint ventures associated organisationsandsimilar arrangements	36
21. Purchasing of works, goods and services.....	37
22. Grants to and from the council and loans from the council.....	40

Financial Procedure Rules Definitions

Word	Definition
Activity	A standard sub-division of an Executive Director's budget. normally equivalent to the service portfolio operationally managed at Service Director level;
Asset	An item belonging to the Council that has a value. It can include buildings, equipment, vehicles, stocks, stores, money and items of intellectual value
Associated Organisation	An organisation in which the Council has a majority or substantial shareholding or exercises substantial influence through its funding of the organisation.
Business Case	A written document, setting out the reasons for a project, including analysis of options, risks and resources needed.
Cabinet Member	A single member of the Cabinet.
Central Budget	A budget which is held centrally and for which statutory. Chief Finance Officer is accountable (in accordance with any rules established in these procedures, or by Council, or Cabinet)
Chief Finance Officer (or "CFO")	The person so designated as the section 151 of the Local Government Act 1972 from time to time by the Chief Executive.
Controllable Budget	A budget which is allocated to a director, and for which the Director is accountable, in accordance with any rules established in these procedures, or by the Chief Finance Officer, or by Council, or Cabinet
Council Plan	The strategic plan of the council's activity approved by the Council
Council Provisions	Sums of money set aside to pay for uncertain events
Earmarked Reserves	As council provisions, but with a more clearly stated purpose

Word	Definition
Executive Team	The Council's most senior officer leadership team.
Fixed Asset	Any physical item having a long-term value –such as a vehicle, or property.
Head of Audit & Risk	The officer currently holding the role of Head of Internal Audit, as required by Public Sector Internal Audit Standards.
His or her Nominees	Refers to the 'Head of Service level' to which Service Directors, including the Chief Finance Officer can nominate on their behalf, to enact Service Director delegated authorities as set out in these FPR's.
Internal Audit Strategy & Charter	Arrangements agreed by the Corporate Governance & Audit Committee on how the internal audit function will operate in line with Public Sector Internal Audit Standards.
Irregularity	An unexpected or inappropriate event or behaviour.
Land Asset	Includes any interest in land and buildings and any easement or right in or over land.
Medium Term Financial Plan (MTFP)	Revenue Budget Plan, normally between 2 and 4 years, and Capital Investment Plan, up to 5 years normally up to 5 years.
Monitoring Officer	The person appointed under section 5 of the Local Government & Housing Act 1989, currently the Service Director, Legal, Governance & Commissioning.
Named Project	A project (forming part of a Capital Programme) identified by Cabinet (or any other body or person so authorised by Cabinet) for inclusion in the Capital Plan.
Officer	An employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules apply.
Partnership	Any organisation with which the Council has a formal or informal agreement to act together.

Word	Definition
Programme Area	A group of projects having a similar purpose in the Capital Investment Plan, or a major project listed separately within the Capital investment Plan.
Project	A single scheme included separately in the Capital Investment Plan, or as a part of a programme area.
Public Sector Internal Audit Standards	Rules based on the International Professional Practices Framework (IPPF), intended to promote improvement in the professionalism, quality, consistency and effectiveness of internal audit across the public sector.
Rollover	A mechanism for transferring budgets between financial years.
Service Director	The person responsible for the proper compliance with these procedures whose name is included on a schedule approved by the Chief Executive.
Specified Project	A project specified by Council for inclusion in the Capital Plan.
Executive Director	The person responsible for the commissioning of activity at an Executive Directorate level, and includes the Chief Executive.
Executive Directorate	The consolidated group of activity budgets that fall within the responsibility of any one Executive Director, including the Chief Executive.
Virement	The transfer of resources from one budget to another.

1. Financial Governance

- 1.1 The Council has a statutory duty to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has responsibility for the administration of those affairs. The Council has resolved that the Chief Finance Officer is the responsible officer.
- 1.2 The Council will approve Financial Procedure Rules to be used by all members and officers.
- 1.3 The Corporate Governance & Audit Committee is responsible for approving the Council's Annual Statement of Accounts.
- 1.4 The Cabinet is responsible for ensuring that the Financial Procedure Rules are followed across the Council. The Corporate Governance & Audit Committee is also responsible for reviewing the Financial Procedure Rules annually and for making recommendations for any changes to the Council.
- 1.5 The Corporate Governance & Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management arrangements. The Cabinet is responsible for assessing the risk of activity undertaken by the Council.
- 1.6 The Chief Finance Officer is responsible for the proper administration of the Council's financial affairs, and particularly for:
 - a) Providing financial advice and information to members and officers.
 - b) Setting standards for good financial management and monitoring compliance with those standards, including adherence to the CIPFA Financial Management Code of Practice.
 - c) Advising on the key financial controls necessary to secure sound financial management.
 - d) Ensuring that proper systems of internal control are operated.
 - e) Coordinating the preparation of the Revenue Budgets and the Capital Investment Plan.
 - f) Determining the accounting policies and financial procedures and records for the Council.
 - g) Preparing the annual financial statements in accordance with the relevant accounting standards and codes of practice.
 - h) Treasury management activities.
 - i) Preparing a risk management policy statement and promoting it throughout the Council.

- j) Maintaining an effective internal audit function, jointly with the Chief Executive.
 - k) Ensuring proper professional practices are maintained within the finance function; and
 - l) Managing the Council's taxation affairs.
- 1.7 The Chief Finance Officer must report to the Council's Monitoring Officer and to the Council if:
- a) A decision has been made, or is about to be made, which involves the incurring of expenditure which is unlawful; or
 - b) There has been, or is about to be, an unlawful action resulting in a financial loss to the Council.
- and the Council's Monitoring Officer will take all appropriate and necessary steps to deal with the matter.
- 1.8 The Chief Finance Officer may issue any instruction intended to fulfil these responsibilities and is entitled to any information or explanations as he/she may require. The Head of Audit & Risk, and the Service Director Legal, Governance & Commissioning may also issue instructions or guidance in relation to these financial procedure rules.
- 1.9 Service Directors must ensure that financial systems and procedures used in their service areas are adequate to record and control all transactions and to achieve adequate levels of internal check and control.
- 1.10 Service Directors must make arrangements to ensure that all officers involved in financial matters are aware of, and competent in the use of, these Financial Procedure Rules. The extent of delegated authority to officers must be recorded.
- 1.11 Executive Directors must ensure that any report to Cabinet contains the financial implications of any proposals. These financial implications must be agreed with the Chief Finance Officer.
- 1.12 Where, as a result of legislation or decision of the Council, part of the Council's functions is delivered by an Associated Organisation including any partnerships of which the Council is a member or participant, funded partly or wholly by the Council, the organisation must agree with the Council its own arrangements for corporate governance, by way of an initial proposal. Subsequent authority to approve changes may be delegated to an Executive director. All partnership arrangements will incorporate the spirit of the Council's Financial Procedure Rules and will include the Council's right of access to financial information about the associated organisation.
- 1.13 Schools with delegated budgets are subject to, and must comply with, the 'Kirklees Scheme for Financing Schools', which has tailored these Financial

Procedure Rules for use in those Schools.

1.14 A reference in the Financial Procedure Rules:

- a) To the Cabinet includes Cabinet Committees
- b) To an Executive Director includes where appropriate the Chief Executive
- c) To a Service Director includes his or her nominees (except where otherwise specifically forbidden)
- d) To the Chief Finance Officer includes his or her nominees; and
- e) To an officer means any employee of the Council, or other persons contracted to carry out functions where these Financial Procedure Rules apply.

2. Revenue Budget Preparation and Management Revenue Budget

Responsibilities

The Council is responsible for determining the Corporate/Council Plan which sets out the Council's strategic outcomes and actions, and Executive Directorate outcomes to provides the overarching framework for the determination of the Council's Medium Term Financial Plan (MTFP) within available resources.

The Council's MTFP includes the following:

- a) A revenue balanced budget position for the following financial year; both for the general fund and the ring-fenced Housing Revenue Account (HRA), including the Capital Investment Plan, and making provision for the revenue consequences from the Capital Investment Plan as appropriate.
- b) The level of Council Tax for the following financial year.
- c) General fund and HRA revenue spend and funding forecasts, including a draft Capital Investment Plan, beyond the next financial year; for a period of up to 4 years; including the revenue consequences from the multi-year capital investment plan over the same period; and
- d) An overall longer term balanced budget forecast for the HRA MTFP in the context of the ring-fenced 30-year HRA business plan

2.1 The Cabinet is responsible for recommending a Medium-Term Financial Plan (MTFP) as set out above to Budget Council, to enable the Council to set a balanced budget for both the general fund and HRA for the forthcoming financial year. The 1992 Local Government Finance Act, Section 30 (6) states that that the billing Authority must set an amount of Council Tax before 11th March in the financial year preceding that for which it is set. To comply with this legal requirement, this effectively means that the annual date of

Budget Council should be no later than 10th March each year.

- 2.2 The Cabinet is responsible for implementing the Budget Council approved MTFP for the forthcoming financial year.
 - 2.3 On the advice of the Chief Finance Officer, Cabinet can recommend amendments to the MTFP to any meeting of Council, also recommending any related changes to the Council Plan, strategic objectives or actions.
 - 2.4 The Cabinet is responsible for approving the setting of Council Tenant Rents, and other rents and service charges within the Housing Revenue Account (HRA), each year, within the scope of existing HRA rent and charging policies.
- Budget Preparation**
- 2.5 The Cabinet will submit no later than the October meeting of the Council each year a provisional budget strategy, for a period of up to 5 years. The starting point will be the existing multi-year plans rolled forward from the previous year, including a high-level review of Council funding and spend assumptions. Any resultant gap between funding and spend forecasts will inform target spending controls over the new MTFP period.
 - 2.6 The Chief Finance Officer is responsible for establishing budget procedures, including determination of the following:
 - I. target spending controls for the Council budget over the MTFP, and their allocation to Executive Directors, as appropriate,
 - II. the format for budget documentation,
 - III. a corporate budget timetable, and
 - IV. to report on any amendments put forward as part of the Council's budget process.
 - 2.7 The provisional budget strategy will include arrangements for wider public and key stakeholder engagement on budget options being considered.
 - 2.8 Executive Directors will produce draft budget proposals to meet target spending controls for Council budgets over the MTFP, in accordance with budget procedures and the annual budget timetable as set out by the Chief Finance Officer. These draft budget proposals will show how resources are to be allocated across activities, taking into account any service changes, performance targets, and the specific requirements of any relevant legislation, including integrated impact assessments, in formulating budget options for Cabinet consideration.
 - 2.9 At least 14 days before the date set for the meeting of the Council which will determine the Council's Budget for the next financial year, the Cabinet will make its recommendations to the Council with regards to the Annual Revenue Budget, the Capital Plan, and the consequent rates for Council Tax, and the updated MTFP.
 - 2.10 The Chief Finance Officer will advise the Cabinet and the Council on the overall budget, the levels of Council Tax, the use of reserves and the need

for contingency budgets, and on the risks involved in the forecasts of spending levels and income. The annual budget report must make reference to all matters required by legislation or appropriate professional guidance.

Budget Management

- 2.11 The Cabinet is responsible for implementing the Council Plan within the resources allocated in the Revenue Budget, and MTFP. The Cabinet will provide summary revenue monitoring information to the Council at least twice per year.
- 2.12 The Chief Finance Officer will report to the Cabinet on the overall management of the Revenue Budget on a quarterly basis through the year. At least a summary of this information will be published on the council website.
- 2.13 The Chief Finance Officer will determine which budgets are “controllable” by Executive Directors and will allocate the specific budgets that each Executive Director has responsibility to manage.
- 2.14 These budgets will normally align with the Executive Directorate structure of the Council but may also reflect the cross council (transformational) structure of the Council. The Chief Finance Officer will determine which budgets may be considered together for the purposes of delegated virement authority (per FPR 2.24 to 2.28 below).
- 2.15 Service Directors are responsible for managing controllable budgets within their delegated authority and should exercise proper budgetary control in order to achieve Council Plan and service objectives.
- 2.16 Service Directors are authorised to incur any expenditure included in the approved revenue budget, as amended by any virement including obtaining and accepting quotations and providing grants and loans, subject to other requirements of CPRs and FPRs.
- 2.17 Service Directors must report on budget management. They must take action to avoid overspending budgets and report any difficulties to the appropriate Executive Director and the Chief Finance Officer. These reports must be in a format and to a timetable prescribed by the Chief Finance Officer.
- 2.18 An Executive Director (in consultation with the relevant Portfolio Holder) is authorised to make such changes to service provision as are necessary; providing the proposed change is consistent with the approved Council Plan, service objectives and Council policy, to achieve spending within the approved annual budget or MTFP (as adjusted by any agreed virements).
- 2.19 Where a Service Director is reporting a projected overspend on an activity that cannot be addressed either through budget virement or other in-year changes to service provision, this will be highlighted in a manner prescribed by the Chief

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

- 2.20 The Chief Finance Officer is accountable for all central budgets, which will be managed in the same way as activity budgets.
- 2.21 The Chief Finance Officer has delegated authority to review the requirement for existing Council Provisions and Earmarked Reserves, in-year, and to approve the proposed drawdown of earmarked reserves in-year in consultation with the relevant Executive Director, ensuring that the proposed drawdowns are appropriate for the stated purpose of the earmarked reserve. Earmarked Reserves drawdowns in-year will also form part of the overall report to Cabinet on a quarterly basis as set out at FPR 2.12. The Chief Finance Officer will also report any new Reserves or Provisions requirements to Cabinet for approval.
- 2.22 Service Directors should delegate authority to commit budgets to the appropriate level of management, set out clearly the extent of authority and review the performance of managers in managing these budgets.

Virements

- 2.23 Service Directors are authorised to transfer resources within an activity budget without limit providing the corporate objectives for the activity is not changed in a material way.
- 2.24 Virement which results in a change in the level of service must be addressed as per FPR 2.18
- 2.25 Virement is not permitted between HRA funded and General Fund funding streams.
- 2.26 Executive Directors, in consultation with the appropriate Portfolio Holder (s), are authorised to transfer resources between controllable activity budgets within the Executive Directorate budget up to £1,000,000, cumulatively in any one year.
- 2.27 The Cabinet is authorised to transfer resources (undertake a Virement) without limit for the purposes of achieving budget targets and obligations.
- 2.28 The transfer of revenue resources in any one financial year from the revenue budget to add additional resources to the capital plan, will only be allowed if there is explicit prior year approval as part of the approved budget plans of the Council, for the following financial year.
- 2.29 Virement is specifically not allowed where the transfer of resources is from budgets for capital charges, Council support functions or statutory taxes and levies.

- 2.30 All Virements will be recorded in a way prescribed by the Chief Finance Officer who will arrange for Virements to be incorporated into subsequent financial monitoring reported to the Cabinet.

Rollover

- 2.31 Rollover is a mechanism for transferring budget provisions from one year to the next, or vice versa. Rollover arrangements apply equally to the General Fund and the Housing Revenue Account.
- 2.32 The Council, in determining the Revenue Budget for a particular year, will also determine the arrangements for rollover for that year. The Council will determine changes to the Council's Revenue Budget arising from the rollover process.
- 2.33 The Cabinet is responsible for recommending changes to the Revenue Budget arising from the rollover process.
- 2.34 In the rollover process, the overall level of resources available to support rollover proposals will not exceed any reported net underspend of the Council as a whole for that year. If the Council as a whole does not have a reported under spend, the presumption is that there will be no revenue rollover for that year.
- 2.35 Subject to the parameters set out in FPR 2.34 above, rollover proposals will be considered at Executive Team in the first instance.

Other

- 2.36 Where during any year a material change of funding (and or any change associated activity) arises this must be reported to Cabinet along with a statement of any associated change in the risk profile (for example a change from outsourced to direct employment may have the same overall cost but may significantly increase the Council's risk).
- 2.37 Where, because of a mistake or error by an officer, the Council becomes liable for any charges, penalties or additional expenses, such costs will be met by the activity in which the error is made.
- 2.38 Whenever the Cabinet becomes aware –following a report from the Chief Finance Officer- that a reduction in resources during the current or future years may impact on the Council's financial position, it may take such steps as it considers necessary to reduce activity immediately or at a stage prior to the next budget Council to address this.
- 2.39 After the end of each financial year, the Chief Finance Officer will report to the Cabinet and the Council on the outturn financial performance and any proposed rollover, subject to the parameters set out in FPR 2.33 above.
- 2.40 The Chief Finance Officer is permitted to make variations to revenue funding

as necessary in order to ensure that the council funding position is optimised, subject to reporting such actions to Cabinet and Council.

3. Capital investment plan preparation and management

General

- 3.1 For the purposes of capital investment plan preparation and management, “capital” must meet the following criteria:
- a) The definition for capital as set out in relevant CIPFA accounting guidance and accounting standards, and any other statutory Government guidance as set from time to time.
 - b) Subject to (a) above, a minimum threshold or ‘de minimis’ to be considered capital at an individual project level, as determined by the Chief Finance Officer. (The usual de minimis level is £10,000)
- 3.2 All capital investment must also be made in recognition of the CIPFA ‘Prudential Code for Capital Expenditure with regard to prudence, affordability and sustainability, and any associated statutory Government guidance’. Council must approve an annual Capital Strategy and annual (Non-Treasury) Investment Strategy in line with the guidance.

Responsibilities

- 3.3 The Chief Finance Officer will advise the Cabinet and the Council on the overall Capital Investment Plan and levels of funding available. The Chief Finance Officer must confirm the robustness of the capital plan and assess and report to Cabinet on the revenue effects of the capital plan (financing, additional running costs, savings and income) and indicating the prudential indicators and limits that support the capital investment.
- 3.4 The Cabinet is responsible for recommending to the Council at the same time as the proposed Revenue Budget, a multi-year Capital Investment Plan and the prudential indicators and limits that support the recommended capital investment.
- 3.5 The Council will approve a Capital Investment Plan and determine allocations of capital resources to programme areas, or to specified projects. (and the prudential indicators and limits that support the recommended capital investment)
- 3.6 The Cabinet is responsible for implementing the Capital Plan approved by Council, in line with any stated Council policies, or strategies, and will determine the allocation of resources from the programme area to named projects. A programme or named project may only be progressed once the Cabinet has approved the business case for the programme or project.
- 3.7 Service Directors are responsible for managing programmes and projects and must make appropriate arrangements to control projects and avoid overspending.

Plan Management

3.8 The Cabinet is authorised to transfer resources without restrictions, including between any year, within the approved capital plan, subject to compliance with 3.11 and 3.13.

3.9 The Service Directors are authorised to.

1. Transfer resources within a programme area without restrictions.
2. Transfer resources between any project or programme area up to a maximum of £2,000,000 in any financial year.
3. Transfer resources within programme areas between any year within the approved capital plan,

Subject to compliance with 3.10 and 3.11 and notification to the relevant Cabinet Member and appropriate Ward Members.

3.10 Transfers under 3.8 and 3.9 require the approval of the Chief Finance Officer who must be satisfied that there is no impact on capital funding stream because of the changes.

3.11 Transfer is not permitted between HRA funded and General Fund funding streams, nor in respect of any project (or programme) to the extent that it is funded by a project (or programme) specific third-party grant.

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

3.13 Any decision on resource allocation by Cabinet, Executive and Service Directors must recognise any policy decisions of Council. Any decision on resource allocation by Executive and Service Directors must recognise any policy decisions of Cabinet.

3.14 The Chief Finance Officer will report to the Cabinet on the overall management of the Capital Investment Plan on a quarterly basis through the year (including the reporting of virements in respect of transfer of resources within or between programmes). The Cabinet will provide summary monitoring information to the Council at least twice per year. This will include any additional capital grant funding received during the year.

Initiating and Progressing Investment Decisions

- 3.15 The Chief Executive will establish arrangements, in conjunction with the Chief Finance Officer, to ensure effective deployment of capital resources, ensuring that these align with council priorities and including the preparation of business cases and/or option appraisals designed to ensure project effectiveness and value for money, and to assist Council to determine its Capital Investment Plan, and assist Cabinet with the allocation of programme area budgets to specific projects. For these purposes the Executive Director and Chief Finance Officer may approve the incurring of fees for option appraisal or initial design fees, subject to the identification of an appropriate funding source. This can include payment to a contractor for initial project scoping and design, provided that such costs are covered by an identified funding source.
- 3.16 A capital outlay report will be prepared for each specific project. It will be signed off by the relevant Head of Service and approved by the Chief Finance Officer, who will grant approval to each specific project when satisfied that:
- a) The project appears on a schedule of named projects (approved by Cabinet, or by officers under a scheme approved by Cabinet).
 - b) That the total costs of a project are estimated to be less than or equal to the amount approved in the Capital Investment Plan.

OR

Where the total costs of a project exceed the amount approved in the Capital Investment Plan the appropriate additional resources has been approved; (3.8 to 3.12).

- c) Any necessary external approval has been obtained.
- d) The project will not lead to any unexpected or unplanned capital or revenue costs, not envisaged by the business case or option appraisal.

The Chief Finance Officer may issue a partial approval (for example to cover a design stage) provided that there are sufficient resources to cover that stage. The Solicitor to the Council may only issue a contract that aligns with this authorisation.

- 3.17 Service Directors have authority to progress projects once the approvals at 3.16 have been given. They must ensure compliance also with Contract Procedure Rules.
- 3.18 Executive Directors are responsible for post implementation reviews of capital projects to assess the outcome of investment programmes and

projects, and the extent to which these achieved the planned objectives set out in the business case, this assessment to be used in summary to Cabinet and Council as a part of the overall financial reporting and monitoring process.

- 3.19 The Chief Finance Officer is permitted to make variations to capital funding as necessary in order to ensure that the council funding position is optimised, subject to reporting such actions to Cabinet and Council.

Complex Projects

- 3.20 Any capital project which involves partnership arrangements, or investment in limited companies or other separate entities must be approved by Cabinet.
- 3.21 The reporting of the capital position in such cases must follow a similar arrangement to any direct asset investment.

Leased Assets

- 3.22 Accounting regulations (IFRS 16) makes an ongoing presumption that all leases (including those previously defined as operating leases) will need to be included on the Council's Balance Sheet. All lease arrangement needs to follow the same procedures, and have the same authority and approval, as for other items of capital expenditure.
- 3.23 In respect of any item acquired by lease (other than a Land Asset) the inventory must be marked with the name of the leasing company and the date of expiry of the lease agreement. When requested by the leasing company the item must be suitably marked as the property of that company.

4. Financial systems and procedures

- 4.1 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer.
- 4.2 Any exceptions to financial procedures to meet the specific needs of a Service must be agreed between the Service Director and the Chief Finance Officer.
- 4.3 Service Directors must ensure that officers understand and are competent to undertake their financial responsibilities and receive relevant financial training that has been approved by the Chief Finance Officer.
- 4.4 Service Directors are responsible for the proper operation of financial processes in their own activity and must ensure that all financial, costing, and other statistical information is recorded fully and accurately.
- 4.5 Service Directors must ensure that financial documents are retained in accordance with the Council's approved retention schedule.

4.6 As far as practicable, Service Directors must make arrangements for the separation of duties between the carrying out of transactions and the examining and checking of transactions.

5. Internal audit

Responsibility & Authority

5.1 The Chief Executive, (in consultation with the Chief Finance Officer and Monitoring Officer) must arrange a continuous internal audit, which is an independent review of the accounting, financial and other operations of the Council.

5.2 The Head of Audit & Risk will report directly to the Chief Executive, the Chair of the Corporate Governance & Audit Committee or the External Auditor in any circumstance where the functions and responsibilities of the Chief Finance Officer are being reviewed. (Other than routine reporting of work carried out)

5.3 The Head of Audit and Risk has authority to

- a) Enter at all times any Council premises or land or location from which Council services are provided.
- b) Have access to all property, records, documents and correspondence relating to all activities of the Council.
- c) Require and receive explanations concerning any matter; and
- d) Require any employee of the Council, without prior notice, to produce cash, stores or any other property for which they are responsible.

- e) Require any Director to ensure that within 5 working days notice (or such other time as might be agreed by the Head of Audit & Risk).
 - I. to ensure sufficient resource by way of time or otherwise, that an adequate response by employees of the service to any request for information,
 - II. and, or
 - III. any employee attends a meeting at any location (within the Kirklees area,) chosen by the Head of Audit & Risk
 - IV. and or
 - V. (the provision of any information, data, records, currently held in any media format be provided that that format, or in any other reasonable format chosen by the Head of Audit & Risk, and as appropriate delivered to a location chosen by the Head of Audit & Risk

and

 - VI. to be accountable to the Corporate Governance & Audit Committee should they fail to act

The Chief Finance Officer has the same authority for any accounting or associated purpose.

For the purposes of FPR 5, the Head of Audit & Risk may delegate the rights of access to premises, information, explanation etc. to any employee or agent of the council (albeit this will normally be staff within the Internal Audit or Fraud team).

Planning and Reporting

- 5.4 The Head of Audit & Risk must plan and report (in accordance with the approved Audit Strategy and Charter, Public Sector Internal Audit Standards and any instruction from the Councils Corporate Governance & Audit Committee) upon
- a) The risks inherent in and associated with each system.
 - b) The soundness, adequacy and application of the financial and other management controls and systems within each Service
 - c) The extent of compliance with, and the financial effects of, established policies, plans and procedures.

- d) The extent to which the organisation's assets and interests are accounted for and safeguarded from losses of all kinds arising from fraud, other offences, waste, extravagance and inefficient administration, poor value for money and other cause.
 - e) The suitability, accuracy and reliability of financial and other management data within the organisation; and
 - f) Value for money aspects of service provision.
- 5.5 In respect of any audit report or communication issued, the Director must reply within 4 weeks indicating the action proposed or taken, by whom and including target dates. Where a draft report is issued for initial comments, a reply must be made within 2 weeks of issue.
- 5.6 The Head of Audit & Risk will provide a written summary of the activities of the Internal Audit function to the Corporate Governance & Audit Committee at least four times per year and an Annual Report produced for consideration by, Cabinet and Corporate Governance & Audit Committee, including an audit opinion on the adequacy and effectiveness of the Council's risk management systems and internal control environment.

The Head of Audit & Risk will review the system of internal audit on an annual basis (and arrange for an external assessment once every 5 years) and report the outcome to the Corporate Governance & Audit Committee.

Investigations and Suspected Fraud, Corruption or Bribery

- 5.7 The Chief Executive and Directors must ensure that all Members and employees are:
- a) Aware of the Council's Anti-Fraud, Anti-Corruption and Anti-Bribery Strategy
 - b) Aware of the Whistleblowing Strategy; and
 - c) Operating in a way that maximises internal check against inappropriate behaviour.

The Head of Audit & Risk is responsible for the development and maintenance of the Anti-Fraud, Anti-Corruption and Anti Bribery Strategy and Whistleblowing Strategy and for directing the Council's efforts in fraud investigation.

- 5.8 It is the duty of any officer who suspects or becomes aware of any matter which may involve loss or irregularity concerning cash, stores or other property of the Council or any suspected irregularity in the operations or exercise of the functions of the Council to immediately advise the Director. The Director concerned must immediately notify the Head of Audit & Risk who may take action by way of investigation and report.
- 5.9 Where, following investigation, the Head of Audit & Risk considers that there

are reasonable grounds for suspecting that a loss has occurred as a result of misappropriation, irregular expenditure or fraud, consultations will be held with the Director on the relevant courses of action, including the possibility of police involvement and the invoking of any internal disciplinary procedure in accordance with the relevant conditions of service.

6. Insurance

- 6.1 The Service Director Legal, Governance & Commissioning, in consultation with Service Directors is responsible for assessing insurable risks and for arranging all insurance cover, including the management and control of the insurance fund. He/she will control all claims and maintain records of them. He/she has authority to receive or make claims on behalf of the council and negotiate and agree all settlements.
- 6.2 Service Directors must promptly notify the Service Director Legal, Governance & Commissioning in writing of all new risks or Assets to be insured and of any alterations affecting existing insurances. All insurances held must be reviewed on an annual basis.
- 6.3 In the event of any insurance claim or occurrence Service Directors must:
 - a) Not admit liability where this may prejudice the outcome of any settlement.
 - b) Promptly notify the Insurance Team, in writing, of any loss, liability, damage or any event likely to lead to a claim; and
 - c) Inform the Police in the case of loss or malicious damage to Council property.
- 6.4 Service Directors must consult the Service Director Legal Governance & Commissioning as to the terms of any indemnity the Council is required to give.
- 6.5 The Service Director in consultation with the Insurance Team will determine the extent of insurance cover which must be provided for in any external contract for the supply of goods, works or services. The Service Director, in consultation with the Service Director Legal Governance & Commissioning, may reduce the cover requirements in respect of specific contracts.

7. Assets

- 7.1 Service Directors are responsible for the care and custody of all current and Fixed Assets of the relevant service (including stocks, stores, inventory items and all other items used for the Council's purposes, including property). These items must only be used for the authorised purposes of the Council.
- 7.2 Service Directors must ensure that contingency plans exist for the security of Assets and the continuity of service in the event of any disaster, significant event, or system failure.

Disposal of Assets

- 7.3 Surplus or obsolete goods, materials and inventory items are to be disposed of by agreed transfer to another Service, or disposal in accordance with Contract Procedure Rules, except when the Cabinet instructs otherwise.
- 7.4 Leased items (excluding Land Assets) should only be disposed of in accordance with instructions of the lessor.

Stores

- 7.5 Service Directors must keep records of all stock held. The Chief Finance Officer will determine which items will be subject to stock accounting, the methods of recording and valuation. An appropriate system of continuous stock taking must be agreed with the Chief Finance Officer.
- 7.6 Service Directors must arrange periodical or continuous checks of stock. This should be by persons independent of the management of the stock. These arrangements must ensure that all items of stock are checked at least once per year. The Chief Finance Officer will be notified of any discrepancies revealed by periodic checks and is authorised to amend records accordingly.
- 7.7 Stock holdings should be kept at minimum levels consistent with normal working practices.

Inventories

- 7.8 Service Directors are responsible for ensuring that detailed inventories of all land, buildings, equipment, specialist furniture, specialist fittings, vehicles, plant and machinery are compiled and kept up to date. New inventory items must be entered promptly, and redundant items (other than Land Assets) deleted and disposed of in accordance with Financial Procedure Rule 7.3. The form of inventory and the type of Assets recorded thereon will be determined by the Chief Finance Officer after consultation with the appropriate Service Director.
- 7.9 The inventory should include.
 - a) The nature, type, model, serial number, location, quantity, value, date of acquisition.
 - b) All items valued at, more than £100.
 - c) Items of a lesser value which are portable and attractive; and
 - d) Evidence to indicate an inspection has been carried out.
- 7.10 Service Directors are responsible for ensuring that inventory items which are the responsibility of another Director but used operationally by their service areas are subject to an appropriate risk-based level of control. When Assets

are loaned to employees, or other organisations, the Service Director must record the reason for the loan, date/periods and name of the receiver, and ensure recovery at the end of the period at which the purpose of the loan has expired.

- 7.11 Inventory items must (where appropriate) be security marked, stamped or engraved with the Council's name.
- 7.12 Each Service Director is responsible for ensuring risk-based checking of the inventory and must notify the Chief Finance Officer, and the Head of Internal Audit & Risk of any discrepancies revealed by these checks.

Fixed Assets Register

- 7.13 The Chief Finance Officer must ensure that a Register of Fixed Assets is maintained.

Each Service Director must notify the Chief Finance Officer of the:

- 1) Acquisition of any land, property or vehicle and any other assets having a value of more than £10,000.
- 2) Disposal (or transfer to another Service) of any Asset (or part of any Asset) which is included on the Register of Fixed Assets.

- 7.14 Leased assets must also be included in this record (see part 3.25, 3.26).

Land Assets

- 7.15 The Service Director responsible must maintain a detailed record of all Land Assets owned by the Council (except dwellings provided for general letting) and is responsible for the security and custody of all title deeds and must maintain a suitable register of Land Assets.
- 7.16 The disposal of Land Assets is dealt with in the Contract Procedure Rules.

Information Assets

- 7.17 Service Directors are responsible for ensuring that inventories of all information Assets are compiled and kept up to date. New inventory items must be entered promptly, and redundant items deleted and disposed of in accordance with the Council's Information Security Policy Records Management Policy and the appropriate Retention and Disposal Schedule. The form of inventory and the type of Assets recorded thereon will be determined by the Chief Finance Officer.

8. Security

Security of Assets

- 8.1 Service Directors are responsible for maintaining proper security at all times

for all buildings, stocks, stores, furniture, equipment, cash and any other assets for which they are responsible. The Chief Finance Officer must be consulted to establish adequate security arrangements except in relation to Land Assets that are the responsibility of the Service Director responsible for them.

- 8.2 All keys to safes and other places containing money, goods or other valuables are to be the responsibility of specified officers who must retain possession of such keys at all times.
- 8.3 A register of keys and their holders must be maintained by each Service Director. The loss of any key must be reported immediately to the Service Director who must record details of the circumstances of the loss, and take such action as is necessary to protect the property of the Council.

Security of Information

- 8.4 Service Directors must maintain proper security, privacy and use of data and information held in any media including, but not inclusively, documents, magnetic, digital, (such as laptop and tablet computers, mobile phones, memory cards).
- a) All employees are aware of and comply with the Council's Information Security and Records Management policies.
 - b) All sensitive information is protected from unauthorised disclosure.
 - c) The accuracy and completeness of information and software is safeguarded.
 - d) Software and other intellectual property are used only in accordance with licensing agreements.
 - e) Data Protection legislation is complied with.
 - f) The Freedom of Information Act is complied with.
 - g) Proper controls to system and physical access are in place; and
 - h) The Councils intellectual property rights are protected.

Security of Property Relating to Clients and Customers

- 8.5 Service Directors must provide detailed written instructions on the collection, custody, investment, recording, safekeeping and disposal of customer/client's property (including instructions on the disposal of property of deceased clients) for all staff whose duty is to administer, in any way, the property of clients. Due care should be exercised in the management of a customer or clients' money in order to maximise the benefits to the customer/client.

- 8.6 The Council is responsible for taking reasonable care of all items of property found by staff or members of the public on Council premises until the items are reclaimed or disposed of. Each Service Director must nominate officers who are responsible for the custody of lost property and keep a register of such property received, detailing the item, date, time, name and address of finder and how and to whom the property is returned or disposed of.
- 8.7 Service Directors may seek approval from the appropriate Executive Director and Executive Member, on how lost property will be dealt with. Otherwise, if the lost property is not claimed within three months the Service Director will then determine if the item is of value for use by the Council and arrange for its use for this purpose. All other items are to be disposed of in accordance with Contract Procedure Rules and the proceeds allocated to an appropriate council income code.

9. Treasury management

Policies and Strategies

- 9.1 The Council will adopt both the Code of Practice for Treasury Management in the Public Services, published by the Chartered Institute of Public Finance and Accountancy, and any associated statutory Government guidance, as issued from time to time.
- 9.2 The Council is responsible for adopting a treasury management policy statement, setting out the policies and objectives of its treasury management activities, and treasury management practices, setting out how those policies and objectives will be achieved and how treasury management will be managed and controlled.
- 9.3 The Cabinet is responsible for the implementation and monitoring of the treasury management policies, practices and performance. The Corporate Governance & Audit Committee has responsibility for scrutinizing treasury management policies and practices.
- 9.4 The Chief Finance Officer is responsible for the execution and administration of treasury management decisions in accordance with the policy statement and agreed practices.
- 9.5 The Chief Finance Officer will report to the Council (via the Corporate Governance & Audit Committee and Cabinet)
- a) before each financial year recommending a treasury management strategy and plan.
 - b) at least once in relation to treasury management activity during the year.

- c) by way of an annual report after the end of the year.

This will include the planned and actual performance in respect of the prudential indicators and limits.

Administration

- 9.6 All money under the management of the Council is to be aggregated for the purposes of treasury management and will be controlled by the Chief Finance Officer.
- 9.7 Investments other than bearer securities are to be in the name of the Council or nominee approved by the Cabinet. All borrowings are to be in the name of the Council.
- 9.8 The Chief Finance Officer will select the Council's Registrar of stocks, bonds and mortgages and must maintain records of all borrowings by the Council.
- 9.9 A suitable register must be maintained in respect of all investments, securities, bearer securities and borrowings.
- 9.10 The Chief Finance Officer will arrange all loans and leases including operating leases. (See also 3.25, 3.26)

Trust Funds

- 9.11 All trust funds are to be, wherever possible, in the name of the Council, except where charities legislation dictates otherwise. Officers acting as trustees by virtue of their official position must deposit all documents of title relating to the trust with the Service Director, Legal Governance & Commissioning (unless the Trust Deed otherwise directs) who must maintain a register of all such documents deposited.

10. Banking arrangements, cheque signing and imprest accounts

Banking Arrangements

- 10.1 All of the Council's banking arrangements are to be approved by the Chief Finance Officer, who is authorised to operate such bank accounts as he or she considers appropriate.
- 10.2 Bank accounts must not be opened without the approval of the Chief Finance Officer. Where a bank account is opened, the account name must describe the purpose of the account. All new accounts should be named in the format 'KC, XYZ Unit Account'.

Cheques and Electronic Payments

- 10.3 Payments to suppliers and employees will be made by electronic means unless there are good reasons to use a different method.
- 10.4 All cheques are to be ordered only in accordance with arrangements approved by the Chief Finance Officer, who is to ensure their safe custody. Cheques drawn on the Council's main bank accounts must either bear the facsimile signature of the Chief Finance Officer or be signed in manuscript by him/her or other authorised officers. All alterations and amendments are to be signed in manuscript by the Chief Finance Officer, or other authorised officers.
- 10.5 Banking arrangements made for authorisation of payments to be made or received under electronic transfer are to be in a form approved by the Chief Finance Officer. Checks will be carried out as determined by the Chief Finance Officer to verify the validity of counterparty bank accounts prior to the release of any payments.
- 10.6 Service Directors must maintain a register of all officers authorised to sign cheques and other bank documents together with specimen signatures.

Imprest Accounts

- 10.7 Service Directors will determine what amount is appropriate for an individual imprest account and keep a record of every imprest issued, including the name of the imprest holder, amount and location.
- 10.8 Any imprest holder (or sub imprest - see rule 10.10) must at any time account for the total imprest if requested to do so by the Chief Finance Officer and keep adequate records in a form approved by the Chief Finance Officer and supported by valid (VAT) receipts. On ceasing to be responsible for an imprest account the officer must account promptly to the Service Director for the amount advanced.
- 10.9 Payments from imprest accounts are to be limited to minor items of expenditure and to any other items approved by the Chief Finance Officer
- 10.10 Where deemed appropriate by an imprest account holder a sub- imprest may be provided to another officer for which the main imprest account holder must obtain and retain an acknowledgement. In all cases where this occurs the main imprest holder must notify the Service Director.

11. Income

- 11.1 Fees and charges must be reviewed at least once per annum. Service Directors have authority to implement new charges and amend existing fees and charges to achieve budget targets, to account for changes in legislation and market conditions, in consultation with the appropriate Executive Director, relevant Portfolio Holder and Chief Finance Officer.
- 11.2 The methods of collecting, recording and banking of all income due to the

Council are to be approved by the Chief Finance Officer.

- 11.3 The Chief Finance Officer must be notified, in accordance with practices agreed with the relevant Service Director, of all income due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council.
- 11.4 Service Directors must ensure that to the maximum extent possible income is collected by electronic means. This means that positive action should be taken to promote the use of customer payment by direct debit at the point of order for one off items, and continuous debit arrangements for ongoing services provision. Service Directors must ensure full compliance with all practices necessary to fully protect the banking data of the council's customers.

Collection and Banking of Income

- 11.5 Service Directors must make appropriate arrangements for the control and issue of all receipt forms, books, tickets, ticket machines or other acknowledgements for money.
- 11.6 All income received by the Council must be acknowledged by the issue of an official receipt or by another approved method indicating payment has been received. In order to ensure compliance with the Anti-Money Laundering Procedures, Service Directors must not accept any cash payment in excess of 15,000 euros (£11,700) in respect of one single transaction on one occasion. Any reasonable concerns about the source of monies to be paid to the Council should be raised in accordance with the Procedures. The exception to this rule is that in the case of a disposal of a Land Asset by way of public auction, or under auction conditions, the Council may accept a cash payment in excess of 15,000 Euros where the Land Asset being disposed of exceeds a sale price of 150,000 Euros. If there is any doubt about whether or not to proceed with a transaction, a decision must not be taken until relevant approval has been obtained under the Procedures. Anti-money laundering compliance is the responsibility of the Service Director of Legal Governance & Commissioning who is entitled to issue instruction relating to this matter.
- 11.7 All money received by an officer on behalf of the Council must either be paid to the Chief Finance Officer or to the Council's bank account as the Chief Finance Officer may determine, at intervals taking account of the security of the premises. No deductions are to be made from such monies unless specifically authorised by the Chief Finance Officer. Personal cheques must not be cashed out of monies held on behalf of the Council. Refunds must be made through the payments system.
- 11.8 Arrangements for opening incoming mail must ensure that any money so received is immediately recorded.
- 11.9 Every transfer of official money from one officer to another must be evidenced in the records of the Services concerned by the signature of the receiving officer.

Cash discrepancies

- 11.10 Each Director must maintain a detailed record of all cash surpluses and deficiencies in a manner approved by the Chief Finance Officer.
- 11.11 The Service Director must investigate any apparent patterns of discrepancies.
- 11.12 Where such discrepancies are in excess of £100 individually, or in total within any period of 1 month, the Director concerned must immediately investigate and notify the Head of Audit & Risk who may undertake such investigations as he/she deems appropriate.

Debtors

- 11.13 Wherever possible, payment should be obtained in advance, or at the time of provision of a service, goods, letting or works. Where credit is given, Service Directors must ensure that the credit status of each customer is satisfactory. Service Directors are responsible for issuing debtor accounts in a form approved by the Chief Finance Officer immediately a debt falls due. Each Service Director, in conjunction with the Chief Finance Officer must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.
- 11.14 The Chief Finance Officer must be satisfied that Service Directors are taking appropriate measures to recover credit income due in a timely and efficient manner. The Chief Finance Officer will take appropriate steps to monitor and review the effectiveness of recovery procedures in services, and in conjunction with the relevant Service Director, implement any further actions as required to maximise income recovery within service to appropriate levels.
- 11.15 Where a Service Director agrees that a debtor may defer repayment, the Service Director must ensure that full records of the reason for agreeing repayment deferral are retained and must have arrangements in place to formally reconsider the appropriateness of deferral at agreed regular intervals (that must not be longer than 12 months).
- 11.16 Service Directors must regularly review debts due and ensure adequate year end provisions for bad and doubtful debts. Service Directors are authorised to review and recommend for write off all individual bad debts in a timely manner, as a minimum every 6 months, and subject to the approval of the Chief Finance Officer. A report on the details of all debts written off under delegated authority must be prepared and formally noted by the Service Director in consultation with the Cabinet Member. The Chief Finance Officer must prepare an annual consolidated report of all debts written off for consideration by the Corporate Governance & Audit Committee. Service Directors must ensure that appropriate accounting entries are made following write off actions, in a manner prescribed by the Chief Finance Officer.
- 11.17 The 'writing off' of a debt does not absolve a Service Director of the

responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Service Director.

12. Payment of invoices

All payments must be made through the councils accounting system (SAP) and should be made by electronic transfer except where there are substantial overriding reasons for alternative means of payment. Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

- 12.1 Service Directors must ensure that all valid invoices are paid within 30 days of receipt.
- 12.2 The Chief Finance Officer will determine the method and frequency of payment from one of the Council's main bank accounts, except for
 - Petty cash and other imprest accounts
 - Delegated bank accounts approved by the Chief Finance Officer

Automated Payments

- 12.3 When an invoice is matched through the automated procurement and payment system, it will be paid in line with the councils determined procedures.
- 12.4 Any invoices rejected by the automated system must be subject to thorough checking by the Director to determine the reason for variance, and the cause recorded.

Certification & Processing (paper records)

- 12.5 Service Directors must approve a schedule of officers authorised to certify invoices, (names and specimen signatures). This must be supplied if requested to the Chief Finance Officer. The schedule must be reviewed at least once per year.
- 12.6 All invoices- that are not the subject of automated processing- must be certified in manuscript, unless an alternative method is expressly authorised by the Chief Finance Officer.

By certifying an account for payment, the authorised officer indicates that satisfactory checks have been carried out to ensure that.

 - a) The work, goods or services to which the account relates have been received or carried out, examined and approved.
 - b) Prices, extensions, calculations, discounts, other allowances and tax are correct.

- c) There is a proper tax invoice when appropriate.
- d) The relevant expenditure has been properly incurred, is within budget, and is charged to the appropriate budget.
- e) Entries have been made in Asset registers, inventories, stores and other records as appropriate; and
- f) The account has not previously been paid.

12.7 Where errors on an invoice are detected manual adjustments which reduce the total payment are permissible, provided that this does not change the total amount of VAT payable. In all cases where the amount due increases, or changes the amount of VAT, a replacement invoice and/or credit note must be obtained before payment is made.

12.8 The Service Director must where possible achieve an adequate level of internal check. At least two officers should be involved. The officer certifying the account for payment should not be the same officer who received or checked the items, goods, works or services.

No officer may certify any invoice involving payment to himself or herself.

12.9 All forms of account submitted for payment to a supplier or contractor other than on the original invoice must be accompanied by a special certification stating that the original invoice has not been paid and will not be paid subsequently. The certificate must be signed by an officer authorised to certify accounts for payment.

12.10 The Chief Finance Officer may withhold payment of any invoice where there is evidence to suggest that it is not in order. The Chief Finance Officer must establish rules that control the use of pro-forma invoices, to ensure that these are not used to circumvent council procedures,

Advance Payments

12.11 The council should not pay for any goods or service prior to receipt of the items, and not without an invoice. Where a supplier or contractor requires payment prior to the dispatch of goods or the provision of services, an official order signed by a duly authorised officer and clearly marked that payment is to be made before receipt of the goods or services must be completed. Whenever possible a supplier's invoice must be obtained, and payment made on this. In exceptional circumstances only, a pro forma invoice or supplier's order form detailing fully the goods/service to be obtained may be used. This must be approved by an officer authorised to certify invoices and retained as a record of the payment made, Where VAT features in the advance payment, the issuing officer must then obtain a VAT invoice or authenticated receipt for the transaction, and arrange for its processing to facilitate the recovery of VAT.

Discounts

- 12.12 All discounts available from a supplier are to be taken as a deduction against the cost of goods purchased and must appear on the invoice. Where a supplier provides any free item, or discount is available in the form of goods these are the property of the Council, as are loyalty or bonus points or other rewards earned.

Payment by Direct Debit/Standing Order

- 12.13 The Service Director (or Designated Finance Officer) must approve all requests for creation of a Direct Debit mandate, and supply to the Chief Finance Officer such information as is deemed necessary (e.g., codes, profit centre(s) to be charged, a copy of a recent bill, showing signatory certification, for the account in question). If the payment method is Standing Order, the requestor must also specify the frequency of payment and, where appropriate, a termination date.
- 12.14 The Service Director must inform the Chief Finance Officer when any payment is to be terminated.
- 12.15 Services must retain all statements relating to accounts paid by Direct Debit/Standing Order for current plus three previous financial years in order to substantiate the authority's claim for VAT on these accounts.

13. Purchasing cards

- 13.1 All arrangements regarding purchasing cards must be approved by the Chief Finance Officer. (As set out in the Purchasing Card Procedure Manual)
- 13.2 Service Directors in conjunction with the Chief Finance Officer will determine the monthly credit limit, any cash limits and permissible purchasing categories for individual payment and procurement cards.
- 13.3 Each cardholder must ensure safe custody of the card at all times.
- 13.4 Cards may be used only in accordance with the approved scheme and for legitimate expenses incurred by the cardholder in the course of official Council business.
- They must not be used: -
- a) To avoid any corporate rules on procurement and purchasing (for example to purchase only from approved suppliers)
 - b) To circumvent the procedures for the ordering of and payment for, goods and services under these regulations; or
 - c) To purchase items for the private or personal use of cardholders.

- 13.5 Each cardholder must ensure that all expenditure incurred using a purchasing card is supported by adequate records and a VAT receipt is obtained to support all expenditure.
- 13.6 Employees of the council must not use their own debit or credit card to make purchases on behalf of the council. (Other than in circumstances agreed in advance by the Chief Finance Officer, such as emergencies)

14. Salaries, wages and pensions

Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

- 14.1 All payments of salaries, wages, pensions, compensations, gratuities, allowances and other emoluments to current or former employees are to be made by the Chief Finance Officer in accordance with information supplied by the Director. All payroll transactions must be processed through the Council's SAP payroll system.
- 14.2 Service Directors must ensure that appointments of all employees are in accordance with the appropriate Conditions of Service of the Council or any approved scheme of delegation, and within the approved budgets, grades and rates of pay. Any variations of terms and conditions must be in accordance with arrangements approved by the Cabinet.

Records

- 14.3 Service Directors must maintain adequate records to notify the Chief Finance Officer of all appointments, resignations, dismissals, and retirements together with changes in pay rates, bonuses due, overtime worked and other matters affecting remuneration, and provide all information to ensure that the correct adjustments are made in respect of absences, pensions, income tax, national insurance, sickness and maternity pay and any other additions to or deductions from pay. Service Directors must also advise the Chief Finance Officer of any employee benefit in kind to enable reporting for taxation purposes.
- 14.4 All officers must complete a time record of actual times of attendance at work, except where a time clock is used. Paper records should be signed by the officer as a correct statement. It is the responsibility of each manager to check time records of officers for which that manager has responsibility.
- 14.5 Time records and other pay documents must be maintained in a manner approved by the Chief Finance Officer and be certified by the Service Director or other authorised officers. The Service Director must maintain a list of officers who are permitted to certify payroll documentation –either electronically or by manuscript (and their specimen signatures) and these authorisations must be reviewed at least annually by the Service Director. Details of officers authorised must be supplied to the Chief Finance Officer

Overpayments

- 14.6 The Service Director, in consultation with the Head of Human Resources, is entitled to write off any employee debt on compassionate grounds. All other overpayments of pay must be treated for the purposes of recovery and write off in accordance with Financial Procedure Rule 11.

15. Travel, subsistence, and other allowances

- 15.1 Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.
- 15.2 Payment of all claims must be in accordance with Schemes of Conditions of Service adopted in respect of the employee to which the payment relates and will be paid through the councils SAP payroll system unless otherwise agreed by the Chief Finance Officer.
- 15.3 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be made electronically, or where authorised, on a paper form approved by Chief Finance Officer. The form must provide for certification in manuscript by the Service Director or other officer authorised by the Director.
- 15.4 The Service Director must maintain a list of officers who are permitted to authorise expenses claims electronically and by paper (and their specimen signatures) and these authorisations must be reviewed at least annually by the Service Director. Details of officers authorised to sign such expense claims must be supplied to the Chief Finance Officer on request.
- 15.5 The certification (or electronic approval) of a claim by or on behalf of a Service Director is taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

16. Taxation

- 16.1 The Chief Finance Officer is responsible for advising the Council on all taxation issues that affect the Council.
- 16.2 Each Director must ensure taxation is treated correctly and consult with the Chief Finance Officer in the event of any uncertainty as to any taxation treatment.
- 16.3 The Chief Finance Officer will lead and co-ordinate discussion or negotiations with HM Revenue and Customs about any taxation matter.
- 16.4 The Chief Finance Officer will complete all of the Council's tax returns.

17. Gifts and hospitality

- 17.1 Officers must ensure that it is apparent that no cause could reasonably arise for adverse criticism or suggestion of improper influence about the acceptance of any gift or hospitality. They must ensure that in accepting any offer of gifts and or hospitality to do so would not infringe the requirements of the Bribery Act 2010.
- 17.2 Service Directors must maintain a central record of all gifts, invitations and hospitality offered and or received, including items of token value.
- 17.3 The receipt of personal gifts should be discouraged, but if an officer, during the course of, or as a result of, official duties, receives any personal gift, other than one of only token value (less than £25), the matter must be reported to the Service Director who will decide if the item is to be returned or forwarded to some charitable cause, and the Director must inform the donor what has happened to the gift and explain the reason why gifts should not be sent in the future.
- 17.4 Service Directors and other officers with the permission of the Service Director may accept invitations to events and associated hospitality of any value where this relates to a function promoted by an organisation with which the Council has formal links and attendance constitutes a demonstration of faith in that organisation. It will not normally be appropriate for attendance by a companion. A Service Director must agree that they are satisfied that attendance by the companion is appropriate.
- 17.5 Hospitality must only be given or accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion, not extravagant and justifiable as in the public interest. Particular care must be taken when this involves potential customers or suppliers. The circumstances and the type of hospitality are to be recorded in the central record maintained by the Service Director concerned.

Working with clients and contractors

- 17.6 Officers who, in accordance with their conditions of service, are permitted to carry out private or other paid work must not do so during Council time, and must not use any Council premises, resources or facilities for the execution of such work. No stationery or publicity material is to indicate that the person is a Council employee nor should the address or any telephone number of the Council be stated. Officers must declare to their Service Director in writing the nature and duration of such private work.
- 17.7 Officers must declare to their Service Director any circumstance where they believe that they may have a pecuniary or non-pecuniary interest in any proposed supply contract, grant award or other transaction for which they have involvement or responsibility.
- 17.8 Officers must not work for any current or prospective supplier or contractor to the Council.

17.9 All intellectual property created by employees in the course of their duties is, and remains, the property of the Council. The copyright or equivalent of any material cannot be sold without the permission of Cabinet. Any article, book or similar material for publication that is prepared in the Council's time is the property of the Council. Any disposal of intellectual property must be made in accordance with contract procedure rules. Any article, book or similar material for publication prepared by an employee (relating to their official duties) requires the written approval of the Service Director prior to publication.

19. Unofficial and voluntary funds

These regulations relate to funds administered by officers of the Council, the accounts of which are not included in the Authority's accounts.

17.10 Any proposed unofficial funds require the prior approval of the Director concerned who must maintain a record of all such funds and ensure that officers are appointed to administer each fund.

17.11 A separate bank account must be maintained for each fund (in the name of the fund) and fund monies must be kept separate from Council monies. Alternatively, the fund may be administered through the Council's bank account and general ledger but should be separately identifiable.

17.12 Where a separate bank account is maintained, directors must ensure that they receive a copy of the accounts of each fund and a certificate in the prescribed form from the auditors or independent examiners of each fund that has to be audited or independently examined. Such accounts are to be prepared annually, and at the completion of the purpose for which the fund was set up.

17.13 The Chief Finance Officer is to have access to any records relating to such funds and be immediately informed of any irregularities which arise in connection with them.

20. Financial control of partnerships, joint ventures associated organisations and similar arrangements

Working in Partnership with Associated Organisations

20.1 The Chief Finance Officer is responsible for promoting and maintaining the same high standards of financial administration in partnerships that apply throughout the Council or advising the Cabinet where he/she is aware that arrangements within a partnership are in conflict or are uncertain compared with the practices adopted by the Council.

20.2 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, and must:

- a) Consider the overall corporate governance arrangements and legal issues when arranging contracts with the partner/joint venture or associated organisation.
 - b) Ensure that the risks have been fully appraised before agreements are entered into with the partner/joint venture or associated organisation.
- 20.3 Service Directors must ensure that in all grant agreements, contribution to partnerships and where appropriate in agreed contracts for the supply of works, goods and services the Chief Finance Officer has access to the accounts, records and all other documentation, and is entitled to seek explanations from Officers of the funded organisation regarding the deployment of the Council's funding payment.

Working for Other Organisations

- 20.4 Service Directors are responsible for ensuring that approval is obtained from the Chief Finance Officer and the Service Director Legal Governance & Commissioning before any negotiations commence in relation to the provision of new or additional works or services to other organisations expected to exceed £20,000 per annum.
- 20.5 The Cabinet is responsible for approving any arrangements for any new work for other organisations expected to exceed £100,000 per annum. The Chief Finance Officer may agree contractual arrangements below this level.
- 20.6 Service Directors must ensure that any proposed arrangement to work for other organisations does not impact adversely upon the Services provided to or by the Council. All agreements, contracts or arrangements must be properly documented, and appropriate information must be provided to the Chief Finance Officer to enable a note to be entered into the Council Statement of Accounts concerning material items.

21. Purchasing of works, goods and services

Service Directors must ensure through a review, at least annually, that SAP authorisations are appropriate to the needs of the service, maintaining an adequate degree of separation of duties and internal control.

These procedure rules must be read alongside the Contract Procedure Rules which establish the framework that controls the Council's arrangements for procurement.

Orders

- 21.1 Before any official order is issued for works, goods or services, the Service Director or other authorised officer must ensure that.
- (a) The works, goods or services, are necessary for the discharge of the responsibilities of the Council.

- (b) Sufficient budget is available to fund the expenditure; and
 - (c) The Contract Procedure Rules (which apply to all purchasing decisions irrespective of value) have been complied with.
- 21.2 Service Directors are responsible for all orders issued. Order will be issued electronically using the SAP system. Paper orders must only be used when authorised by the Chief Finance Officer. Paper orders may only be issued and signed in manuscript by officers authorised by the Service Director. The items, quantities and prices must be accurately recorded.
- 21.3 Service Directors must keep a record of who is authorised to sign order documentation or issue orders electronically and the extent of this authority. This list must be reviewed at least once per year.
- 21.4 Except where there is a formal contract, in which case work instructions and orders must conform with the provisions of the contract, official orders will be issued for all works, goods or services to be supplied to the Council, except for supplies of continuous services (such as gas), and statutory taxes, for petty cash purchases and other exceptions as the Chief Finance Officer may approve. Orders must clearly indicate the nature and quantity of the work/services/items/supplies required, any related contract or agreed prices, discounts receivable and dates or periods of delivery, and where applicable make specific requirements to obligations placed on the contractor, such as those relating to Data Protection
- 21.5 Verbal orders must be kept to a minimum and be confirmed either the same or next working day by written orders which must be marked as a confirmatory order.
- 21.6 Records of all non-computerised order books must be kept by the Director. Copies of orders must be retained. All copies of spoilt, incorrect or un-issued orders must be appropriately marked and retained in any order book.
- 21.7 The Service Director must record the receipt of the goods, works or services electronically (or where applicable on paper) and (where applicable) all payments made in respect of an order. All Goods Received Notes must be retained.

Management of Suppliers

- 21.8 In respect of each order or contract for construction work, and any order or contract for services exceeding £20,000 the Service Director responsible must appoint an authorised officer, directly employed or otherwise to carry out supervision of the contract. All orders must provide for the reasonable inspection of progression of activity at any stage that the council (acting reasonably) chooses.

Specification

- 21.9 In respect of each order or contract exceeding £20,000 the Service Director must prepare or agree a written brief stating the objective of the order or contract and the sources of funding to meet the estimated cost of the project and appoint an authorised officer.
- 21.10 Unless otherwise agreed with the Chief Finance Officer, the authorised officer must prepare a specification which will indicate relevant issues for the supply, (for example type, quantity, quality, time, location, occasions), and the risks and obligations placed on the supplier including data protection and management where applicable. Specifications should set outcomes or outputs and be prepared on a generic basis and not include named products except where this can be justified on technical grounds. They should be prepared in a way which is likely to bring about the most economically advantageous solution whilst ensuring compliance with minimum statutory requirements and Council policy. The specification may only be altered on the basis of written instructions from the Service Director, who must justify the reason for change and sources of funding.

Variations

- 21.11 The authorised officer may, subject to the provisions of the contract, make any variations essential to the achievement of the objectives of the contract but must have regard to the budget provision. The authorised officer must not issue any variation likely to increase the approved cost of the project without the written agreement of the Service Director responsible, who must state the authority and source of financial provision for the additional expenditure.
- 21.12 Every variation must be immediately recorded in writing by the authorised officer.

Overspending

- 21.13 Any variation – including an extension - to a contract which results or will result in additional costs being incurred on a contract of more than 5% of the contract sum will be reported to the budget holding Service Director and Chief Finance Officer as soon as practicable.

Recording of Contractual Payments

- 21.14 Service Directors must ensure that a Contract Register is kept which shows details of all payments made against any contract. Any payments on account to contractors against a formal contract are to be made only on an approved certificate issued and checked by the authorised officer which must be passed to the Chief Finance Officer.
- 21.15 The certificate authorising final financial settlement of any contract will not be issued until the appropriate officer has produced a detailed statement of account and all necessary supporting documents, and these have been

checked in accordance with arrangements approved by the Chief Finance Officer and the final payment agreed by the budget holding Director.

Claims

- 21.16 All claims (or prospective claims) from contractors for loss and expense will be considered by the authorised officer who will immediately advise the client Director and they will jointly consider methods for cost reduction to achieve the budgetary provision. The budget holding Director and the Chief Finance Officer must be consulted in respect of any claim (or prospective claim) from a contractor for loss and expense in excess of £10,000.
- 21.17 The Service Director will report in detail to the Cabinet if the financial consequences of the claim cannot be accommodated within the approved project budget.
- 21.18 Any claim from a contractor outside the terms of the contract, or under any statutory instrument or any claim for an ex-gratia payment will be jointly considered by the Service Director Legal Governance & Commissioning, Chief Finance Officer and Service Director(s) of the appropriate Service(s) before any recommendation is made to the Cabinet.

Codes of Practice

- 21.19 All procurement must accord with the Contract Procedure Rules, Procurement Policy and all relevant Procedure Guidelines.

22. Grants to and from the council and loans from the Council

Grants Receivable

- 22.1 Service Directors in consultation with the appropriate Executive Director and Cabinet Members may apply for grants from any funding body, providing the proposed activity is consistent with the approved Council Plan, service objectives and Council policy where the Council is required to make no contribution, or where the Council contribution can be fully met from an existing budget for that purpose.
- 22.2 Service Directors must ensure a detailed business case is prepared, in consultation with the Chief Finance Officer, in respect of any grant offer sought under clause 22.1. Any application/expression of interest needs to assess:
- a) the alignment of the grant scheme with the current approved policies of the council

- b) the capacity impact on the Council for the deliverability of the project and expenditure,
- c) the parameters of the grant conditions and timescales requirements

The Service Director must agree any material grant conditions with the Service Director Legal Governance & Commissioning.

22.3 Where a proposed revenue or capital budget bid does not align with an existing Council policy, or where there is not sufficient budget allocated appropriately to meet a required council grant contribution, the Service Director must consult with the Chief Finance Officer. After consideration of virement options, it may be necessary to seek authority from Cabinet, or Council (as applicable) to authorise funding to facilitate the grant application.

22.4 Subject to the identification of sufficient resources within existing approved budget, or the approval of cabinet, or Council as necessary Service Directors are authorised to accept any offer of grant and subsequent grant conditions up to a maximum of £500,000.

Executive Directors are authorised to accept a grant of up to:

- a) 5% of the gross revenue budget of the Service to which the grant relates.
OR
- b) For capital projects, £1,000,000.

The Chief Finance Officer in consultation with the Service Director Legal Governance & Commissioning and the appropriate Executive Director is authorised to approve the acceptance of grants in all other circumstances.

22.5 Service Directors are authorised to accept a grant offer of any value from the West Yorkshire Mayoral Combined Authority and any Government department, provided that:

- a) the grant is in fulfilment of a national or regional initiative or requirement, and
- b) the Council is required to make no contribution, or the contribution can be fully met from an existing budget for that purpose.

The Service Director must advise the Chief Finance Officer of the relevant details and obligations of the grant as soon as possible on receiving notice of the grant offer, and on confirmation of the grant award.

Where a grant has a capital element, or revenue grant with discretion on usage, the funding must be identified into the relevant budgets and follow the normal process for approval and control of that funding (for example for capital, a business case as FPR 3.6).

Where a grant offer includes onerous or unusual conditions, the Service Director, Chief Finance Officer and Director of Legal, Governance & Commissioning must consider if these requirements represent a significant risk to the Council. If they believe that they do so, they must inform and seek authority for acceptance from the Cabinet.

- 22.6 Service Directors must ensure that any grant conditions or obligations are fulfilled, in respect of the allocations, timings, purposes of expenditure and outputs and outcomes. Service Directors must arrange for expenditure consistent with any specific type or purpose of grant, such as capital or revenue budget expenditure.
- 22.7 The value of all grants must be notified to the Chief Finance Officer, who will make arrangements as necessary to receive the grant and record the relevant expenditure. Any revenue or capital budget impacts will be incorporated into the quarterly financial monitoring update reports to Cabinet.

In respect of capital grants, any additional revenue expenditure requirement consequent from any capital grant award must be recognised by budget virements.

Any new capital programme/scheme must have an appropriate business case and Cabinet approval as per Section 3 FPR requirement, prior to any grant acceptance.

- 22.8 Grant claims, financial returns and submissions must be completed by the relevant Service Director and the Chief Finance Officer for submission to the relevant government department, agency or organisation. The Service Director must provide such additional information as may be required by the Chief Finance Officer and or – when there is a requirement for internal audit authorisation- by the Head of Audit & Risk.

Grants and Loans to Other Organisations

- 22.9 Before issuing any grant the Service Director must be satisfied that the proposed activity or project does not constitute a procurement (to which Contract Procedure Rules would apply).
- 22.10 Except where the Chief Finance Officer agrees otherwise:
- a) Competitive procurement aligning with the council's contract procedure rules must be used in respect of any goods, works or services obtained by another organisation, where the Council is providing a loan or making a grant contribution of £100,000 or more.

- b) The Service Director must carry out all appropriate due diligence on the proposed grant recipient entity, ensuring that it operates with appropriate financial and business controls, is not obtaining duplicate funding for the same project from the Council, or any other funding body.

22.11 A Service Director may issue a:

- a) Grant or loan of any value provided that it is offered fully in accordance with a scheme of grants or loans that has been approved by the Cabinet.

Or

- b) Grants of up to £10,000 each and £20,000 cumulative in any one year for any single purpose

Subject to:

- c) There is sufficient budget provision.
- d) Grants awarded under clause (b) above in aggregate may not exceed £10,000 in any one financial year for the same beneficiary.

22.12 Where a Service Director proposes to offer a grant, or loan to any organisation which is not covered by 22.11 above he/she may do so only following:

- a) A full financial appraisal of the project to which the grant or loan relates, by the Chief Finance Officer.
- b) A full financial appraisal of the organisation to which the grant or loan is to be granted, by the Chief Finance Officer.
- c) The preparation of a written report that establishes the justification for the financial assistance.
- d) Consultation with the Executive Member responsible for the budget area which is to offer the grant or loan.
and
- e) Establishing that there is sufficient budget provision.

The total value of grants awarded to any single organisation under this clause may not exceed £100,000, cumulatively in any one year, or for any objective, purpose or scheme operating for more than one year.

In carrying out the evaluation at (a) and (b) above the Chief Finance Officer will consider if any surety (legal charges on assets, bonds and or guarantees) is required of the applicant (see 22.15)

22.13 A Member lead forum- may issue a grant of any value provided that.

- a) It accords with, or is not in contravention of, any general scheme rules which are established by the Cabinet.
and

b) There is sufficient budget provision.

22.14 The Service Director Legal Governance & Commissioning will execute any legal agreement in respect of any grant or loan exceeding £180,000.

22.15 The Service Director who is offering the grant or loan may issue any grant or loan agreement below this value (using standard documents where required by the Service Director Legal Governance & Commissioning), except where the Chief Finance Officer considers that a loan or grant should be subject to a surety from the applicant. In such cases grants or loans must then be executed by the Service Director Legal Governance & Commissioning

The Service Director Legal Governance & Commissioning has discretion to delegate the right to enter into such agreements as they think appropriate.

22.16 A Service Director may also administer grants in accordance with a scheme fully supported by

- a) government grants, or
- b) grants from any other third party

provided that the methodology of grant distribution fully follows the obligations of the supported scheme, and where local discretion may apply this is subject to decision making as required by the Council's Constitution or the other requirements of Financial Procedure Rule 22. A scheme that is only partially funded requires compliance with the Council's Constitution and Financial Procedure Rules sections 2 and or 3.

22.17 When offering grants or other forms of assistance to entities that operate on a commercial basis Service Directors must ensure that no assistance will infringe -applicable national or international Procurement or State Aid or Subsidy Control Act 2022 requirements. In the event of any doubt about the matter advice must be sought from the Service Director Legal Governance & Commissioning.

22.18 Service Directors must ensure that appropriate records are retained to publish details of grants in accordance with the Local Government Transparency Code. Details of any subsidy under State aid rules or the Subsidy Control Act 2022 must be published as required by law.

22.19 In some cases, an agreed asset transfer, or the transfer of a right to a third party may constitute a form of grant, and these types of transactions must accord both with these FPRs and CPR 9 and 10.

**KIRKLEES COUNCIL
CONTRACT PROCEDURE RULES**

MAY 2024

Contents	
INTRODUCTION.....	3
RULE 1 – CONDUCT AND COMPLIANCE AND WAIVER.....	4
RULE 2 – PREPARATION AND PROCESS	6
RULE 3 - PROCUREMENT PROCESS	10
RULE 4 –TENDER RECEIPT & EVALUATION	12
RULE 5 –STANDING LISTS, DYNAMIC PURCHASING SYSTEMS AND FRAMEWORK AGREEMENTS: CREATION AND USAGE	14
RULE 6 – EXCEPTIONS FROM COMPETITION	16
RULE 7 - RECORD KEEPING AND REPORTING	18
RULE 8 - INCOME CONTRACTS & CONCESSIONS	19
RULE 9 - LAND.....	21
RULE 10 – EXECUTING CONTRACTS.....	22
RULE 11 – VARIATION AND TERMINATION OF CONTRACTS AND RELEASE OF BONDS.....	23
RULE 12 - MISCELLANEOUS	24
DEFINITIONS	25
Appendix 1	30
Appendix 2	31
Appendix 3	32
Appendix 4	33

INTRODUCTION

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

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

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

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

Procurement Principles:

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

RULE 1 – CONDUCT AND COMPLIANCE AND WAIVER

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

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

Conflicts of Interest and Integrity¹

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

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

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

RULE 2 – PREPARATION AND PROCESS

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

Compliance

- 2.3.6. Each Procurement complies with the following:-
 - a. it is justified by a business case (that includes a risk assessment) approved by a Senior Manager with relevant authority to purchase; and

- b. a Whole Life Costing Approach underpins the specification of the Supply; and
- c. it aligns with the Procurement Strategy; and
- d. it complies with any requirements or agreements regarding the use of in-house Service suppliers (see CPR 6.13), consortia and other suppliers (Service Directors should, for example, consult the Head of Procurement about decisions and options available under CPRs 6.11 & 6.12).

Estimated Value

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

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

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

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

Bonds and Guarantees

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

2.3.11. Bonds; All supply contracts relating to;

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

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

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

The Specification

- 2.4. In preparing a Specification, the Service Director should consider how the procurement activity might meet the Councils wider policy and strategy but subject always to ensuring full compliance with UK procurement legislation. Service Directors must also consider how what is proposed to be procured might improve the economic, social and environmental wellbeing of Kirklees.
- 2.5. Consultation with suppliers in the relevant market is permitted but it must not prejudice any potential Supplier and no technical advice may be sought or accepted from any supplier in relation to the preparation of any specification or contract documentation where this may distort competition, provide any unfair advantage or prejudice the equal treatment of all potential Suppliers.
- 2.6. The preparation of appropriate Specifications, costs/pricing document(s), contract terms (other than Land Contracts and subject to CPR 2.10) and other procurement documentation must be created to be understandable by all reasonably well informed people in the relevant industry.

Award Criteria

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

Contracting

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

Data Processing

- 2.11. All contracts that involve the processing or sharing of personal data must be reported to the Information Governance Team, who will keep a log of these contracts.
- 2.12. Where any Supplier is given possession of, or access to, any personal data, the Service Director must have regard to the Council's obligations as regards the Data Protection Legislation. The Service Director must follow the Council's Information Security Policy, in particular regarding contracting with data processors, sharing data and consulting with the Information Governance Team. The Service Director must ensure that:
 - 2.12.1. the Supplier is verified as suitable to be trusted with the personal data before allowing the Supplier access to the data;
 - 2.12.2. appropriate guarantees of the security of the personal data are included within a written contract;
 - 2.12.3. the performance of the contract is appropriately monitored;
 - 2.12.4. appropriate steps are taken to enforce the contract where the information security guarantees are not being met;
 - 2.12.5. appropriate steps are taken to minimise as far as possible the impact of a breach of data security;
 - 2.12.6. arrangements that appropriately deal with the transfer, return or deletion of the information at the end of the contract are established.

Collaboration

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

RULE 3 - PROCUREMENT PROCESS

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

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

Value of Supplies	Requirement		
	Procurement Process	Advertising	Min no. of Suppliers
	The Legal Service will perform the execution of any contract(s).	Purchasing System	

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

Supplier Selection

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

² See CPR 5.17

must be agreed with the Head of Procurement.

RULE 4 –TENDER RECEIPT & EVALUATION

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

only after approval by the Head of Internal Audit.

- 4.9 The Service Director will carry out an evaluation of the Tenders received against the pre-set AwardCriteria (CPR 2.7) and keep a written record of the analysis and outcome.
- 4.10 The use of or participation in e-auctions to set prices is permitted where:
- 4.10.1 bids can be ranked automatically; and
 - 4.10.2 the mathematical formula to determine the rankings of the bids (or each variant where variants are permitted) is disclosed; and
 - 4.10.3 the written agreement of the Head of Internal Audit has been given; and
 - 4.10.4 the process is subject to supervision by the Head of Procurement.
- 4.11 The Service Director will require tenderers to explain the price or costs proposed in their tender where tenders appear to be abnormally low.
- 4.12 The Service Director must ensure that, where required by UK procurement rules, appropriate notices of intention to award a contract to a particular supplier, or group of suppliers, are issued, and the necessary standstill period observed, prior to formal acceptance of the tender. The Head of Procurement will supervise the production and issuance of the mandatory debrief letters and inform the Solicitor to the Council that the debrief process has completed satisfactorily prior to formal acceptance of any Tender.
- 4.13 Any complaint or challenge to the procurement process at any stage must immediately be referred to the Head of Procurement, who must take steps to investigate and (subject to CPR 4.15) take action as necessary, taking guidance from the Solicitor to the Council and the Head of Internal Audit.
- 4.14 If a formal challenge is initiated (e.g. a formal letter before Court action is received or Court or arbitration proceedings are commenced) the Solicitor to the Council must be informed immediately with full objective disclosure of the facts relating to the issue(s), who will manage the claim. At this stage information exchange should be restricted and Service Directors must not copy dispute related information to anybody who has not seen it before until the Solicitor to the Council advises about confidentiality and Legal Privilege.

Clarifications, Presentations and Interviews

- 4.15 Where information or documentation submitted by a bidder is or appears to be incomplete (including where specific documents are missing) or erroneous or unclear, Service Directors may request the bidder concerned to submit, supplement, clarify or complete the relevant information or documentation, provided that requests for clarification:
- 4.15.1 set an appropriate time limit for a reply; and
 - 4.15.2 do not request changes or otherwise seek to influence the bidder; and
 - 4.15.3 deal with all of the matters in the Tender which are incomplete or erroneous or unclear; and
 - 4.15.4 treat all tenderers equally and fairly and so, for example, the request:-
 - a. must not occur before all of the bids have been subject to an initial evaluation;

- b. must not unduly favour or disadvantage the bidder to whom the request is addressed; and
- c. must be sent in the same way to all bidders unless there is an objectively verifiable ground justifying different treatment.

4.16 Clarity may also be facilitated through planned presentations designed to assist in understanding or verifying submitted bids. Clarification questions may be asked during such presentations and prior scoring may be appropriately moderated. All key information given in the presentation must be recorded thoroughly and any clarifications must be confirmed in writing.

4.17 Interviews and/or presentations which form part of the bid must be authorised by the Head of Procurement in writing. They must also be:

4.17.1 Comprehensively recorded; and

4.17.2 Assessed according to transparent and objectively verifiable criteria connected to the subject matter of the contract; and

4.17.3 Supervised by the Head of Procurement.

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

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

Standing Lists

5.2 The Head of Procurement will determine for which types of Supply Council-wide Standing Lists must be kept (see CPR 6.11). The Head of Procurement will notify the relevant Service Director of such decisions where the Standing List is Service specific and be responsible for creation and maintenance of Standing Lists which will be used Council-wide by any Service Director requiring Supplies of that type.

5.3 Standing Lists may be used for Supplies where the aggregated value (in compliance with the UK Procurement Rules) of the Supply in question does not exceed the relevant UK Threshold. A Framework Agreement or a Dynamic Purchasing System can be used where the aggregated value exceeds the relevant UK Threshold.

5.4 Standing Lists will be created by the selection of suppliers to be included from those responding to advertisements placed on at least the eProcurement Portal, Contracts Finder and other appropriate media as the Head of Procurement may determine. Standing Lists will remain valid for five years from creation. During that period the Standing List will remain open to the addition of further suppliers meeting the appropriate admission requirements and will remain advertised on the Council's web site for that time. Standing Lists must be renewed every 5 years.

5.5 Admission to a Standing List should be on the basis of a transparent, rational, justifiable evaluation of information submitted by prospective Suppliers relating to technical, financial and any other relevant matters determined by the Head of Procurement.

5.6 The Head of Procurement (in consultation with the Solicitor to the Council) may delete a supplier from a Standing List only where there is appropriate evidence and a written report justifying the action.

- 5.7 If there are insufficient suppliers on a Standing List, or too few are willing to submit Tenders, to meet the CPRs Tender requirements potential Suppliers must be sought as if a Standing List is not maintained.
- 5.8 Each Service Director must establish and advertise a set of fair, proportionate and transparent rules that reflect these CPRs which set out how Supplies will be procured through each Standing List which they are responsible for.

Council Framework Agreements and Dynamic Purchasing Systems

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

Purchasing Systems provide value for money, considering all procurement costs and alternative approaches.

- 5.17 The Head of Procurement will maintain a list of all approved Framework Agreements and Dynamic Purchasing Systems which Service Directors are permitted to use.

Use of Third Party Procurement Facilities

- 5.18 Supplies may be obtained through third party Frameworks Agreements (provided that the Head of Procurement is satisfied that using such a method is demonstrated to represent value for money) that:

5.18.1 are created by a public body or a private sector party as agent of a public sector body which is approved by the Head of Procurement (see also CPR 5.1);

5.18.2 have valid mechanisms that exist to enable the Council to use the Framework Agreement (including appropriate transparent referencing in the procurement documents and inclusion in the framework call of conditions);

5.18.3 comply with the Council's Contract Procedure Rules, or in the opinion of the Head of Internal Audit, rules which are broadly comparable;

5.18.4 where the UK procurement Rules apply, the procurement will not take the use of the framework more than 10% over the framework's advertised value.

RULE 6 – EXCEPTIONS FROM COMPETITION

- 6.1 Subject to compliance with the UK Procurement Rules the following are exempted from the competitive requirements of these CPRs³:

6.1.1 where there is genuinely only one potential Supplier, such as for works of art and copyrighted material or unique technology, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement;

6.1.2 items purchased or sold by public auction (in accordance with arrangements agreed by the Head of Internal Audit);

6.1.3 the selection of a supplier whose usage is a condition of a Grant funding approval;

6.1.4 the selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party;

6.1.5 where CPR 6.11 applies;

6.1.6 counsel or other external legal advice, provided that the Solicitor to the Council takes steps to ensure that value for money is being obtained;

6.1.7 a necessary Supply required extremely urgently, not due to any action or inaction of the Council, with the prior agreement of the Head of Internal Audit;

6.1.8 direct award from an approved Framework Agreement (see CPR 5.18) which has validly been set up to be called off on a non-competitive basis and which was set up

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

in accordance with the requirements of these CPR and the UK Procurement Rules;

- 6.2 The Service Director must make a written record of the justification for the selection of the Supplier. The Service Director must obtain the approval of the Head of Procurement before exercising the decision to apply an exception in respect of a supply valued in excess of £100,000. Value for money must be evidenced and recorded.

Trial Purchases

- 6.3 Service Directors may purchase a trial of a Supply which is new to the Council up to £100,000 without competition in order to ascertain if the Supply is of interest to the Council. Where an exception to competition in CPR 6.1 does not apply, a full competition compliant with the CPR must be held following the trial if the Service Director wishes to continue with the type of Supply.
- 6.4 Arrangements must be made to ensure that the Supplier involved in the trial has not acquired any advantage through that involvement when compared to any alternative suppliers of a similar product. The Head of Procurement must approve any proposed trial arrangement exceeding £25,000.
- 6.5 The procuring Service Director and the Head of Procurement may decide that;
- 6.5.1 An alternative means of selection of Suppliers to those required by these CPRs is appropriate (e.g. a Supplier shortlist other than described in these CPRs, negotiation with a single supplier not otherwise permitted, etc.) but they must record the reason for their decision and obtain the approval of the Head of Internal Audit.
- 6.5.2 Following receipt of Tenders for the Supply, it is appropriate to seek to reduce the overall cost, or change other terms of the Supply by negotiation with one or more suppliers which have submitted Tenders.
- 6.5.3 It is appropriate to negotiate a repeat, continuation or serial contract with an existing Supplier, by reference to the original Tender for the Supply.
- 6.5.4 The use of another local authority as a supplier of services by its own labour or as a procurement agent acting on behalf of the council without competition is appropriate (although subject to UK Procurement Rules).

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

Negotiated Contracts

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

Legal Issues

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

Mandatory suppliers, frameworks agreements or dynamic purchasing systems

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

RULE 7 - RECORD KEEPING AND REPORTING

- 7.1 Service Directors must keep detailed written records of the progress of all procurement or disposal procedures (including negotiation). To that end, Service Directors must ensure that they keep sufficient documentation to justify decisions taken in all stages of the procedure, such as documentation on:-
- 7.1.1 communications with economic operators and internal deliberations;
 - 7.1.2 preparation of the procurement or sale documents;
 - 7.1.3 the dividing large procurements into contract Lots;
 - 7.1.4 consideration of social value in the commissioning and procurement process;
 - 7.1.5 any interviews, other dialogue or negotiation;

- 7.1.6 a risk log;
- 7.1.7 supplier vetting; and
- 7.1.8 reasons for award of the contract.

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

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

RULE 8 - INCOME CONTRACTS & CONCESSIONS

- 8.1 CPR 8 Includes nil value and disposal contracts but excludes Land.
- 8.2 CPRs 8.2 to 8.8 apply when the Council intends to derive income from:-
 - 8.2.1 the disposal of property (other than Land);
 - 8.2.2 the sale of a right to exploit a business opportunity;
 - 8.2.3 the operation of business activity.
- 8.3 Where the Council is proposing to enter into an Income Contract at manifestly less than market value where the market value is estimated at £1,000 or more, the Head of Internal Audit must be consulted and they will decide whether this amounts to a Grant (and so FPR 4 applies instead of CPR 8).

The disposal of an asset (other than land and buildings)

- 8.4 The procedure for the disposal of assets e.g. surplus plant, vehicles, furniture, equipment and stock items (owned by the Council and not leased) is:-
 - 8.4.1 assets valued up to £25,000 must be disposed of by a method chosen by the Service

Director and a written justification of the choice retained.

- 8.4.2 assets valued above £25,000 must be disposed of following public notice either by open Tender process, closed Tender process involving at least 3 prospective purchasers or public auction, unless the interests of the Council would be better served by disposal in some other way;.
 - 8.4.3 Authority for alternative disposal methods must be granted by the Head of Procurement in consultation with the Head of Internal Audit and Risk.
 - 8.4.4 All IT equipment should be disposed of in accordance with the contract arrangements put in place by IT services to ensure equipment is securely and safely dealt with in line with requirements.
- 8.5 Leased assets must be disposed of only in accordance with the instruction of the lessor.

The sale of a right to exploit a business opportunity

- 8.6 The letting of rights to exploit a business opportunity for the contractor's own benefit (for example, advertisement space on Council Land) (a 'business opportunity contract') must be subject to a written contract and must only take place following a competitive selection process asset out below or written approval of other means from the Head of Procurement based on a detailed business case which, where appropriate, includes consideration of matters such as state aid.
- 8.6.1 A business opportunity contract that will not generate income in excess of £25,000 over the duration of the contract may be sourced by any reasonable means and should be arranged and undertaken by the Service Director responsible for the activity.
 - 8.6.2 The Head of Procurement must direct and supervise the tendering of any arrangement expected to generate income in excess of £25,000.

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

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

Concession Contracts

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

Valuation

- 8.11 The value of a Concession contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, in consideration for the Supplies which are the object of the Concession contract and for any ancillary Supplies.
- 8.12 The value of an Income Contracts is the gross income generated by the Council as a result of the rights granted, or goods, works or services supplied by the Council.
- 8.13 When calculating the estimated value of a Concession contract or Income Contract, Service Directors shall, where applicable, take into account:-
- 8.13.1 the value of any form of option and any extension of the duration of the contract;
 - 8.13.2 revenue from the payment of fees and fines by the users of the works or services or public other than those collected on behalf of the Council;
 - 8.13.3 payments or any other financial advantages, in any form, from the Council or any other public authority to the contractor;
 - 8.13.4 the value of grants or any other financial advantages, in any form, from third parties for the performance of the contract;
 - 8.13.5 revenue from sales of any assets which are part of the contract;
 - 8.13.6 the value of all the supplies and services that are made available to the contractor by the Council, provided that they are necessary for executing the works or providing the services;
 - 8.13.7 any prizes or payments to candidates or tenderers.

RULE 9 - LAND

- 9.1 Procurement of Land will generally be by the means described in this CPR 9. The Head of Corporate Property Management must be consulted in respect of all Land transactions of any value except where the Solicitor to the Council authorises other nominated officers to deal with tenancies or licences for specific purposes.
- 9.2 The Head of Corporate Property Management (and any other Director authorised so to do) will arrange the acquisition or disposal of estates or interests in land (including any buildings erected on it) either pursuant to the authority delegated to him by a Service Director in accordance with Part 3 (Section F) of the Constitution or, in the case of a decision made by Cabinet then in accordance with the authority delegated to him from the Cabinet.
- 9.3 Where any proposed land transaction cannot be executed within the terms established in this rule, arrangements must be agreed between the Head of Corporate Property Management and the Solicitor to the Council, and details of the process leading to the transaction must be recorded, and the circumstances reported to Cabinet either for information, if falling within the delegated authority of officers, or in order to secure the relevant authority to give effect to the transaction.
- 9.4 Where Land is sold at a public auction, the Head of Corporate Property Management must submit a sealed reserve price (prepared by a qualified valuer on a professional basis) for consideration alongside the bids submitted or made. If a successful bid is less than the

reserve price then the Head of Corporate Property Management may accept a lower bid provided that such lower bid is not less than 10% below the professional valuation of the reserve price.

RULE 10 – EXECUTING CONTRACTS

Supplies

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

instructions designed to achieve valid execution of the relevant Contracts and suitable record keeping, provide third parties with a power of attorney to sign Council Contracts of values below the UK Threshold for supplies and services.

Land

- 10.8 The Solicitor to the Council will complete all land transactions, including acquisition or disposal by way of freehold or leasehold purchase or sale or the taking or granting of all short or long term leases or tenancies and other deeds and documents associated with Land. The Solicitor to the Council may nominate other officers to enter into Land commitments and arrangements using documentation previously approved by the Solicitor to the Council.
- 10.9 Any Contract for the sale or acquisition of, or any other deed or document relating to, Land must either be signed by, or have the corporate common seal affixed in the presence of, the Solicitor to the Council (or by a legal officer nominated by him or her). Additionally, the Solicitor to the Council may authorise other nominated officers to be authorised signatories to tenancies or licences for specific purposes as referred to in CPR 9.1.

General

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

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

- 11.1 It is recognised that during the term of a Contract, modifications may be proposed, which if adopted would result in additional Works, Goods and/or Services, which were not considered when the original procurement took place, being procured or otherwise would alter the overall nature of the Contract. There are significant limitations upon the Council being able to make such modifications, especially where the Regulations apply. When considering a variation, modification or the termination of an existing Contract, advice must be sought in advance from the Corporate Procurement Service and with the Solicitor to the Council.
- 11.2 A Service Director may terminate any contract strictly in accordance with any contractual provision which allows for termination without fault, but with prior consultation with the Head of Procurement if alternative Supplies would be required.
- 11.3 A Service Director, in consultation with the Solicitor to the Council, has the power to terminate any contract in the event of any breach of contract justifying termination, where in the opinion of these officers no other remedy is appropriate. Where the financial implications of a decision to terminate a contract exceed, or may exceed £100,000, the reason for termination and any consequences must be reported to the next meeting of the Cabinet.
- 11.4 The Solicitor to the Council may release any bond held by the Council, on request from the Head of Procurement.

- 11.5 The Head of Internal Audit is entitled to negotiate with any bond issuer on sums of settlement proposed, and in consultation with the Solicitor to the Council accept such proposed sums.
- 11.6 Service Directors may vary contracts by operating 'clear, precise and unequivocal contractual review clauses' which were advertised in the original Procurement, strictly in accordance with the contract.
- 11.7 Any variation with a value above £25,000 to a contract which cannot be fulfilled by following CPR 11.6 must be subject to the approval of the Head of Procurement.
- 11.8 Any variation to a contract which cannot be fulfilled by following CPR 11.6 must be made in writing and signed in accordance with CPR 10 even if it does not need a competitive Procurement process.
- 11.9 Subject to approval of the Solicitor to the Council and the Head of Procurement contracts may be novated to another Supplier where permitted by an express provision to novate in the terms and conditions of contract; or in the event of a successor due to the original Supplier carrying out a corporate restructuring, merger, acquisition, takeover or insolvency. The new Supplier must comply with the requirements under the original contract.

RULE 12 - MISCELLANEOUS

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

DEFINITIONS

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

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

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

DEFINITION	DESCRIPTION
Land	“Land” includes any interest in land (including buildings) and any easement or right in or over land
Local Government Transparency Requirements	Means the statutory codes and legislation requiring the Council to publish information, such as ⁵ the Local Government Transparency Code and certain Regulations within the Public Contracts Regulations 2015.
Official Council Order	A standard form of contract for a Supply for a value of less than the current UK supplies and services threshold approved by the Solicitor to the Council whether attached electronically or by paper to an order for Supplies.
Personal Data	<p>Means data which relate to a living individual who can be identified—</p> <ul style="list-style-type: none"> (a) from those data, or (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, <p>and includes any expression of opinion about the individual (e.g. references) and any indication of the intentions of the data controller or any other person in respect of the individual.</p>
Procurement	<p>The purchase, contract hire, lease, rental⁶ or any other form of acquisition which results in a contract for Supplies where the Council is the buyer (therefore, in the context of the CPR, this does not include the Council providing the Supply to itself or gifts). Procurement also includes the establishment of Standing Lists, Framework Agreements and Dynamic Purchasing Systems. ‘Procurement’ and ‘Procured’ shall be construed accordingly.</p>
Public Procurement Rules	The rules on procurement for Supplies above the UK Threshold are subject to the statutory requirements outlined in the Public Contracts Regulations 2015 and those described in the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 (EU Exit Regulations).
Reasonable Means	Methods of selection or advertising which reflect reasonable trade practice. This might include informal briefs, supplier written Tenders or proposals, verbal or telephone quotes (which are then written down), comparative pricing for suitable supplies over the internet.
Senior Manager	Means an officer who reports directly to a Head of Service.

⁵ The words “including”, “include”, “for example”, “e.g.”, and “such as” in these CPRs indicate examples and are not intended to be limiting

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

DEFINITION	DESCRIPTION
Service	A grouping of departments or other sections of the Council which is under the overall responsibility of a Service Director.
Service Director	Means the most senior officer responsible for the day to day functions of each Service.
Social Value	Means The Public Services (Social Value) Act 2012 ('Social Value Act') that requires the Council to consider how a procurement over the relevant thresholds could improve the economic, social and environmental wellbeing of the district
Solicitor to the Council	Means the Service Director – Legal, Governance & Commissioning in the role as legal advisor to the Council.
Special Purpose Vehicle	Companies (limited by shares, or otherwise) or any other legal entity, established by or in which the Council participates whether alone or with others to provide specific Supplies to the Council.
Specification	A written document detailing the Council's requirements. This can include things such as definitions, acceptance test methods, material requirements or characteristics, drawings, plans, certifications of compliance with standards, workmanship, data security measures, quality control including performance testing and KPIs, completion, delivery, safety, timing, key personnel qualities, communication requirements, returns policies and tolerances.
Standing List	A list of suppliers who are assessed as suitable to provide Supplies to the Council prepared in accordance with CPR 5.
Suitability Criteria	Relate to the assessment or vetting of suppliers' general capability, fidelity, skill, competence, etc. to carry out the contract. 'Suitability' shall be interpreted accordingly.
Supplier	Any person, partnership, company, or other organisation, which provides or contractually offers to provide any Supply to the Council or on behalf of the Council.
Supply / Supplies	Means the supply of any works, goods, or services; being provided, or to be provided, to or on behalf of the Council (whether by purchase, lease, hire or any other arrangement).
Tender	A written offer in relation to a Supply or Disposal of Assets making reference to a price and (where applicable) other information.
UK Threshold	The financial threshold from time to time at which the UK Procurement Rules are applicable to a Supply. Current UK Thresholds are set out in Appendix 1.
Value for Money	Securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought.

DEFINITION	DESCRIPTION
Whole Life Costing Approach	<p>Is an approach which addresses all the elements of a Supply over its life cycle such as:-</p> <ul style="list-style-type: none"> • costs relating to acquisition, • costs of use, such as consumption of energy and other resources, • maintenance costs, • end of life costs, such as collection and recycling costs which can be used to produce a spend profile of the Supply over its anticipated lifespan.

Appendix 1

Relevant Thresholds in Public Contract Regulations inclusive of VAT	
Microsoft Word - Procurement Policy Note 10:21 - New Thresholds Values and Inclusion of VAT in Contract Estimates.docx (publishing.service.gov.uk)	
Supply and service contracts	£214,904
Light Touch Regime Contracts (Annex XIV)	£663,540
Works contracts	£5,372,609
Concession contracts	£5,372,609

- ◆ These are current the values for the purposes of these CPRs. The threshold values to be used will be those applicable at the commencement of the procurement process. The thresholds are updated every two years with the next update due on the 1 January 2026

Appendix 2

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

	Information	When
A.	Details of all contracts awarded for Supplies of £5,000 or above following a competitive process including the name of the Supplier, and amount of the Tender and if the chosen supplier was not the cheapest, then the same information in relation to unsuccessful Suppliers, and the reason why the successful Supplier was chosen.	When requested
B.	Details of all contracts awarded for Supplies of £100,000 or above, which result from negotiation including the reason for negotiation and the name of the successful Supplier and value of the contract.	When requested
C.	Details of all contracts awarded for supplies of £5,000 or above which a Service Director considered to be exempt from the competitive requirements by virtue, including the reason for the exemption.	When requested
D.	Contracts with a value of £5,000 or more see CPR, with the following information: <ol style="list-style-type: none"> 1. reference number 2. title of agreement 3. Contract Manager; name of person responsible for managing the contract 4. description of the goods and/or services being provided 5. Supplier name and details 6. sum to be paid over the length of the contract (or if unknown, the estimated annual spending or budget for the contract) 7. start, end and review dates, including permitted extensions 8. whether or not the contract was the result of an invitation to quote or a published invitation to tender, and 9. whether or not the Supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number 10. whether or not the contract involves processing personal data 	In All Cases on Contract Award
E.	All other information necessary to enable compliance with the Council's obligations under legislation and regulation to publish data about its contractual arrangements and payments.	In All Cases on Request
F.	Copies of Regulation 84 reports	All cases where the Public Procurement Rules apply on Contract Award

Appendix 3

Relationship between Commissioning and Procurement



Appendix 4

How to decide if a procurement or grant is applicable

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

1. If you are seeking to obtain **goods** or **works** you should **procure as per CPRs**

2. If you are seeking to obtain a **service** and can answer **YES** to **ANY** of the following, you should **procure as per CPRs**

- Is there an intention to specify service standards and outputs required?
- Will payment be reduced/alterd if service standards are not met, or additional payment be made if there are claims for additional costs incurred?
- Are there opportunities for change control?
- Is there a contractual obligation on both parties?
- Is there an intention to have active management of the provider?

3. If you are seeking to use a supplier that is a commercial i.e., profitmaking organisation this would generally require procurement as per CPRs. If the organisation is a genuine “not for profit” organization or charity you should discuss further with the Procurement team.

4. If you are seeking a **service** and can answer **YES** to **ANY** of the following, you can consider use of a **Grant as per FPRs**

- Is there an intention to broadly support an activity, with expected outcomes, but no clear obligations on the provider?
- Is the intention to support parts of an existing activity?
- Is the intention to provide a subsidy to existing service users
- Is the council’s only ultimate remedy to withhold payment of a next phase of grant, seek clawback or to refuse to fund future activity by the provider?
- Is the intention to meet a stated set of costs, and an intention that the provider should not profit from the support?

Important notes/advice

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

OFFICER EMPLOYMENT PROCEDURE RULES

OFFICER EMPLOYMENT PROCEDURE RULES

N.B. Reference should be made to the relevant sections of Part 3 of the Constitution for details of responsibilities delegated to Personnel Committee, Appointment Panels, Statutory Officer Disciplinary Committee and Officers in accordance with these Procedure Rules.

1. Definition of Chief Officer for the purposes of these Rules

In these rules the expression “Chief Officer” means any Deputy Chief Executive, Executive Director, or Service Director. This definition fulfils the relevant requirements of the 1993 and 2001 Standing Orders Regulations (as amended)

2. Recruitment and Appointment

(a) Declarations

- (i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or senior officer of the council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or senior officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her

(b) Seeking support for appointment

- (i) Subject to paragraph (iii), the council will disqualify any applicant who directly or indirectly canvasses the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will canvass support for any person for any appointment with the council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

3. Recruitment of Head of Paid Service and Chief Officers

- (a) Where the council proposes to appoint the Head of Paid Service or a chief officer (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing officers, the council or its Personnel Committee will establish a committee or sub-committee to act as the appointment panel.
- (b) The appointment panel will:

- (i) draw up a statement specifying the duties of the post concerned; and an employee specification which describes the experience, education, training, knowledge, skills and other factors to be sought in the person to be appointed.
 - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (iii) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.
- (c) Where a post has been advertised, the appointment panel shall:-
 - (i) Select a short list of qualified applicants and interview those included on the short list.
 - (ii) At all times act in accordance with the council's equal opportunities policy and code of practice on recruitment and selection.
 - (iii) When no person is appointed, make further arrangements for advertisement.
- (d) Where the council propose to appoint the Head of the Paid Service or a chief officer (other than on an acting basis) exclusively from amongst their existing officers, the council or its Personnel Committee will establish a committee or sub-committee which will make arrangements in connection with the appointment.
- (e) Where the duties of a chief officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972 -
 - (i) The steps taken under this Rule may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned;
 - (ii) Any chief officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those authorities.

4. Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the council. That committee or sub-committee must include at least one member of the Cabinet.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 of these Rules has been completed.

5. Appointment of Chief Officers

- (a) A committee or sub-committee of the council will appoint chief officers. That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

6. Other Appointments

(a) Officers below chief officer

Appointment of officers below chief officer (as defined in Rule 1) (other than assistants to political groups) is the responsibility of the Head of the Paid Service or officers nominated by him/her and may not be made by councillors.

(b) Assistants to political groups

- (i) The council may appoint up to three posts to provide assistance to the members of any political group to which members of the council belong to discharge any of their functions as members of the council.
- (ii) Each such post shall first be allocated to a political group in accordance with Section 9 of the Local Government & Housing Act 1989 and will then fall to be filled from time to time in accordance with the wishes of that group. No post shall be allocated to a political group which does not qualify for one.
- (iii) No appointment shall be made to any such post until the council has allocated a post to each political group that qualifies for one. No more than one post shall be allocated to any one political group.

7. Disciplinary Action

(a) Suspension

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will last no longer than two months.

(b) **Independent Panel**

Subject to (a) above, no disciplinary action (as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2015 may be taken in respect of any of those officers except in accordance with the Local Authorities (Standing Orders) (England) Regulations 2015 (investigation of alleged misconduct).

(c) **Involvement of Councillors**

Councillors will not be involved in the disciplinary process in respect of any officer below chief officer (as defined in Rule 1), except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

8. Dismissal

- (a) Councillors will not be involved in the dismissal of any officer below chief officer (as defined in Rule 1), except where such involvement is necessary for any investigation or inquiry into alleged misconduct. [See comment above].

9. The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer

- (b) Subject to paragraph 9(g) the Statutory Officer Disciplinary Committee may recommend to full Council that the Head of Paid Service, Chief Finance Officer or Monitoring Officer be dismissed. Only full council can approve the dismissal
- (c) Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of the dismissal of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or a chief officer that committee or sub-committee must include at least one member of the Cabinet.
- (d) Where a committee or sub-committee is discharging the function of the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer, the full Council must approve the dismissal
- (e) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-
- (i) any advice, views or recommendations of an independent panel¹

¹ Appointed under s.102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority in accordance with the Local Authorities (Standing Orders)(England) Regulations 2001 (as amended)

- (ii) the conclusions of any investigation into the proposed dismissal;
and
 - (iii) any representations from the relevant officer.
- (f) The independent panel referred to must be appointed by the authority at least 20 days before the relevant meeting and should comprise a minimum of two independent panel members
- (g) Notice of dismissal of the Head of Paid Service, the Monitoring Officer, Chief Finance Officer or a chief officer must not be given until the procedure set out in Annex 2 has been completed.

ANNEX 1

APPOINTMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

1. This procedure applies to the appointment of the Head of Paid Service and chief officers as defined in Rule 1 of these rules (“relevant officers”). It has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, “appointor” means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the council.
3. An offer of an appointment as a relevant officer must not be made by the appointor until -
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person to whom the appointor wishes to make the offer
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) Either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointor that neither s/he nor any member of the Cabinet has any objection to the making of the offer;
 - (ii) no objection has been received by the proper officer within that period from the Leader; or
 - (iii) the appointor is satisfied that any objection received is not material or is not well-founded.

4. The “proper officer” for the purposes of paragraph 3 will be either of an Executive Director responsible for human resources or the Head of the Human Resource Strategy Unit, and the above function may be exercised on their behalf by the Human Resource officer dealing with the particular appointment.

ANNEX 2

DISMISSAL OF HEAD OF PAID SERVICE, MONITORING OFFICER, CHIEF FINANCE OFFICER AND CHIEF OFFICERS

1. This procedure applies to the dismissal of the Head of Paid Service, Monitoring Officer, Chief Finance and chief officers as defined in Rule 1 of these Rules (“relevant officers”). It has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
2. In this procedure, “dismissor” means, in relation to the dismissal of a relevant officer, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer must not be given by the dismissor until:
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) Either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) no objection has been received by the proper officer within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received is not material or is not well-founded.

4. The “proper officer” for the purposes of paragraph 3 will be either of the member of the Executive Management Group responsible for human resources or the Head of Human Resources.

PART 5:
CODES AND PROTOCOLS

Part 5 of the Council's Constitution consists of 12 documents which describe how we conduct ourselves in meetings and make decisions about certain matters as follows:

- 5.1 Code of Conduct for Councillors (and Voting Co-optees)**
- 5.2 Monitoring Officer Protocol**
- 5.3 Protocol for Planning Committees**
- 5.4 Decision Making on Ward Issues – Procedural Advice to Cabinet Members**
- 5.5 Protocol on the Role of Representatives on Key Outside Bodies in Representing the Interests of the Council**
- 5.6 Officers' Code of Conduct**
- 5.7 Protocol for Public Speaking at Planning Committees**
- 5.8 Licensing Committee Protocol**
- 5.9 Councillors and Officers in Kirklees – A Protocol for Working Effectively**
- 5.10 Safeguarding Protocol**
- 5.11 Protocol for Online Meetings**
- 5.12 Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents**

Members' Codes and Protocols

NOTE: These include:

- The Code of Conduct adopted by the Council on the advice of the Standards Committee (including an appendix setting out general principles specified nationally on which all such codes of conduct should be based)
- Local protocol for Members dealing with planning applications etc approved by the Council on the advice of the Standards Committee
- Advice from the Standards Committee to Cabinet Members on dealing with ward issues
- Protocol on the role of representatives on key outside bodies in representing the interests of the Council

Kirklees Code of Conduct

Definitions

For the purposes of this Code of Conduct:

- “Councillor” means a Member or Co-opted Member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a Member of any Committee or Sub-committee of the authority, or;
- b) is a Member of, and represents the authority on, any joint Committee or joint Sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that Committee or Sub-committee”.

- “local authority” includes County Councils, District Councils, London Borough Councils, Parish Councils, Town Councils, Fire and Rescue authorities, Police authorities, Joint authorities, Economic Prosperity Boards, Combined authorities and National Park authorities.

- “meeting” means any meeting of:

- the authority;
- the Executive of the authority
- any of the authority’s or its Executive’s committees, Sub-committees, joint Committees or joint Sub-committees.

- “body” means any body of which you are a Member or in a position of general control and management and:

- to which you are appointed or nominated by your authority, or
- which is a body
 - exercising functions of a public nature or
 - directed to charitable purposes or
 - one of whose principal purposes includes the influence of public opinion or policy.

- “relevant person” means any person with whom you have a family, social or business relationship.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Kirklees officers and the reputation of Kirklees Council. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General Principles of Councillor Conduct

The Principles of Public Life apply to everyone in public office at all levels; all who serve the public or deliver public services, including Ministers, Civil Servants, Councillors and local authority officers should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor. I promote these principles and will challenge poor behaviour where it occurs.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest and act solely in terms of the public interest
- I understand that I am accountable to the public for my decisions and actions and will submit myself to scrutiny
- I will act and take decisions in an open and transparent manner and will not withhold information from the public unless there are clear and lawful reasons for doing so
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted Member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you are at meetings of the authority
- you are acting as a representative of the authority
- you are taking any decision as a Cabinet member or Ward Councillor
- you are discharging your functions as a Ward Councillor
- you are at briefing meetings with officers and at site visits
- you are corresponding with the authority other than in a private capacity
- you misuse your position as a Councillor
- your actions would give the impression to a reasonable member of the public with

knowledge of all the facts that you are acting as a Councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Where you act as a representative of your authority on another local authority you must, when acting for that other authority, comply with that other authority's Code of Conduct.

Where you act as a representative of your authority on a body which is not another local authority you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct. Town and Parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

1.1 I treat other Councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a

robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the Police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-Officer Protocol.

2. Bullying, Harassment and Discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

2.4 I will not do anything which may cause the Council to breach any of its equality duties.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of Officers of the Council

As a Councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and Access to Information

As a Councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information

relating to ongoing negotiations.

5. Disrepute

As a Councillor:

5.2 I do not bring my role or local authority into disrepute.

5.3 I do not conduct myself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a Councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a Member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Behaviours

As a Councillor:

7.1 I will comply with the standards outlined in the Council's behaviours, in particular the Member / Officer Protocol.

There may be policies and guidance related to standards of appropriate behaviour and responsibilities agreed and issued from time to time which you will be expected to have regard to.

8. Use of Local Authority Resources and Facilities

As a Councillor:

8.1 I do not misuse Council resources.

8.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements**
- b. ensure that such resources are not used for political purposes unless**

that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed; and

- c. have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

9. Media and Public Speaking

As a Councillor:

- 9.1 I will be clear when communicating with the media or speaking in public that I do not give the impression that I am acting in an official capacity when I am not.**

It is important that you do not do or say anything that might mislead members of the public into believing that you are speaking on behalf of the Council or that your views represent an official Council position when it is your own personal or political view.

10. Attendance at Meetings

As a Councillor

- 10.1 I will comply with the rules and procedures of meetings I attend.**

- 10.2 I will comply with the Council's Standing Orders and the rulings of the Chair.**

11. Decision Making

As a Councillor

- 11.1 When reaching decisions on any matter I will have regard to any relevant advice from:**

- a. The Chief Finance Officer (statutory S.151 officer);**
- b. The Monitoring Officer (Service Director of Legal, Governance and Commissioning) where she is acting pursuant to her statutory duties.**

12. Complying with the Code of Conduct

As a Councillor:

- 12.1 I undertake Code of Conduct training provided by my local authority.**

- 12.2 I cooperate with any Code of Conduct investigation and/or determination.**

12.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

12.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting your reputation and the reputation of the local authority

13. Interests

As a Councillor:

13.1 I register and disclose my interests.

13.2 Disclosable Pecuniary Interests

Disclosable Pecuniary Interests ("DPs") are those interests defined as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 ("the 2012 Regulations") or in any subsequent regulations which amend, vary or revoke the 2012 Regulations. For the purposes of illustration only, a summary of the 2012 Regulations is set out in the Schedule to this Code of Conduct.

I will, within 28 days of:

adoption of this Code of Conduct by the authority; or

taking office as a Member or co-opted Member of the authority notify the authority's Monitoring Officer of any DPI, where the pecuniary interest is mine, my spouse's or civil partner's, or is the pecuniary interest of somebody whom I am living with as a husband or wife, or as if we were civil partners.

When I am present at a meeting of the authority and I have a DPI in any matter to be considered or being considered at the meeting, and where the matter does not relate to 'sensitive information' as defined below, I will disclose the existence and nature of the interest to the meeting.

Following any disclosure of a DPI not on the authority's register or the subject of pending notification, I will notify the authority's Monitoring Officer of that interest within 28 days beginning with the date of disclosure.

Unless a dispensation has been granted, I will not participate in any discussion of, vote on, or discharge any function related to any matter in which I have a DPI and will withdraw from the meeting while the matter is under consideration.

I will within 28 days of becoming aware of any new DPI or the need to change or update a current DPI registration, notify the authority's Monitoring Officer of those new or revised register entries.

13.3 Interests which are not Disclosable Pecuniary Interests (Other Interests)

In addition to the requirements relating to DPIs, if I attend a meeting at which any item of business is to be considered and I am aware that I have an interest which does not amount to a DPI I will make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

I will have an Other interest where –

(a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of me or a member of my family or a person or an organisation with whom I have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which I have been elected or otherwise of the authority's administrative area, or

(b) it relates to or is likely to affect any of the interests that are defined as DPIs but are in respect of a member of my family (other than a partner) or a person with whom I have a close association.

In such circumstances I will consider whether my continued participation in the matter relating to my interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

I will not have an Other interest if the interest relates to any business of the authority in respect of –

- housing, where I am a tenant of your authority provided that those functions do not relate particularly to my tenancy or lease;
- school meals or school transport and travelling expenses, where I am a parent or guardian of a child in full time education, or am a parent governor of a school, unless it relates particularly to the school which the child attends;
- statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where I am in receipt of, or am entitled to the receipt of, such pay;
- an allowance, payment or indemnity given to members;
- any ceremonial honour given to members; and
- setting Council Tax or a precept under the Local Government Finance Act 1992.

13.4 Sensitive Interests

Where I have an interest which is not a disclosable pecuniary interest and information relating to the interest is sensitive information, I will indicate to the meeting that I have an interest, the details of which are withheld.

13.5 Sensitive Information

Where I consider that the information relating to any of my interests is sensitive information, and the Monitoring Officer agrees, I will not include that information when registering that interest.

I will, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the

Monitoring Officer asking that the information be included in the register of members' interests.

In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that I or a person connected with me may be subjected to violence or intimidation.

14. Gifts and Hospitality

As a Councillor:

- 14.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 14.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**
- 14.3 I register with the Monitoring Officer any gifts from the same source that exceed a cumulative total of £100 in any year.**
- 14.4 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	<p>Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council -</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer

Corporate Tenancies	<p>Any tenancy where (to the Councillor's knowledge) -</p> <p>(a) the landlord is the Council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where -</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and (b) either-</p> <p>(i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

12

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships;
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority ;
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or in a position of general control or management

MONITORING OFFICER PROTOCOL

1. Introduction to Statutory Responsibilities

- 1.1 The Monitoring officer is a statutory appointment pursuant to section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged.
- 1.2 The role of the Monitoring Officer rests with the Service Director – Legal, Governance and Commissioning.
- 1.3 The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of corporate decision making, ensuring compliance with Codes and Protocols, promoting good governance and high ethical standards.
- 1.4 A summary list of the Monitoring Officer’s responsibilities appears in the Annex attached. The Monitoring Officer’s ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:-
 - (a) complying with the law (including any relevant Codes of Conduct);
 - (b) complying with any general guidance, codes or protocols issued from time to time, by the Standards Committee and the Monitoring Officer;
 - (c) making lawful and proportionate decisions: and
 - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

2. Working Arrangements

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council’s statutory and discretionary responsibilities.
- 2.2 The following arrangements and understandings between the Monitoring Officer, Members and Directors are designed to ensure the effective discharge of the Council’s business and functions. The Monitoring Officer will:-
 - 2.2.1 **Resources**
 - (a) report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions,
 - (b) have sufficient resources to enable him/her to address any matters concerning his/her Monitoring Officer functions;
 - (c) have control of a budget sufficient to enable him/her to seek Counsel’s opinion on any matter concerning his/her functions.

- (d) appoint a deputy and keep him/her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer.

2.2.2 Access to information/meetings

- (a) be alerted by Members and officers to any issue(s) that may become of concern to the authority, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise:
- (b) have advance notice, (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which officer delegated decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- (c) have the right to attend (including the right to be heard) any meeting of the authority (including meetings at which officer delegated decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken).
- (d) be a member of the Corporate Management Team and will have advance notice of those meetings, agenda and reports and the right to attend and speak.
- (e) in carrying out any investigation(s), have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his/her functions:

2.2.3 Relationships

- (a) ensure the other statutory officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (b) meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- (c) have a close working relationship of respect and trust with the Mayor and the chairs of the Cabinet, Standards Committee, Scrutiny Committee and District Committees with a view to ensuring the effective and efficient discharge of Council business;
- (d) develop effective working liaison and relationship, with the Local Audit Framework and the Local Government and Social Care Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information,

whether confidential or otherwise, through appropriate protocols, if necessary);

- (e) in consultation, as necessary, with the Leader, Cabinet and Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- (f) make arrangements to ensure effective communication between his/her office and clerks to parish councils on Monitoring Officer and Standards Committee issues.

2.2.4 **Standards Matters**

- (a) give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to the Standards Committee (unless the Chair of Standards Committee agrees a report is not necessary) if, in the opinion of the Monitoring Officer, there is a serious breach of the Members Code of Conduct,
- (b) subject to the approval of the Standards Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues.
- (c) provide information in response to a contact from a member of the public about an elected member(s) provided that it would not compromise the Monitoring Officer should a formal complaint be made subsequently by the member of the public.

2.2.5 **Constitution**

Review and monitor the Constitution in accordance with Article 15.1 of the Constitution and consult with the Chief Finance Officer and Head of Paid Service before taking any report to the relevant committee to approve amendments to the Constitution

3. Member and Officer Responsibilities

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and officers will report any breaches of statutory duty procedures and other vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

4. Advice

The Monitoring Officer is also available for Members and officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (eg Council Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc).

4.1 Working Arrangements

The following arrangements and understandings between the Monitoring Officer and colleagues and members are designed to help ensure the effective discharge of their functions:-

Meetings

- 4.1.1 The Monitoring Officer will have advance notice of all meetings whether informal or formal between Chief Officers and members of the Cabinet or Chairs of Committees, where any procedural, vires or other constitutional matters are likely to arise;
- 4.1.2 The Monitoring Officer will have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings or Executive Management Team;
- 4.1.3 The Monitoring Officer will have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings or Executive Management Team.

Miscellaneous

The Monitoring Officer will:-

- (a) establish and maintain the Register of Members' Interests, and the Register of Gifts and Hospitality.
- (b) receive copies of certificates under the Local Authorities (Contracts) regulations 1997.
- (c) be the Proper Officer for Access for Information.
- (d) advise on whether executive decisions are within the Budget & Policy Framework.
- (e) be the primary Qualified Person for considering whether certain information is exempt from disclosure under the Freedom of Information Act.

5. Monitoring the Protocol

Annually, the Monitoring Officer will report to the Standards Committee regarding whether the arrangements set out in the Protocol have been complied with and will include any proposals for amendments in the light of any issues that have arisen during the year.

6. Sanctions for Breach of Protocol

Complaints of a breach of this Protocol by an Officer will be referred to the relevant Strategic Director and/or the Chief Executive for appropriate action to be considered, including disciplinary investigation if appropriate.

SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		Source
1	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 and 5A Local Government and Housing Act 1989.
2	Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 and 5A Local Government and Housing Act 1989.
3	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4	Report on sufficiency of resources.	Section 5 Local Government and Housing Act 1989.
5	Establish and maintain registers of Members' interests and gifts and hospitality.	Section 81 Local Government Act 2000, and Members' Code of Conduct
6	Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.	Local Authorities (Contracts) Regulations 1997.
7	Maintain, review and monitor the Constitution.	Constitution - Articles 12.3 and 15.1
8	Support the Standards Committee - key role in promotion and maintenance of standards of conduct.	Section 27 Localism Act
12	Proper Officer for access to information	Constitution - Article 12, and DETR guidance.
13	Advise whether executive decisions are within the budget and policy framework	Constitution Article 12
14	Advise on vires issues, maladministration, financial impropriety, probity budget and policy framework issues to all Members.	Constitution Article 12 and DETR guidance

KIRKLEES COUNCIL

PROTOCOL FOR PLANNING COMMITTEES

BACKGROUND AND INTRODUCTION

- 1.1. This protocol replaces and updates that which was approved 20 May 2015.
- 1.2. The aim of this protocol is to ensure that the planning process operates properly, legally and effectively and that there are no grounds for suggesting that a decision has been biased, partial or not properly considered and made in any way. It is also intended to help councillors work effectively and seek to achieve their aims within the regimes which govern development control.
- 1.3. Your role as a member of the planning authority is to make planning decisions openly, impartially, with sound judgment and for justifiable, properly balanced reasons which must be relevant to planning issues. If for any reason you would have difficulty in complying with this protocol or if you would usually prefer to be able to champion your constituents' point of view, you should not accept appointment to the committees, nor attend as a substitute.
- 1.4. When the protocol applies: This protocol applies to councillors at all times when involved in the planning process. This includes taking part in decision making meetings of a planning committee , or when involved on less formal occasions, such as meetings with officers or the public. It applies equally to planning enforcement matters or to policy issues relating to a specific site as to planning applications. Part 11 of the protocol draws attention to issues affecting all councillors, whether or not involved in decision- making.
- 1.5. If you have any doubts about the application of this protocol to your own circumstances, you should seek early advice from the Service Director – Legal, Governance and Commissioning or one of their staff, preferably well before any meeting takes place. Senior Planning Officers and Decision Support Officers are also able to assist.

2. RELATIONSHIP TO THE COUNCILLORS' CODE OF CONDUCT

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

3. GUIDANCE REGARDING ISSUES OF BIAS, REDETERMINATION AND PREDISPOSITION

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

Example of predisposition

- I am very concerned about the impact of this proposal on the local highway network. It already takes 25 minutes to get through the crossroads at peak 36 times. I want to see convincing evidence from the applicant that this proposal will not make matters even worse.
- This proposal is in Green Belt and the proposed extension would be inappropriate development. Its design doesn't seem to be particularly sympathetic to its surroundings. In such a prominent location there is real potential for such a development to have a very damaging effect on the open character of the area. Green Belt development needs to be handled particularly sensitively. Therefore, unless the applicant can convince me that this would be an appropriate development in the Green Belt or there are very special circumstances why it should be approved then I can't currently see how I will be able to support this application. The applicant needs to make a stronger case and provide more information.

Example of predetermination

- This proposal is a disaster waiting to happen. Under no circumstances could I ever support approval of this application. The applicant needs to go back to the drawing board and have a complete rethink or, ideally, he should do us all a favour and abandon this completely.

- 3.4 Also, councillors cannot be seen to take part in any planning decision making processes where they have or may appear to have a vested interest in the outcome for eg if they have a Disclosable Pecuniary Interest (DPI) and/or an Other interest in a planning application. Taking part in these circumstances can lead to allegations of bias and the validity of the decision again being called into question. If councillors are shown to have been motivated by bias then, ultimately, the decision may be ruled by the courts as unlawful and quashed.
- 3.5 The basic legal position is that councillors may not be party to decisions in relation to which they are either actually biased (in the sense that they have a closed mind and have predetermined the outcome of the matter irrespective of the merits of any representations or arguments that may be put to them) or give an appearance of being biased. The test that would be applied by the courts regarding apparent bias is:

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

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

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

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

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

(2) Predetermination/predisposition

- It is lawful for members of planning committees and sub-committees to have, and to have expressed, views on controversial local matters (such matters may often have been raised as election issues).
- Members of planning committees are entitled to be predisposed to certain views.
- Members must at all times retain an open mind (ie in making decisions they must consider all relevant matters and approach their task with no preconceptions) right up to the point of making the decision. But they are entitled to have regard to and apply policies in which they believe, particularly if those policies have been part of their political manifestos.

- Members must be trusted to abide by the rules which the law lays down ie that, whatever their views, they must approach their decision making with an open mind and be prepared to change their views if persuaded that they should do so.
- Evidence of political affiliation or of the adoption of policies towards a planning proposal will not by itself amount to an appearance of predetermination or bias.
- Unanimity of approach by all members of a single political group when voting on a planning application should not necessarily lead to a conclusion that all or any of those members had a closed mind. Members will obviously attach importance, to differing degrees, to group unity and conformity with group policy. This is perfectly acceptable provided they understand that the ultimate decision is for them alone as individuals.
- Leading members of the authority who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making meetings solely on the ground that they were involved in the decision of the Executive to promote or approve the policy or proposal.

3.7 The guidance above has been prepared having regard to the current law on bias and predetermination. The contents of this note demonstrate that members responsible for making planning decisions do have considerable freedom to express views on applications and, in formulating such a view or predisposition, to be influenced by a number of factors including the policies of their political group and issues that they supported during an election campaign. However, members must at all times retain an open mind as to the merits of an application or proposal and demonstrate that they are willing (right up to the point of the decision) to take into account all material planning considerations.

3.8 Members who speak vociferously for or against a proposal thereby giving the impression that they have unequivocally and irrevocably made up their mind prior to the planning meeting may, therefore, find it more difficult to demonstrate that they have indeed retained an open mind. In these circumstances such members may consider that it would be prudent to step down from the committee and to speak at the meeting as ward councillor. Members can seek advice from the Service Director – Legal, Governance and Commissioning regarding this matter or any of the issues raised above.

4. LOBBYING AND CONTACT WITH APPLICANTS AND OBJECTORS

4.1 Any councillor could be the subject of lobbying over planning issues. Lobbying occurs when an applicant, objector or supporter seeks to influence a councillor to change their mind or to adopt and support their point of view. This includes contact by letter, e-mail, 'phone or in person to discuss or put forward specific points of view regarding forthcoming planning decisions.

4.2 Lobbying is a normal and perfectly proper part of the political process. However, you need to understand and accept that where you are making a decision on a planning issue, you are acting in a different role from that of ward councillor. Lobbying can, therefore, unless care and common sense are exercised by all concerned, lead to your impartiality and integrity being called into question. In order to avoid any such criticism or legal challenge and to preserve your right to vote on an application, you should follow the following advice.

- i Avoid organising support for or opposition to a planning application or involving yourself in such a process and avoid lobbying other councillors on the issue.
- ii If applicants, potential applicants or objectors ask to meet you about a proposal ideally you should refer them to another councillor who does not serve on the planning committee and will not be involved in the decision; alternatively refer them to an officer. If however, the proposal is complex, controversial or of major local significance, eg a new supermarket, landfill site, large housing estate, then you may consider that the process would benefit from engaging councillors in preapplication/determination discussions. In such a situation it will be important for you to follow the guidance set out in section 5 of this Protocol about pre-application/determination discussions.
- iii If anyone (including another councillor) does lobby you or raise issues about a particular proposal, refer them to officers for advice on procedure and suggest that they send their comments to officers so that they can be included in the committee report; it is also a good idea to explain why, even though you are more than happy to listen to their views/concerns, you have to remain completely impartial until the final decision has been made.
- iv Keep a record of any approaches by lobbyists and the response given or action taken; these records should be incorporated in the form attached as an appendix to this protocol and the relevant records produced at the start of each committee meeting - but note that this is a separate process from that which relates to declaration of interests under the members' code of conduct.
- v Minimise social contacts with known developers and agents and refrain altogether from such contacts when preapplication work is under way or a planning application has been received and is being considered by the authority;
- vi When approached by anybody (including the press) regarding a particular application, take care to avoid expressing an opinion which others might regard as clearly indicating that you have already made up your mind on the issue before hearing all the information and arguments presented at the committee meeting. You can, if pressed, perhaps, indicate the sort of concerns or issues which you think you'll need to consider when making the decision, but remember that if you cannot clearly demonstrate that at the meeting you have an open mind and are balancing all the various issues and arguments, you run the risk of potentially invalidating the decision and making the Council subject to legal challenge. So make sure that you also say that you will not be making a final decision until the meeting.
- vii If you cannot avoid expressing an unequivocal opinion on the decision beforehand, which could be construed by others as clearly indicating that you have a closed mind as to the merits of the application, then you should disclose this at the committee (as part of the disclosure of lobbying). You should not then vote on the item unless you made it clear when expressing the opinion that your views were preliminary only and that a final decision would be made at the committee meeting when you had the opportunity to review all the issues and arguments. If you do have to drop out of a particular decision, you should not take part in the discussion on the item, but may, if you wish to speak, move away from the other members of the committee to the public area and comment when invited to do so as with other non-committee members and the public.
- viii Remember that your overriding duty in this role is to the whole community not just to the people in your ward and, taking into account the need to make

decisions impartially, you should not improperly favour any person, company, group or locality or appear to do so. If local people put you under pressure, or you want to try to be as helpful as possible, try to explain the reasons why you can't favour one side or the other, tell them the best way to get their views across, tell them how to contact another councillor who can be more proactive in supporting/helping them, or refer them to officers who can explain the issues and reasons.

- 4.3 Public Meetings are unlikely to be necessary or appropriate in most cases, since the process was adopted of allowing applicants and objectors to attend and make comments at planning committee meetings. Nevertheless, on occasion they may be appropriate where there is a need for a forum to allow clear expression of a volume of concern on a controversial proposal. It may also very occasionally be necessary and beneficial in order to assist in the determination of a planning issue. If so it is vital that you avoid acting in a way which could lead to an appearance of prejudgement or bias. So, if anyone asks you to organise or attend a public meeting about a specific application, you should try to avoid doing so, and you should instead refer the request to officers. Wherever possible you should avoid attending any public meeting at which officers are not present - otherwise you may be accused (rightly or wrongly) of having done so because you favour one side or the other and it might well be difficult to avoid giving that impression. If you do attend, you should do so bearing in mind all the comments set out above and should ensure that it is made clear that you are unable to form or express any clear and unequivocal view before the committee meeting- but that obviously doesn't stop you from listening to what is said or making it clear that you are listening and highlighting the areas that are of most concern to you. Don't forget, though that you need to be able to differentiate, when you do make the decision, between issues which are relevant to planning decisions and those which are not. Officers will be able to assist by answering technical questions and helping to explain why you are unable to favour either side. The same advice as above applies to avoiding expressing any opinion, which would clearly indicate that you no longer had an open mind on the ultimate decision, at such a meeting.
- 4.4 The public meetings referred to here should be distinguished from briefings, developer presentations etc that are organised by officers as part of any pre-application/determination discussion process with councillors/members of the planning committee in relation to applications of major impact or significance (see section 5 below).

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

- 5.1 Discussions between potential applicants/applicants and the council prior to the submission or determination of an application can always be helpful. However, they can be of considerable benefit to both parties in relation to development proposals that are complex, controversial or of major local significance eg large housing estates, waste disposal sites, wind farms, industrial estates/business parks and supermarkets. Unfortunately, it would be easy for such discussions to become, or be seen by objectors to become part of the lobbying process on the part of the applicant.
- 5.2 It is therefore essential that where any discussions are held in relation to such major development proposals it is done within carefully established guidelines (as

set out below) to protect the council and councillors from allegations of bias, pre-determination etc.

- 5.3 All arrangements relating to pre-application/determination discussions for major development proposals should be made by officers. Where councillors receive a request to engage in such preapplication/determination discussions from an applicant or potential applicant they should refer such request to the Planning Case Officer who will consult the Chair of the relevant committee or sub-committee as to whether pre-application discussions are considered appropriate in the circumstances and, if so, the form that such discussions will take. **NB. This will not preclude councillors attending informal consultation events where there is no officer present.**

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

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

Informal private briefings or private developer committee presentations may occasionally be appropriate but must be handled carefully to avoid third parties becoming suspicious of the process and the reasons for a private meeting.

- 5.4 Whatever method of pre-application/determination discussion is adopted, the following guidance will apply:
- (i) The purposes of councillors becoming engaged at that stage should be made clear by the relevant committee/sub-committee Chair or planning case officer at the start of the discussions. The purposes can be summarised as:
 - Keeping councillors better informed on major applications and helping them to learn more about emerging proposals;
 - Engaging members on issues to be dealt with in a formal submission;
 - Taking account of emerging or existing community concerns at a formative stage;
 - Obtaining initial member guidance for officer negotiations on major applications;
 - Identifying issues to be dealt with in any further submissions;
 - Reinforcing Councillors' roles in their communities.
 - (ii) The Chair or planning case officer will also make clear from the outset that the discussions will not bind the council to make a particular decision and that any views expressed are personal and provisional.
 - (iii) Officers should always be present with councillors at any such pre-application/determination discussions. They will be responsible for advising impartially on all planning issues including the development plan, the interpretation of relevant policies and any material planning considerations.

Councillors should avoid giving separate planning advice during such discussions as this could result in inconsistent information being given. Neither should councillors become drawn into negotiations with applicants or potential applicants.

- (iv) A written record of all pre-application/determination discussions should always be made by the officer present. This note will be placed on the public planning case file to ensure transparency.
- (v) Discussions with councillors at preapplication/determination stage should not be seen as:
- A means by which to find out councillors' views on a proposal. Councillors may be in a position to give a preliminary view on a proposal but any members of the planning committee (who are likely to be determining the application when it is submitted) will be advised that they should not express a view which could give the impression that they have pre-determined their position;
 - An opportunity to conduct negotiations on the application in public;
 - Any substitute for the formal consultation and processing of an application;
 - A means by which potential applicants can seek to hold confidential discussions with councillors on the merits of the proposal.
- (vi) Any member of the planning committee who elects, at such discussions, to voice a clear and strong view for or against the proposal being discussed in pursuit of their community champion role could be considered to have pre-determined their position and prejudiced their ability to vote in relation to any forthcoming planning application. They should therefore seek advice from the Service Director – Legal, Governance and Commissioning as to their future participation in the decision-making process.

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

- 6.1 The potential problem is that if you are involved in a meeting of the parish/town council or its planning committee which decides on the recommendations or comments which are to be given to KMC on particular planning applications and then are also a member of the planning committee which makes the final decision on those applications, you are at risk of being considered to have already made up your mind before coming to that committee and therefore being biased, in legal terms, thus invalidating the committee's decision.
- 6.2 To minimise this risk, therefore, if you are a member of the KMC planning committee you should always:
- i. make it clear at any meetings of the parish/town council that any views you express and your vote, if you give one, are based solely on the limited information which is before you at that meeting;
 - ii. make it clear that you are reserving your judgement and independence, when any application comes before the KC committee, to make a fresh decision on each application on the basis of all the relevant information

which is available to that meeting and based also on your overriding duty to the whole community and not just the people of the area, ward or parish/town; not in any way commit yourself as to how you may vote when the proposal comes before the KC committee;

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

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

6.4 While the process above is a way of minimising the risk of successful challenge, it does need to be remembered that the public and press can misunderstand or (innocently or otherwise) misrepresent your actions which could lead to unjustified criticism or misguided legal challenge. There is also, of course, inevitably the risk that on occasion for some reason something may go wrong and the proper procedure not be appropriately followed. In the light of the increasing tendency to litigation, therefore, although this Council has not so far experienced such a problem, the best advice is, where possible, to avoid playing the dual role and therefore to choose whether to go on the parish/town council's planning committee or the KC committee, but not both. That would be the only way of clearly avoiding any of the potential risks and problems referred to above.

7. COUNCILLOR COUNCIL PARTNERSHIP DEVELOPMENT AND DEVELOPMENT ON COUNCIL LAND

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

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

7.3 If you were involved in a meeting which made a decision giving rise to the submission of such an application, you should avoid taking part in the decision making process unless you are confident that you can clearly demonstrate that you are able to approach the determination of the application with an entirely open mind. This will apply principally to members of the Cabinet, through meetings of either the Cabinet or a Cabinet committee. In addition, if you are a director on the board of a partnership company which is submitting an

application then you will most probably be best advised to declare a Disclosable Pecuniary Interest under the councillors' code of conduct and leave the meeting for the consideration of that item. Similarly, if the proposal is a major council-driven project of such significance to your ward or to the borough as a whole that you want to support it or express your clear views about it, you can do so, but then you will need to consider whether or not it is appropriate for you to remove yourself from the decision-making on the planning application so that you do not expose yourself and the Council to allegations of bias or predetermination.

8. SITE VISITS

- 8.1 The purpose of a site visit is to enable committee members to see the physical attributes of the site and its setting which are part of the material considerations in cases where these are not readily capable of being appreciated from documentary material. Officers may arrange a site visit where they consider it to be appropriate.
- 8.2 You, as a ward councillor, may also request a site visit on any application being considered by committee within your ward, provided that the request is made in writing to the planning officer with a reason which relates to some aspect of the site or the development (you should have regard to the provisions of paragraph 9.6 below to help you to formulate appropriate reasons in support of your site visit request) and takes account of the purpose of site visits mentioned above and which can be incorporated in the officer's report to committee; and the request is lodged as soon as possible and in any event before the finalisation of the agenda for the -committee at which the application is due to be considered in order to allow it to be included on the agenda and the itinerary. Remember, however, that if in that written request you express a strong opinion on the merits of the application, you may well disqualify yourself from taking part in the decision. Try to limit your comments to identifying issues which you think the site visit will help to clarify. This advice also applies if you request that a decision is referred to committee rather than being made by officers.
- 8.3 Alternatively, the committee may itself decide to defer an application for a site visit through the normal course of debate and vote.
- 8.4 On a site visit, councillors will have the opportunity to view the site and officers can point out significant features. You should try to avoid being lobbied by the public, but if this is unavoidable, you should react as in the guidance on lobbying above and declare the fact on return to the committee meeting room.
- 8.5 If other ward councillors attend a site visit, they should not carry out any lobbying of their own and should not join members of the planning committee on the site visit bus.
- 8.6 Anyone (public or ward member) who is unable to attend the meeting to present their views will not be able to use the site visit for that purpose and should, therefore, be encouraged to put their views in writing to the planning officers beforehand.
- 8.7 All members of the committee should attend site visits since they are an integral part of the committee decision-making process. However, since this does not always happen you should try to avoid asking officers for additional information

until you get back to the meeting room. Nevertheless, to ensure that all councillors at the meeting have, as far as possible, the same information before them, officers will provide at the meeting a summary of any significant additional information provided or issues raised on the site visit.

9. CONDUCT AT THE COMMITTEE MEETING

- 9.1 Separate guidance set out in The Public Speaking Protocol is available for members of the public on the process allowing them to put their views in the course of the debate on any particular application. Bear in mind that many of them will not be familiar with planning procedures or with what is or is not a material consideration. Nevertheless, they should obviously be treated with respect. It is also vital that the procedure for public comment is closely followed in every case, to avoid complaints that some individuals are being treated differently from others.
- 9.2 Ward Councillors who refer items to a planning committee must attend the meeting in person (or nominate a same ward councillor colleague) to explain the reason for the referral. Ward Councillors will have up to 5 minutes to explain the reason for the referral and their issues with the application. By exception and with agreement of the Chair of the Committee virtual attendance is acceptable for the item referred to the Committee.
- 9.3 Councillors who attend the committee as observer in accordance with Council Procedure Rule 36 (CPR 36) together with any member of the committee who has indicated that because, for instance, they can no longer demonstrate that they retain an open mind as to the merits of an application, he/she will not be voting, but still intends to contribute to the debate, will be bound by the 5 minute time restriction specified in CPR 36.
- 9.4 Every effort will be made to ensure that the seating arrangements make it clear who are the members of the committee. Wherever possible, therefore, the public will be kept separate from the committee members and other members of the Council should also avoid sitting with the members of the committee.
- 9.5 If you are a member of the committee, you should, as far as possible, avoid contact with members of the public. This will ensure that you are not subject to last minute lobbying, or provision of information which is not available to the rest of the meeting, and it will also protect you from appearing to favour or have a relationship with one side or the other on a particular application. This applies before, during and immediately after the meeting. Only the chair should speak to members of the public during the meeting or ask questions (eg for clarification). If any other councillor needs clarification, they should raise the issue with the chair, who will decide how to deal with it.
- 9.6 Remember that you must be able to justify any decision on planning grounds. If you wish therefore to vote on a decision in a way which is different from the officers' recommendation, you should be clear what your reasons are for that.
- 9.7 Relevant planning issues, which you can take into account, include:
 - The Development Plan and the various policies which it contains;

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

When formulating reasons which you consider will justify a decision contrary to the officer's original recommendation you should always have regard to the principles set out in paragraph 1.3 above.

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

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

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

9.9 Similarly, if your view is that a policy, such as green belt, for instance, shouldn't be applied, you need to have a clear reason for that, relevant to the way the policy is expressed. Officers can help with those sorts of issues if you are clear yourself what the problem is. On the other hand, if you are clear in your reasons and clear that they are proper planning reasons, that will make it very much

easier for officers (or indeed, you yourself) to defend and explain them if they are challenged on appeal or by judicial review. Ideally there should be a partnership here. Officers are professionals; councillors have democratic accountability. But both have to follow the rules.

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

10. TRAINING

- 10.1 Making good, justifiable planning decisions is not something which can be done by instinct.
- 10.2 Before serving on any committee making planning decisions (whether as a full member or as a substitute) any councillor must have undergone satisfactory training, as referred to in this section, in both the procedural issues outlined in this protocol and in the basic principles of planning, so that you can understand the basis on which decisions need to be made and on which officers prepare reports. It will also help you to take a rational approach to the issues discussed in 9.7 above. -This requirement will also apply to training required to refresh and update knowledge and understanding.
- 10.3 Suitable training will be provided sufficient to ensure that councillors who wish to be involved in planning decisions can do so, but you do need to make an effort to attend, since it is not possible to make arrangements which are totally convenient for everybody.
- 10.4 Groups must not nominate anyone for membership of any committee which will be making planning decisions unless that councillor has either undergone training or is prepared to do so before taking part in the relevant committee meetings. Councillors should also be prepared to attend annual updating training. It is necessary for groups to identify and select the appropriate number of members from their group who fulfil these conditions.
- 10.5 Annual updating training will be provided. It is necessary that, in order to continue to sit on a planning committee or sub-committee, you will take part in this refresher training.

11. ADVICE TO ALL COUNCILLORS

General

- 11.1 Any councillor, whether or not involved in decision making on planning issues, could benefit from reading this protocol as it may assist from time to time in explaining issues to constituents who are puzzled by the planning process. All councillors also need to understand how best to represent their constituents when not involved in the decision making process.
- 11.2 You may well be lobbied by individuals in favour of or opposed to any application, or, indeed, you may have views of your own as the local ward councillor. If so, those views should be expressed to officers. You should avoid lobbying or trying to persuade members of the decision making committee to come to a view beforehand. Doing so will only put at risk that member's ability to take part in the decision.
- 11.3 You should not, however, exert any improper pressure on officers to make a decision or recommendation contrary to their professional judgement. If you disagree with that judgement you can, of course, raise the issue with a more senior officer. Nor should you lobby members of the committee - in particular make sure you avoid the temptation to seek the support of your ward or group colleagues on the planning committees. Doing so could make any decision susceptible to challenge.
- 11.4 Please also note the advice on requesting site visits in section 8 which applies to all ward members.
- 11.5 Local ward councillors may attend site visits, but will not be able to carry out any lobbying on the merits of an application on such occasions.
- 11.6 Ward councillors may also attend the committee meeting at which decisions are taken. If you do so, you should sit apart from the committee members, with those attending from the public. If you wish to speak on a particular application, you should do so only when specifically invited by the Chair and should act in accordance with the Public Speaking Protocol.
- 11.7 If you are unable to get to the meeting, then any views which you wish to express should be put in writing to the Planning Officer.
- 11.8 You should remember that officers have a duty to give impartial advice on planning applications and other planning matters and to make recommendations (or decisions on delegated matters) in the light of all the relevant planning issues using their professional judgement. Where there are disagreements between councillors and officers, these should be approached with mutual respect and while you may obviously express your disagreement, that should be on a rational basis and you should avoid personal criticism or abuse.
- 11.9 You will be informed when training in planning matters is being provided. While training is extremely important for councillors who will be making decisions, it is open to all and any councillor could benefit from the information which is provided.

Referring applications to committee

- 11.10 Under the officer delegation scheme, a ward member is able to refer for committee decision any application which would otherwise be determined by officers. Any such request must be made in writing and must specify their reasons for making the request which must reasonably relate to some aspect of the site or the development (you should have regard to the provisions of paragraph 9.6 above to help you to formulate appropriate reasons in support of your request for referral to Committee). To be a valid request the Chair of the relevant committee or sub-committee must have confirmed that the ward member's reasons for making the request are acceptable. Requests should ideally be received before the earliest date for decision. However, requests received later than this will still be valid provided appropriate reasons are given in support of the request and the Chair is prepared to exercise his/her discretion to consider the late request. Ward Members who refer an application to a committee are expected to attend the committee and explain the reason for referral, or send a ward councillor colleague, or by exception attend virtually.
- 11.11 Ward members who are also members of the committee (or substitutes) should remember that if, in your written request for referral of an application to committee, you express a strong opinion on the application which gives a clear impression that you have a closed mind as to the merits of the proposed development, you may well disqualify yourself from taking part in the decision.

Planning applications submitted by councillors and members of their families

- 11.12 Planning applications that are submitted to the LPA by serving councillors, their close associates and relatives, can easily give rise to suspicions of impropriety. Nevertheless, it is perfectly legitimate for such applications to be submitted to the authority for determination. However, it is vital to ensure that these applications are handled in such a way that gives no grounds for accusations of bias or preferential treatment.
- 11.13 When a councillor submits a planning application in their personal capacity, or where their spouse or civil partner; or person living with them as if a husband, wife or civil partner has submitted a planning application in their personal capacity that Councillor will have a disclosable pecuniary interest (DPI) in that application and should not take part in the decision making process relating to the application and must leave the room or send a substitute should their application be required by the Scheme of Delegation 2023 to be determined at a planning committee. If you are a councillor in that position you should not speak as a ward councillor at the application that relates to either your application or that of your spouse, civil partner or a person you live with as a husband, wife or civil partner. If you are a member of the Planning Committee at which the application is being considered you will need to declare your interest and leave the room for that item of the agenda. Alternatively, you might want to consider whether or not to arrange a substitute to attend the meeting.
- 11.14 You will also be considered to have an Other interest in any application submitted by a member of your family or a close associate. Accordingly, if you are a member of the planning committee (or sitting as a substitute), you must leave the room if you consider your continued presence is incompatible with the Council's Code of Conduct or The Seven Principles of Public Life. You should

also consider whether or not to speak as a Ward Councillor in such circumstances. In making such a decision you must consider the Principles of Public Life which are set out at in full at clause 3 of the Code of Conduct for Members or you can seek advice from the Service Director – Legal, Governance and Commissioning regarding this matter or any of the issues raised above.

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

DECISION MAKING ON WARD ISSUES

PROCEDURAL ADVICE TO CABINET MEMBERS

Decision Making On Ward Issues

Procedural Advice to Cabinet Members

1. Background

- 1.1 The Standards Committee has been asked to provide advice to Cabinet Members on procedures should they wish to campaign on behalf of their Ward on an issue which will be coming before the Cabinet for a decision. The Standards Committee referred the issue to a Working Group consisting of Council and independent members of that Committee and a member of the Cabinet.
- 1.2 The procedural advice set out below has been drawn up and agreed by that Working Party, with the benefit of advice from the Head of Legal Services. It was approved by the Standards Committee on the 23rd January, 2003.
- 1.3 The advice is to be reviewed after one year's operation.

2. Context

- 2.1 Cabinet members will on occasion find themselves having to resolve two different roles on a particular issue.
- 2.2 First, there is the role as **decision maker** in which they have to act in the best interests of the Council as a whole, taking account of all relevant matters.
- 2.3 The second role is that of **elected representative** where members will listen to and may wish to represent and on occasion even campaign for the views of local people. This is particularly an issue where the Cabinet member happens also to be the Cabinet member for the relevant Ward.
- 2.4 This paper is not concerned with quasi judicial decisions and similar matters such as planning applications or licensing matters. The Cabinet does not make such decisions. This issue relates to the sort of decisions on service provision and implementation of policy which are the responsibility of the Cabinet. There is no doubt that in quasi judicial decisions, it is inappropriate for a member to express a view before the decision-taking meeting which might indicate that his or her mind has already been made up on the issue. This will raise clear questions of legality and could raise question marks (however undeserved) about probity. Matters which come before the Cabinet, on the other hand, can legitimately be the subject of political debate and of party political or local priorities. There is ordinarily no problem with Cabinet members putting forward political policies and priorities and seeking to follow those, provided that when the decision is taken they do not blindly follow those policies and priorities but do have available and take into account all the

relevant information so that a balanced decision can be made. In many cases there will be a range of decisions which might be reasonable on the basis of all the relevant facts and Cabinet members can exercise political choice in making the decision.

2.5 Similarly, a Cabinet member can express a view or a preference on an issue beforehand, subject to the same proviso.

2.6 This is not an issue about compliance with the Code of Conduct for Councillors or about declarations of interest. It is simply a matter of ensuring that the decision is legally taken and cannot be challenged through the Courts. The principal requirements for a valid decision are that:-

- all relevant issues have been taken into account;
- no irrelevant issues have been taken into account; and
- the decision is not so irrational that no reasonable person could have made it.

This is also now tempered by the need to ensure that any human rights issues are satisfactorily resolved.

2.7 There is, therefore, no reason why a Cabinet member should not express a view about the ward issues arising on a particular decision; nor is there any reason why he/she should not seek to ensure that the Cabinet are aware of such issues at the time the decision is taken.

2.8 A problem arises, however, if the member wishes either to “campaign” so vigorously for a particular decision on behalf of his/her constituents that the member’s ability to put that issue aside and take a balanced view of all relevant matters at the time the decision is taken comes into question. Similarly, of course, there is a problem if the member wishes solely to campaign on behalf of his/her constituents and allow others to take the balanced decision.

3. Advice on Procedures

3.1 It is accepted that a Cabinet member may on occasion put him/herself into a position where his/her ward interests are placed ahead of Cabinet duties and the Member is thus excluded from being able to take part in the vote on the issue.

3.2 However, this should only be on rare occasions on major issues having particularly significant implications within the ward. This is because, although constituents may well have expectations of their ward councillors, the Council and also the public as a whole also expects the duly appointed Cabinet to take the responsibility for decision making. This is even stronger where the issue relates to the Cabinet member’s own portfolio.

- 3.3 In all other cases where a strong representational role is desirable, the Cabinet member should arrange for this role to be carried out by a ward colleague or a political colleague from another ward.
- 3.4 Where a Cabinet member decides in the light of the above that it is appropriate for him/her to take up such a position, it is that member's responsibility to write immediately to the Chief Executive, Head of Policy and Governance and the Leader (or Deputy Leader if it is the Leader who is concerned) giving details of the relevant issue and the reason why the member wishes to take up the representational role to the exclusion of the Cabinet role.
- 3.5 If the member concerned is the portfolio holder for the issue, the Leader should, as soon as possible, appoint another Cabinet member to lead on the particular issue, in the same way as would happen if a portfolio holder had a prejudicial interest in an issue.
- 3.6 The Cabinet member should then take no further part as Cabinet member in any consideration of the issue concerned. This means, for instance, that a portfolio holder should cease to work in that role with officers on that issue and will receive briefings as Cabinet member to no greater extent than the Cabinet as a whole.
- 3.7 The Head of Policy and Governance should ensure that the information is passed on to other Cabinet members and relevant officers.
- 3.8 Where a portfolio holder is concerned, any report produced on the issue should refer to the change in responsibility for leading on the issue within the Cabinet.
- 3.9 At any meetings at which the issue is considered, the Cabinet member should make his/her position known in the same way as would be done with a personal interest. The member may remain in the meeting, but should sit apart from the main meeting table to make the position clear. He/she may take part in the debate only to represent ward issues, if invited to do so by the Chair of the meeting. It is unnecessary for the member to leave the meeting, because this is not a question of probity or personal prejudicial interest, as defined in the Code of Conduct.

**PROTOCOL ON THE ROLE OF
REPRESENTATIVES ON KEY OUTSIDE
BODIES IN REPRESENTING THE
INTERESTS OF THE COUNCIL**

The role of representatives on key outside bodies in representing the interests of the Council

The role of Leader of the Council requires that the post holder should represent the interests of the Council and the Kirklees community as a whole through contacts with statutory external agencies and partnerships, neighbouring councils, sub-regional, regional, national and international bodies. The Deputy Leader is expected to fulfil the same role when the Leader is not available or when deputed to do so.

Similar expectations apply to Cabinet Members where the external contacts relate to their portfolios or at the Leader's request and other Members representing the Council.

The prime source of the authority of the Leader, Deputy Leader, Cabinet member and other representatives in these external contacts derives from his or her status as the person elected to the role by the full Council.

The Leaders and portfolio holders of all Groups have a duty to ensure that their Members views are openly and fully expressed in these briefings and meetings.

Steps should be taken by all representatives to make sure that they report as accurately as possible the balance of views across the Council and the community as a whole. They may also wish to indicate a distinct view based on discussions within the Executive.

All representatives must ensure that a record is available of significant discussions with external bodies, either in the form of minutes or meeting notes, or in the form of a personally prepared note, subject to constraints of confidentiality.

Cabinet Committee All-party Briefings on portfolio issues should be used to report back issues which may be of **substantial** interest across the Council.

All representatives will be expected to keep the Council informed of significant issues arising from external contacts and to respond at Cabinet and Cabinet Committee All-party Briefings to questions arising from such contacts.

Process

- As a standard item on Cabinet Committee All-party Briefings this will cover feedback on activity undertaken in the previous period and activity planned in the next period. Depending on timescale this will be written feedback, using an agreed simple template, or a verbal report.
- The Council Meeting procedure rules include provision for Members to ask questions about this activity.
- A feedback form will be required when Members are involved in informal discussions on issues of major concern outside formal meetings and when they are representing the views of Council.
- This process has to be subject to the confidentiality rules of organisations and to the requirements of Company Law.

- When the representatives are not members of the Cabinet they will be expected to attend the appropriate meeting of the Cabinet Committee All-party Briefings when **substantial** issues have been raised. These meetings provide an opportunity for an in-depth assessment of what Kirklees is trying to achieve, how successfully we are doing that and future tactics.
- If there is more than one representative at a meeting they can either all complete a pro-forma to feedback or agree a common collective one (if there is a designated lead member s/he could take the lead on this, if not it should be the cabinet member or other senior member).
- Any members nominated to any associated party (being a public body, or other unincorporated organisation) must follow the principles contained within this document, particularly in ensuring an approach that aligns with council policy, recognises the position of all parts of the council (especially if views are not unanimous) and specifically not present a personal partisan approach.
- Those nominated to companies and charitable bodies should attempt to achieve broadly the same intentions, but recognise that in acting as a director, or trustee, the needs and interests of the body must be the primary consideration. Any doubts or concerns about an approach to be taken should be discussed with the Monitoring Officer.

OFFICERS' CODE OF CONDUCT

NOTE: The current Kirklees document follows. This consists of:

- Gifts, Hospitality and Personal Conduct: Guidelines. This summarises officers' obligations with respect to such matters.
- Personal Conduct. Code of Guiding Principles for Employees. This sets out obligations in more detail.

The Secretary of State intends to introduce a national code at some time.

Gifts, Hospitality & Personal Conduct: Guidelines

1. Introduction

- 1.1 This is a summary of the Council's rules and policies relating to the receipt by Council employees of gifts, hospitality and other matters of personal conduct, established by the Council's Standing Orders and Financial Regulations, Local Conditions of Service and Personal Code of Conduct.
- 1.2 Copies of these documents are available from your Head of Service or Personnel Officer.

2. Acceptance of Gifts and Hospitality

- 2.1 The Prevention of Corruption Acts 1889 and 1916 make it an offence for any employee to accept any gift or consideration as an inducement or reward for: -
 - 2.1.1. Doing, or refraining from doing, anything in their employment capacity.
 - 2.1.2 Showing favour, or disfavour, to any person in their employment capacity.
- 2.2 Any money, gift or consideration received from a person or organisation holding or seeking to obtain a contract with the Local Authority will be deemed to have been received corruptly. Section 117(2) of the Local Government Act 1972 makes it an offence for anyone to accept any fee or reward whatsoever other than their normal remuneration. This is in addition to any disciplinary action that may be taken by the Authority.
- 2.3. It is best to err on the side of caution and, if in doubt, consult with your Head of Service or Nominated Officer. Under no circumstances should a gift or concession of any sort be accepted where this could be construed as a reward for services rendered.
- 2.4. There are rules / procedures entitling you to claim certain expenses and allowances in connection with your employment. These rules must be strictly observed.

3. Gifts

- 3.1. The receipt of personal gifts arising through your official duties must be strongly discouraged. Nothing must be done which could be construed as the acceptance of a gift for services rendered.

- 3.2. All gifts received, without exception, must be recorded in your Services, Gifts and Hospitality record.

- 3.3. Unless your Head of Service indicates otherwise, by written instruction;
 - 3.3.1. Items other than those of token value (i.e. more than £10.00) from companies and individuals must be handed to your Head of Service (for return to the donor, use by the Council, or charitable gift).
 - 3.3.2. Items of token value (£10.00 or less) from companies and individuals (except as below) including all marketing items (pens, calendars, diaries, mugs etc) may be used in the work environment.
 - 3.3.3. Items of token value (£10.00 or less) from personal clients with whom the Council has a welfare or caring relationship may be retained (total must not exceed £10.00 per annum per donor).
 - 3.3.4. Gifts received from other parts of the Council, and other public bodies including complementary tickets to events, must also be recorded.

4. Hospitality (Meals, Alcoholic Drink)

- 4.1. Hospitality received (or given) must be appropriate to the circumstances, incidental to the occasion and justifiable.
- 4.2. All hospitality received (except for tea, coffee or similar beverages, cakes or biscuits) must be recorded in your Service's Gift and Hospitality record.
- 4.3. This relates to hospitality received from individuals, companies, suppliers, contractors, other parts of the Council, and other public bodies.
- 4.4. This should include all meals, entertainment, accommodation and travel received from and paid for by a third party (see 4.3 above).
- 4.5. Meals paid for by the Council as part of a fee for training courses or conference or directly by the Council for official meetings (including meal allowances) are not classed as 'hospitality' and do not need to be recorded.

5. Personal Conduct

- 5.1. Other Work

5.1.1 Unless your Head of Service indicates otherwise in writing, you must declare / seek written permission in respect of any other paid work.

5.2. Interests and Relationships

5.2.1 You must declare to your Head of Service (and the Committee Services Manager) if you have a financial interest in any Council supplier or contractor (not just those within your Service area). You should also make a declaration if close friends or relatives have contractual relationships with the Council, or more particularly where your Service area, or section/department has dealings with such a supplier or contractor.

5.2.2 Declarations should also be made where you are active within, or have a close personal interest in a charity, voluntary organisation, club, society, or similar which has a business relationship with the Council, or is a recipient of grants, or other forms of assistance from the Council.

5.3. Secret Organisations

5.3.1 If you are to take part in a recruitment and selection, or disciplinary, process, you must declare to the Committee Services Manager if you are a member of a Secret Organisation.

5.4. Media Activities

5.4.1 If you undertake any public speaking, lecturing or similar activities as part of your official duties any fees received belong to the Council.

5.4.2. Where paid leave of absence is granted, half of the fee must be passed to the Council.

5.4.3. Fees may be retained in full if the activities are carried out in your own time.

5.4.4. In all instances you must seek approval from your Head of Service.

Personal Conduct

Code of Guiding Principles for Employees

Introduction

Employment in the Local Governments Service makes strong demands on all employees in respect of conduct, integrity, credibility and loyalty. With these exacting – but vital demands placed on employees, it is considered that a Code of Guiding Principles should be adopted. The Code is designed solely to assist and guide **ALL** employees in their endeavour to meet these demands in their dealings with the public and is in no way intended to reflect any lack of confidence in their honesty or integrity.

1. Definition of Conduct

- 1.1 All employees of Kirklees Metropolitan Council should exercise the greatest care in their relationship with the general public and with all with whom the Council do business. The Code is designed to offer advice and safeguards to employees and to ensure high standards of conduct.
- 1.2 The Council expects from its employees the highest standard of integrity and conduct. It is not enough that you should maintain these standards, you must at all times avoid occasion for suspicion or the appearance of improper conduct. An employee's off-duty hours are their own personal concern but common sense and judgement should be exercised to ensure that:-
 - i) You are able to give your allegiance to your employer.
 - ii) Your duty to your employer is not subordinated to your private interests.
 - iii) You avoid putting yourself in a position where your duty and your private interests conflict.
 - iv) Your private activities do not bring discredit to your employer in the services provided.
 - v) If you occupy a politically restricted post, you will not be able to take part in political activities as detailed within the provisions of the Local Government and Housing Act 1989. An appeals procedure does, however, provide for postholders, other than Chief and Deputy Chief Officers, to seek exemption by an Independent Adjudicator.
- 1.3 The public is entitled to demand of any Local Government employee conduct of the highest ethical standard, and public confidence in their credibility and integrity would be shaken should the least suspicion, however ill-founded arise, that they could in any way be influenced by improper motives.

- 1.4 In an attempt to provide some general advice to individual employees, considering personal conduct, the following should be noted:

Obligations of Employees

The Contract of every employee contains a number of implied obligations. One of the principle duties of employees is “to act in good faith”, which includes important matters such as the duty to be honest, the duty not to make a secret profit, and the duty not to disclose confidential information.

Of particular relevance is the duty not to act to the detriment of an employer – an employee must not act in such a way as to harm the interests of the employer. All employees, therefore, even if there are no references to conduct in their expressed Conditions of Service, must pay due regard to their Common Law obligations.

Outside Work

For APT & C Staffs, there is specific reference to the matter of outside work in the National Scheme and Conditions of Service:-

“An Officer’s off-duty hours are his personal concern, but he should not subordinate his duty to his private interests or put himself in a position where his duty and his private interests conflict. The employing Authority should not attempt to preclude officers from undertaking additional employment, but any employment must not, in the view of the Authority, conflict with or react detrimentally to the Authority’s interests, or in any way weaken public confidence in the conduct of the Authority’s business”. (Paragraph 70b).

“Officers above Scale 6 shall devote their whole time services to the work of their Council and shall not engage in any other business or take up any other additional appointments without the expressed consent of the Council”. (Paragraph 71).

The “expressed consent of the Council”, referred to in Paragraph 71, so far as Kirklees is concerned, has meant, in practice, the decision of the appropriate Head of Service.

It is the intention of the Council that the principles, inherent in Paragraphs 70b and 71, shall apply to all its employees.

2. Disclosure of Interest in Contracts

- 2.1 If it comes to your knowledge that a contract in which you have any financial interest has been, or is proposed to be entered into by the Council, you must inform your Head of Service of the fact in writing as soon as practicable. This is a requirement of Section 117 of the Local Government Act 1972.
- 2.2 As a further safeguard and in the same circumstances, if an employee has family links with any firm having business with the Council it would be prudent to make a declaration. In general, any personal interest should always be declared which may impinge or might reasonably be deemed

by others to impinge on an employee's impartiality/integrity in any matter relevant to their duties.

3. Other Employment – Conflict of Interest

Staff at all levels are required to avoid getting into a position of conflict by undertaking outside work. It is considered that a conflict of interest arises where an employee is to be paid by a member of the public or any outside organisation for work, which is in any way directly or indirectly connected with the scope of their official duties or that of their Section. This must be construed widely. A conflict may arise where an employee engages in activities, paid or unpaid, which would conflict with their official duties.

- 3.1 Staff carrying out outside work must not undertake assignments, which could result in the slightest suspicion that their private clients might receive preferential treatment in dealings with the Council.
- 3.2 An exception to this would be work either on the employee's own behalf or for someone where "a close personal relationship" is involved (as defined in the Local Conditions of Service). In such cases, the employee involved shall declare an interest and take no part whatsoever in any negotiations, recommendations or decisions on behalf of the Authority with regard to such outside work. It will be incumbent upon the employee to ensure that his/her role in the matter remains that of an ordinary member of the public. Disciplinary action, including the possibility of dismissal, may be taken in cases of non-declaration of interest.
- 3.3 It is likely that, where an employee will be acting as a consultant or agent on behalf of a client in dealings with Local Authorities, work involving dealings with Kirklees Metropolitan Council will not be acceptable. For example, Architects, Planners, Engineers or Environmental Health Officers etc, should not prepare for payment plans or other documents in connection with applications for planning permission, building consent, or in connection with an application for an improvement grant for a third party.
- 3.4 Even where the work itself does not have direct implications for the Council, for example when an Architect prepares plans for a client for submission to another Local Authority, due regard must still be given to any possible dealings the client may also have with this Authority; it would be inappropriate for an Architect to act for a builder, who also submitted planning applications to Kirklees.
- 3.5 During the normal course of events, as long as the outside work is unlikely to have any prejudicial effect to the Council's Administration, authorisation will be granted to the employee.
- 3.6 It is imperative for employees to understand Disciplinary Action including dismissal, may be taken in non-declaration/conflict of interest, after the Head of Service has stated in writing the particular arrangements to apply within a Service Area.

4. Use of Confidential Information

- 4.1 Certain information, available to many employees, is of a confidential nature and must not be disclosed without authority, to do so is an offence warranting disciplinary action under the Council's disciplinary procedure.
- 4.2 An employee should report immediately to their Line Manager or Head of Service any instance where an unauthorised person seeks to obtain confidential information and most particularly where an inducement is offered. The latter is a criminal offence.
- 4.3 Some Service Areas deal extensively in matters of a confidential nature. Such information should never be disclosed, except to someone, who has a right to, or a duty to receive that information or who has written authority of the person to whom it relates. Employees should be extremely circumspect in dealing with any enquiries about personal information relating to members of staff, Councillors, or members of the public. The enquirer's right to a duty to have information should be checked and special care should be taken with telephone calls where an enquirer claims to have a right to the information. It is usually wise, unless the caller is known, to note the enquiry and to telephone back to the official address of the organisation with the necessary information.
- 4.4 Where an employee (of any grade) has access to confidential information, which may be of value to a competitor, for example contract documents relating to compulsory competitive tendering, any work undertaken for existing or potential competitors will conflict with the Authority's interest and should not be undertaken.
- 4.5 Employees must not use official information for personal gain, financial or otherwise, at any time.
- 4.6 Any employee wishing to take part in outside activities, which involves the disclosure of official information, should, in their own interest, consult and obtain the prior authority of their Head of Service/Executive Director.
- 4.7 The following rules apply to contacts with the media, speeches, lectures etc or publication of books or articles.
 - a) There must be no disclosure of information, which would otherwise not be available to the public. Paragraph 72 of the Purple Book states, "no Officer shall communicate to the public the proceedings of any Committee Meeting etc, nor the contents of any document relating to the Authority unless required by law or expressly authorised to do so". This principle is intended to apply to all employees of the Council.
 - b) There should be no critical discussion of matters of local current or potential political controversy other than where it is approved as part of the employee's role or permission has been granted to respond/explain Council policies. Remember you are a public

servant and the first duty of all Local Government employees is to show loyalty to the Local Authority, which employs them.

- c) Confidential advice/reports given to elected Members must not be disclosed.
 - d) Contact with the media should occur only with authorisation of a Head of Service or Nominated Officer.
- 4.8 An employee leaving the Authority is advised to seek advice as to whether possession of information could lead to possible gain in a new employment.

5. Volume of Work

5.1 A common problem with outside work is that the amount being undertaken by an employee can grow to such an extent that it begins to interfere with Council work. Any employee found undertaking private work in the Authority's time will be subject to disciplinary action, including the possibility of dismissal.

5.2 In other circumstances the conflict between private interest and duty to the Authority may not be as direct as this. For example, an employee may be so tired by undertaking two or more jobs that time-keeping is impaired, sickness absence increases, or performance at work becomes unsatisfactory.

All employees should determine their private workloads with the above factors in mind and should note that the Authority is entitled to monitor a person's performance in their job, on a formal basis, if necessary and take action to ensure the satisfactory standards are met.

5.3 Employees shall give an indication of the estimated private workload when seeking approval from the appropriate Head of Service. Where a Head of Service is of the opinion that the proposed workload is plainly excessive, the consent may be given only subject to agreed restrictions. In all cases, the Heads of Service will have the right to monitor the private workload and review the approval.

6. Use of Council Facilities

6.1 Employees must not undertake private work on Council premises, at any time, regardless of whether an employee is on or off duty.

6.2 The telephone shall not be used for private business whether for out-going or in-coming calls, at any time, regardless of whether an employee is on or off duty.

- 6.3 Council equipment and materials shall not be used for private purposes under any circumstances.
- 6.4 Employees carrying out outside work must not involve other members of staff except by mutual agreement and in their own time. For example, in no circumstances should personal typing be undertaken in office hours, and employees must not put under any pressure Secretaries and Typists to provide such a service. Any member of staff, who makes a request for typing to be undertaken in normal office hours is committing a disciplinary offence.
- 6.5 Employees must not meet private clients on Council premises at any time, even when the employees concerned are in their own time, nor must the Council's name or title be used in connection with private work. Employees must not give Council telephone numbers for contacting them, or use them on letter headings etc, in connection with private work.
- 6.6 Disciplinary action, including the possibility of dismissal, will be taken in cases of misuse of Council facilities.

7. Recording Work

- 7.1 It is in the interest of all employees to record information about outside work. It is not infrequent for allegations to be made by members of the public that an employee is working privately during office hours – it can be difficult for them to appreciate the flexi-time scheme.
- 7.2 Records of the time, place and date of hours worked, meetings attended, etc, will be required to enable the Council to refute such allegations and preserve its integrity. Consent for any employee will be conditional on keeping records (of reasonable information), to the satisfaction of the appropriate Head of Service or Nominated Officer.

8. Means of Obtaining Work

- 8.1 A Local Government employee's work often generates a large number of contacts both with colleagues and members of the public. In either case, "touting" for business will be regarded by the Authority as wholly unacceptable conduct. Disciplinary action, including the possibility of dismissal, may be taken if this occurs.

9. Acceptance of Gifts and Hospitality

- 9.1 The Prevention of Corruption Acts 1889 and 1916 make it an offence for any employee to accept any gift or consideration as an inducement or reward for:-
- a) Doing, or refraining from doing anything in their employment capacity.
 - b) Showing favour or disfavour to any person in their employment capacity.

- 9.2 Any money, gift or consideration received from a person or organisation holding or seeking to obtain a contract with the Local Authority, will be deemed to have been received corruptly. Section 117(2) of the Local Government Act 1972 makes it an offence for anyone to accept any fee or reward whatsoever other than their normal remuneration. This is in addition to any disciplinary action which may be taken by the Authority.
- 9.3 It is best to err on the side of caution and, if in doubt, consult with your Head of Service or Nominated Officer. Under no circumstances should a gift or concession of any sort be accepted where this could be construed as a reward for services rendered.
- 9.4 There are rules / procedures entitling you to claim certain expenses and allowances in connection with your employment. These rules must be strictly observed.

10. Granting of Approval for Outside Work

- 10.1 In granting an application, the appropriate Head of Service or Nominated Officer may place such restrictions upon it as are deemed necessary to safeguard the interests of the Council as an employer.
- 10.2 Further restrictions may be imposed or the approval reviewed, at the sole discretion of the Head of Service or Nominated Officer, should the need arise.
- 10.3 If, following review, the approval is to be withdrawn, the Council will not be liable for any costs incurred by the employee concerned, but a reasonable “winding down” period will be negotiated.
- 10.4 Approval relates only to the particular employment within a particular Service Area, in which the individual is engaged at the time of the application. If the employee transfers or is promoted within that Service Area or elsewhere, fresh approval must be sought.

11. Procedure

- 11.1 Employees shall apply for approval to carry out outside work on form PW1. (An example of this form appears on Page 8 of this document).
- 11.2 The Head of Service or Nominated Officer may request any information they consider necessary to ensure that there will be no conflict of interests.

- 11.3 The Head of Service or Nominated Officer will discuss any proposed restrictions with the employee concerned and approval will not be granted until agreement is reached in respect of any such restrictions.
- 11.4 If approval is granted, the employee will be required to record information about the outside work to enable it to be monitored; the range of information to be agreed with the Head of Service or Nominated Officer.
- 11.5 The bases on which the approval has been granted will be subject to a review, normally on an annual basis, but it will also be made clear that the approval may be withdrawn at any time by the Head of Service or Nominated Officer, if there is good reason to do so (e.g. Extension of C.C.T. to a particular Service).
- 11.6 Employees must ensure they will not be infringing any general restrictions operating within their Service Area. They must also check whether any of the areas of activity, in which they are engaged, has been the subject of a ban on private work, regardless of grade or employment category.

12. Right of Appeal

- 12.1 Any employee, who wishes to dispute the decision of Head of Service or Nominated Officer in relation to outside work, for example, where approval has either been refused or withdrawn, may raise the matter through the Council's agreed Grievance and Disputes Procedure.

Kirklees Metropolitan Council

Work to be Undertaken Outside Normal Employment

Certificate

In connection with my request for approval to:

.....
.....
.....

I certify that if this request be approved:-

1. The work to be undertaken will in no way encroach upon my Council responsibilities.
2. No business in connection with this application will be undertaken during normal working hours; either in terms of telephone calls, letter writing, personal interviews, or in any other way.
3. I will not use the Council's name or title, nor undertake anything which might bring it into disrepute, nor will I use any personal contact to secure preferential consideration of any kind from others employed or engaged by the Council.
4. I understand that this outside activity will be recorded and that any permission granted may be subject to review and withdrawn by the Council at its sole discretion.
5. I shall be liable for, and shall indemnify the Council against any expense, liability, loss, claim or proceedings whatsoever arising from or due to my undertaking such work (which will be deemed outside the scope of my employment with the Council) or resulting from the withdrawn by the Council of this permission.
6. I understand that failure to comply with the above terms of approval, or any other restrictions agreed between myself and the appropriate Executive Director/Head of Service as a condition of approval, may result in disciplinary action.
7. I have retained a copy of this certificate.

Signed:

Date:

PROTOCOL FOR PUBLIC SPEAKING AT PLANNING COMMITTEES

Protocol For Public Speaking at Planning Committees

Kirklees Council has two Planning Committees, each meeting on a 6-weekly cycle; Both Committees meet in Huddersfield Town Hall.

The Strategic Planning Committee deals with major applications from across the district. The District Wide Planning Committee deals with applications for minor and other scale developments from across the district.

The meetings usually commence at 1.00pm.

The venue has public seating areas, where members of the public are able to observe how the decisions on planning applications are made. All meetings are webcast live.

Fewer than 10% of all planning applications are decided at Planning Committee. Most are determined by officers within a delegation scheme as agreed by the Council. The applications that are decided by Councillors at Committee are usually the most contentious, often relating to large development sites, or proposals that have attracted a lot of public interest.

Members of the public are able to address the Planning Committee to put their views on any application which has been submitted for consideration, subject to the provisions of this protocol. Applicants for planning permission and/or their representatives and Ward Councillors are also allowed to present their views.

Interested parties who wish to speak at the meeting must register to do so no later than 5.00pm (for phone requests) or 11:59pm (for email requests) 3 days before the committee meeting.

Registered speakers are asked to aim to arrive by 12.45pm, in order to confirm their attendance before the meeting begins. The Town Hall Reception staff will direct attendees to where the meeting is being held.

The Governance Officer will confirm the names of speakers, the application on which they wish to speak and the capacity in which they will be speaking.

It is not permissible to circulate documents to the Committee on the day or to make powerpoint presentations at the meeting. If a speaker wishes to share such documents, to support their representation, then these must be sent to the planning case officer responsible for the relevant planning application at least 48 hours before the start of the Planning Committee (eg for meetings commencing at 1pm on Thursdays, the deadline for receipt of additional documents/information etc will be 1pm on the previous Tuesday). This is because all parties may not have time adequately to respond to and address the issues raised in those submissions. In particular, members of the committee are unlikely to be able to give proper consideration to the matters raised and officers are unlikely to be able to provide considered advice on any material considerations. The decision to permit in each case is at the discretion of the Chair.

Procedure for the Meeting

- The Chair will begin the meeting at 1.00pm. There will be a number of constitutional items on the agenda that will be dealt with first. The Planning Committee will then progress to consider the schedule of Planning Applications.
- At the beginning of each item the Chair will indicate which application is to be dealt with. The Planning Officer will give a presentation and propose their recommendation.
- The Chair will then invite members of the public who have registered to speak to address the Planning Committee. The Chair will have a list of speakers who have indicated that they want to comment on the application, and he/she will call their name at the appropriate time. Ward Councillors, local residents and objectors will usually be called to speak first, followed by any other interested parties, for example, applicants or their agents.
- The case should be concisely made, concentrating on the 'planning' issues that the Members of the Planning Committee can take into account. Planning issues include:
 - *The planning history of the site*
 - *The visual impact of the development*
 - *Effect on public amenity*
 - *Access, traffic and highway considerations*
 - *The impact on listed buildings, conservation areas, or protected trees.*
- Matters that cannot be taken into account include:
 - *Effect on property values*
 - *The character or identity of the applicant*
 - *Boundary or property disputes*
 - *How the application affects a view (as opposed to the wider effect on public amenity)*
 - *Issues of commercial competition*
- The presentation to the Planning Committee should reinforce and amplify the representations on the application that have already been made to the Council in writing.
- Once all representations have been made, the Planning Committee will consider the application.
- Officers may be asked for more information, or to respond to specific questions, but further comments from members of the public, applicants or agents will not normally be taken, unless the Chair invites further comment.
- Voting on an application will be by a show of hands or roll call and in each case is recorded.

Please note:

- The meeting will be webcast live and by registering to speak consent to the live webcast will be deemed.
- The number of people who will be allowed to speak is at the Chair's discretion, and his/her decision is final. If there is a large number of attendees who wish to comment on the same application, the Chair may ask the group involved to organise a representative so that the case for/against may be put collectively. Speakers will be asked not to repeat points raised by previous speakers and the Chair may intervene if there is repetition and duplication in the representations.
- For pre-application or position statements, public speaking is not the usual practice and is at the absolute discretion of the Chair. The applicant may be in attendance to present the plans and answer any questions from members.
- Objectors, local residents, applicants or agents will have a maximum of three minutes to present their case to the Planning Committee. A visible timing system will be in operation to assist. The Chair may ask a speaker to conclude their presentation if the allotted time has been exceeded.
- Speakers will only be permitted to speak again in exceptional circumstances (as determined by the Chair) and only for the purposes of addressing wholly new issues that may have arisen during the debate or to correct information that is clearly incorrect.
- Councillors who attend committee as observer under Rule 36 of the Council Procedure Rules or members of the committee who choose to make representations as ward Councillor, rather than participate in the determination of an application, will be bound by the 5 minute time limit set out in CPR 36.
- Any representations should be directed to the Councillor who is 'chairing' the meeting. By convention, this person is addressed as 'Chair'. If you refer to a Member of the Council, then the correct way to do this is to refer to them as 'Councillor (surname)'. Dialogue between members of the public and Members of the Committee or Officers is not permitted once the meeting has started.
- Direct questioning of individual committee members or officers will not be permitted. Any comments must be made to the Chair of the Committee.
- Messages must not be passed to members of the Planning Committee before, during or after a presentation.

Agenda for the Meeting

The agenda for the meeting is available one week in advance of the meeting and can be viewed on the Kirklees Website. If assistance in accessing the information, or a hard copy of a report is required, the Governance Officers whose details are provided below can be contacted to assist.

An update is also usually published on the website the day before the meeting and circulated to Members prior to the beginning of the meeting. This provides details of any amendments made to the applications, further consultation responses and representations received since the formal agenda was published and may include legal advice from officers to Councillors on any issues that have been raised in those representations. However, the update should be brief and not raise wholly new issues.

Additional Information

Decisions on planning applications can be challenged by the applicant making an appeal to the Secretary of State.

In the English planning system, third parties eg objectors to the application, have no rights of appeal against the decision but may, in appropriate circumstances, seek to have the decision judicially reviewed in the High Court.

However, the Local Government Ombudsman can investigate any claims that the Council did not follow its own procedures, or allegations of impropriety. Ask a Council Officer for more information if you are considering approaching the Ombudsman.

Contacts:

Governance Team:

District Wide Planning Committee –
Andrea Woodside (ext 74993)
Sheila Dykes (ext 73896)

Strategic Planning Committee –
Sheila Dykes (ext 73896)
Andrea Woodside (ext 74993)

Automated switchboard:
01484 221000

Planning Services:

District Wide Planning Committee –
Julia Steadman (ext 74220)

and use the extension number or ask for the relevant officer by name

Strategic Planning Committee –
David Wordsworth (ext 79071)

Legal Services:

District Wide Planning Committee –
Sandra Haigh (ext 77871)
Deborah Wilkes (ext 77875)

Strategic Planning Committee –
Deborah Wilkes (ext 77875)
Sandra Haigh (ext 77871)

LICENSING AND SAFETY COMMITTEE PROTOCOL

Licensing and Safety Committee Protocol

This Protocol sets out principles to guide members and officers in determining licensing applications and making other decisions within the terms of reference of the Licensing and Safety Committee.

Although it is of particular relevance to members of the Licensing and Safety Committee, it applies to all members of the Council who may become involved in licensing matters.

PROTOCOL - LICENSING AND SAFETY COMMITTEE

1. Introduction

This protocol contains guidance for members of the Licensing and Safety Committee. If members are uncertain about the application of the Protocol, they should seek guidance from officers, preferably in advance of any meeting.

Licensing has a very important role to play in the life of the district. The Licensing and Safety Committee determines applications under the Licensing Act 2003 and applications under the Gambling Act 2005. The Licensing Act 2003 regulates 'licensable activities' which are defined in the Act as the sale of alcohol, regulated entertainment and late-night refreshment. The Gambling Act 2005 regulates the licensing of gambling premises and certain permissions.

In this Protocol, reference to 'the Regulations' means The Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) and/or The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (SI 2007 No 173)

2. Interests of the Whole Community

Members of the Licensing and Safety Committee should determine licensing matters in the interests of the whole community of the district.

All applications should be determined with regard to the relevant legislation, the statutory guidance and the Licensing and Gambling policy adopted by the Council.

Members of the Licensing and Safety Committee should not prejudge licensing applications nor do anything that may reasonably be taken as giving an indication of having prejudged licensing applications.

All other members should have regard to these principles when dealing with licensing matters and must avoid giving an impression that the Council may have prejudged the matter.

3. Participation of Members

Members must consider carefully whether it is right for them to participate in a matter before the Committee. There are two elements to this:

- where they have Disclosable Personal Interests (DPI) and Other interests
- where members of the public may feel that the member will not be able to approach matters with an open mind and consider the application on its own merits.

While this Protocol seeks to guide Members each situation will be different and Members should seek guidance from Officers.

4. Disclosable Pecuniary Interest (DPI) and Other Interests

Members must comply with the provisions regarding DPI's and other interests set out in the Code of Conduct for Members. In particular, members must be mindful that if they have a "DPI" as defined in the Members' Code of Conduct, they must withdraw from the meeting and take no part in the matter.

The only exception to this is where a member may attend to make representations, answer questions or give evidence provided that they are entitled to do so under the relevant sections of the Licensing Act 2003 and the Gambling 2005; see Section 8 below.

Pre-judgment

While the Code of Conduct for Members provides guidance as DPI and Other interests which may affect a member's ability to take part in the decision-making process, members may have additional interests which may influence their decision which will not amount to a DPI or another interest for the purposes of the Code. In order to maintain the integrity of the licensing system, members should be careful to ensure that such interests do not unduly influence their decisions. Such interests may arise: -

- from ward concerns
- from membership of other Committees of the Council
- from membership of other public or community bodies
- from membership of voluntary associations and trusts (including where appointed by the Council)
- from a connection with a particular policy initiative of the Council.
- from membership of clubs, societies and groups
- from hobbies and other leisure interests
- from employment or professional concerns

Such interests may mean that a Member is involved with a licensing application before the matter comes before the Licensing and Safety Committee. Such involvement need not on its own debar a member from participating in making the licensing decision when the matter is considered by the Licensing and Safety Committee providing that the member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they can reasonably be seen to approach the application on its own merits and with an open mind. If the member considers that this is not possible, the member should withdraw from consideration of that item.

As a minimum, the integrity of the licensing system requires openness on the part of members; it must operate fairly and be seen to operate fairly.

5. Natural Justice

There are two elements to natural justice:

(a) Fairness

When the Licensing and Safety Committee is considering an application, the applicant will be given an opportunity to put his/her case before the Committee, in accordance with the Regulations governing such hearings and the procedure adopted by the Licensing and Safety Committee. If the applicant or his/her representative does not attend, the Licensing and Safety Committee may proceed in the applicant's absence in accordance with the Regulations and the Procedure.

The Licensing Authority will arrange a hearing when it receives relevant representations under the legislation.

All documentation to be considered by the Licensing and Safety Committee will be available in advance in accordance with the Regulations and the Procedure.

All Members of the Licensing and Safety Committee shall be present throughout the consideration of a particular application. Where a Member arrives late or leaves the room once consideration of the matter has started, that Member shall play no part in the decision-making process for the particular application. Where an application is adjourned it shall be heard by the same Members only, and no others.

(b) Prevention of Bias

The rules about DPI and Other interests are set out in the Code of Conduct for Members and should be firmly applied. Members are also referred to the guidance about prejudgement in paragraph 4.

When the Licensing and Safety Committee moves into private session to consider its decision, it should be accompanied only by its Decision Support Unit Officer and legal adviser who shall have taken no substantive part in the debate and shall play no substantive part in the decision-making process other than to record and advise.

6. Hearings

Hearings shall generally be in public and the Committee shall retire to consider its decision and take advice from officers.

7. Debate

Only members of the Licensing and Safety Committee can take part in the decision making.

Members of the Committee must: -

- a) listen to all arguments for and against an application and weigh them up carefully before deciding whether to support or oppose a particular application.

- b) make sure that they are not swayed by arguments which are not directly related to the merits of the application.

8. Role of Members in Relation to Applications

Licensing Act 2003

S18 of the Licensing Act 2003 provides that a 'Responsible Authority' or 'Other Person' may make representations to licensing authorities on applications for the grant, variation or renewal of a premises licence for the licensable activities covered by this Act.

While there is no statutory definition of 'Other Person' the guidance issued under the Act, at paragraph 8.13, provides that it may include:-

8.13 any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises.

The guidance goes on to say at paragraph 8.14

8.14 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

It can be seen therefore that Members are entitled to make representations in relation to this Act and they can do so in their own right, or on behalf of other persons.

Gambling Act 2005

S158 of the Gambling Act 2005 sets out who is an interested party in relation to an application under this Act for a premises licence for gambling. An interested party is a person who: -

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)

Guidance issued under the Act by the Gambling Commission states at Para. 8.16-8.17:

8.16 Interested parties can be people who are democratically elected such as councillors and MPs, as persons representing individuals in the other categories. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

8.17 Save for democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person does represent interested parties and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.

9. Lobbying

While recognising that lobbying of members has an important role in the local democratic process, this should not prejudice the licensing process.

Lobbying can, therefore, unless care and common sense are exercised by all concerned, lead to your impartiality and integrity being called into question. In order to avoid any such criticism or legal challenge and to preserve your right to vote on an application, you should follow the following advice.

- Avoid organising support for or opposition to a licensing application or involving yourself in such a process and avoid lobbying other councillors on the issue.
- If applicants, potential applicants or objectors ask to meet you about a proposal, refer them to another councillor who does not serve on the licensing sub-committee and will not be involved in the decision; alternatively refer them to an officer.
- If anyone (including another councillor) does lobby you or raise issues about a particular proposal, refer them to officers for advice on procedure and suggest that they send their comments to officers so that they can be included in the committee report; it is also a good idea to explain why you have to remain completely impartial.
- Keep a record of any approaches by lobbyists and the response given or action taken; these records should be incorporated in the form attached as an appendix to this protocol and the relevant records produced at the start of each sub-committee meeting - but note that this is a separate process from that which relates to declaration of DPI or Other interests under the members' code of conduct.
- When approached by anybody (including the press) regarding a particular application, take care to avoid expressing an opinion which others might regard as indicating that you have already made up your mind on the issue before hearing all the information and arguments presented at the sub-committee meeting. You can, if pressed, perhaps, indicate the sort of concerns or issues which you think you'll need to consider when making the decision, but remember that if you cannot clearly demonstrate that at the meeting you have an open mind and are balancing all the various issues and arguments, you run the risk of potentially invalidating the decision and making the Council subject to legal challenge. In addition, make sure that you also say you will not be making a decision until the meeting.
- If you cannot avoid expressing a clear opinion on the decision beforehand, you should not sit on the committee concerned with determining the application
- Remember that your overriding duty in this role is to the whole community not just to the people in your ward and, taking into account the need to make decisions impartially, you should not improperly favour any person, company, group or locality or appear to do so. If local people put you under pressure, or you want to

try to be as helpful as possible, try to explain the reasons why you can't favour one side or the other, tell them the best way to get their views across, tell them how to contact another councillor who can help them, or refer them to officers who can explain the issues and reasons.

10. Visits to Premises

The main role of the Licensing and Safety Committee is to decide individual applications which is a quasi-judicial function. The Committee may find it useful in the course of its deliberations on an application to visit the premises in question. While it is proper for the Committee to do this, care must be taken not to prejudice the integrity of the licensing process. The following ground rules will help to prevent this

Arrangements for visits should be approved by the Committee and arranged by officers. Members should not make their own arrangements. If Members are approached direct, they should pass the person concerned on to officers.

- Members should not accept any gift or any hospitality during such visits
- There should be no discussion of individual applications with anyone except fellow panel members
- At such visits, there should be no one-to-one discussions between Members and others.
- Officers should always be present at such visits.

11. Press Comments

All members should ensure that any contact which they may have with the press should accord with the principles of this Code and should not affect the integrity of the licensing system.

12. Training

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

Before serving on any committee making licensing decisions (whether as a full member or as a substitute) any councillor must have undergone satisfactory training in both the procedural issues outlined in this protocol and in the basic principles of licensing law, so that you can understand the basis on which decisions need to be made and on which officers prepare reports.

This requirement will also apply to training required to refresh and update knowledge and understanding.

Suitable training will be provided sufficient to ensure that councillors who wish to be involved in licensing decisions can do so, but you do need to make an effort to attend.

Annual updating training will also be provided. You will not be able to continue to take part in licensing decisions unless you take part in that training.

Councillors and Officers in Kirklees – A Protocol for Working Effectively

1. Expectations

Councillors and Officers should expect each other to....

- Comply with ethical standards and probity requirements
- Be part of an effective working partnership
- Contribute to safeguarding the reputation of the council
- Be friendly (but not friends)
- Respond in a timely way to enquiries and complaints
- Be reliable
- Understand and advise on the needs of local communities
- Ensure the council acts lawfully and its reputation is safeguarded
- Fully consider professional advice as part of decision making
- Ensure the allocation of physical, financial and human resources
- Avoid personal criticism
- Be respectful (but not deferential)
- Be professional (but not jargonistic)
- Trust and respect each other's expertise, knowledge and skills
- Listen and understand each other
- Understand the strategic and long term direction of the council
- Inform and manage citizens expectations
- Build community capacity and unlock social productivity
- Understand and explain difficult decisions
- Provide advice, information and guidance

Councillors should expect officers to...

- Be impartial and apolitical
- Implement policy and ensure operational delivery
- Be responsible for day to day management
- Have respect for the role of councillor and the political process
- Be aware Councillors wear different hats and fulfil different roles at different times
- Appreciate the pressures that councillors face in carrying out their duties
- Be sensitive to the politics

Officers should expect Councillors to...

- Add a political dimension
- Make policy and determine the core values of the council
- Be accountable to the electorate and act in the public interest
- Be a community leader for the ward they represent

- Understand and represent the interests of the wider community and the whole council as well as those of their ward
- Avoid becoming involved in day to day management issues
- Make difficult/unpopular decisions for the common good of the district
- Lobby on national/local policy issues on behalf of the district/region

2. The Kirklees Context

Kirklees has a long track record of its councillors and officers working together effectively. This is evidenced by the outcomes we achieve. The relationship between the two develops and changes over time and it is therefore important to revisit and review how such a relationship should work. Only then can we ensure it remains fresh, vibrant and healthy.

This document seeks to build on sound foundations by capturing in one place the characteristics, roles and expectations that are at the heart of that special and crucial relationship. It is a product of councillors and officers working together and is an important building block as the council evolves. It is a part of the work of the Members Commission, a cross party working group, whose principal focus is to look at the changing role of the councillor as we move towards the New Council.

Our councillor / officer relationships should continue to be defined and shaped by our culture and evolve in a way that ensures we are best placed to collectively meet challenges and deliver positive change.

This protocol seeks to set out the parameters of the relationship in Kirklees in order to ensure we can do just that. For the most part it is a statement of current practice. It is not intended to be just a set of rules nor is it a complete guide to the complex landscape in which councillors and officers operate and interact. It is not a substitute for developing effective working relationships built on trust but should be a source of advice and context in developing such relationships. This protocol provides a framework for interaction, acknowledging that the officer / councillor relationship is a delicate one. It is a relationship that is at the heart of what the council does and as such needs to be continually nurtured and developed.

This protocol should be read alongside other key documents such as the Councillors Code of Conduct, the Code of Conduct for Staff and other relevant protocols as set out in Part 5 of the Council's Constitution.

3. Different Roles / Complementary Relationships

Officers and councillors carry out a wide variety of roles. In undertaking their roles all councillors are expected to do so in accordance with the Principles of Public Life:

- *Selflessness* – councillors should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

- *Integrity* – councillors should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- *Objectivity* – in carrying out public business (including making appointments, awarding contracts or recommending individuals for rewards and benefits) councillors should make choices on merit.
- *Accountability* – councillors are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- *Openness* – councillors should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- *Honesty* – councillors have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts in a way that protects the public interest.
- *Leadership* – councillors should promote and support these principles by leadership and example.

The conduct of officers is governed by the Employees' Code of Local Government Conduct, the Employee Handbook and the relevant protocols as set out in Part 5 of the Council's Constitution.

The nature of both officer and councillor roles and the consequent relationships are increasingly complex and changing in a dynamic local government environment. The Widdicombe Committee description of those roles and relationships remains relevant:

“Local Government has derived strength over the years from a complementary relationship between part-time councillors drawn from and representative of the general public, and full time officers with professional expertise. We accept that this cannot be a rigid or static model. Some councillors will need to devote considerable time to council business, and there has sometimes been too great a stress on officer professionalism. Councillors moreover have the right to ensure that some of their decisions for which they are statutorily responsible and accountable are implemented by officers. Nevertheless, a merging of roles is not desirable. Councillors should leave the day to day implementation of council policies, including staff management, as far as possible to officers and officers should demonstrate that they are sensitive to the political aspirations underlying those policies”.

Whilst on a number of levels there is a distinct separation between the two roles, the relationship is most effective when it operates in partnership. In order for such a relationship to work well it is important for each to have an awareness of the distinct boundaries and expectations that each can legitimately have of the other. These (whilst not necessarily exhaustive) are summarised below:

Whilst there is a separation between the two roles it is important to ensure that both are maximised to best effect as both bring skills, knowledge and experience which contributes to a joint leadership approach. Both are indispensable to, and dependent of, one another.

Subsequent sections of the protocol seek to look in more detail at specific contexts, roles and relationships between officers and councillors, acknowledging that these are diverse, complex and changing.

4. Executive Councillors and Officers – Decision Making

- 4.1 Kirklees operates a strong leader model of executive governance. As such, Cabinet will take decisions in accordance with the Constitution (see Article 7). Senior officers will be responsible for instructing and deploying staff to implement those decisions.
- 4.2 Implicit within these arrangements is a need for a close working relationship between the members of Cabinet and senior officers. Such relationships should never become, or appear to become, so close as to bring into question the officer's ability to deal impartially with other councillors and political groups. Cabinet must respect the political neutrality of the officers. Officers must ensure that their political neutrality is not compromised.
- 4.3 When producing reports the Executive Director / Senior Officer will always be fully responsible for the contents of any report submitted in his / her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between the Cabinet / a Cabinet Member and a senior officer should be referred to the Chief Executive for resolution.
- 4.4 Before taking any formal decisions the Cabinet will seek appropriate professional advice (including the Monitoring Officer and Chief Finance officer in particular) and will not direct officers in the framing of recommendations. Where Cabinet recommendations differ from those of officers, this should be made explicit in the submitted report.
- 4.5 Where officers are taking decisions under their delegated powers they should consider informing the relevant Cabinet Member of their intentions in advance. This is particularly important where such a decision falls within the requirements of the Access to information Regulations 2012, as amended in August 2014, where there is a requirement for the decision to be recorded, and in all instances where the Officer decision constitutes a Key Decision. Such decisions will be publicly accessible.

5. Overview and Scrutiny Councillors and Officers

- 5.1 Kirklees currently has a single Overview and Scrutiny Management Committee, supported by a Health and Social Care Scrutiny Panel. To undertake in-depth investigations Ad Hoc Panels are established. For full details see Article 6 of the Constitution. In a council with Executive arrangements Overview and Scrutiny plays an important role in

scrutinising Cabinet business and the decisions that it takes. It also plays an important role in overseeing policy implementation and service performance.

- 5.2 As part of conducting its business the Committee and / or its Panels will require officers to attend scrutiny meetings. All requests should be made to the relevant Executive Director and / or Service Director in the first instance.
- 5.3 In giving evidence to the Committee or its Panels officers must not be asked to express political views.
- 5.4 Officers should respect scrutiny members in the way they respond to their questions.
- 5.5 Scrutiny members should not question officers in a way which could be interpreted as harassment or bullying. Neither should they ask about matters of a disciplinary nature.
- 5.6 Scrutiny proceedings must not be used to question the capability or competence of officers. Scrutiny members need to make a distinction between scrutinising the policies and performance of the council and its services, and appraising the personal performance of staff. The latter is not a scrutiny function.
- 5.7 When Officers are asked to provide information by Overview and Scrutiny Management Committee / Panels they should do so in accordance with the provisions of Section 24 of the Access to Information Procedure Rules.

6. Party Groups and Officers

- 6.1 Political groups have, and will continue to be, an important part of the political and informal governance landscape. In light of this it is possible that officers may be asked to attend a party group meeting whether of the controlling group or an opposition group. Any such request should be made in writing to the Chief Executive and / or the relevant Executive Director. If agreed it will be on the basis that similar arrangements will be made for other groups should they request it.
- 6.2 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He / she must provide consistent information to each group.
- 6.3 Officer involvement should be limited to the provision of factual information or professional advice in relation to matters of council business. Officers should not advise on matters of party business and should leave the meeting before the group discuss and / or decide their political course of action.

- 6.4 Officers should not be put in a position where they feel their political impartiality or integrity are put at risk and may leave the meeting if they believe this is the case.
- 6.5 Special care should be taken where officers are involved in providing information and advice to a party group meeting where that includes persons who are not members of the council. Due to issues of confidentiality officers may not be able to provide the same level of information and advice.
- 6.6 Officers must respect the confidentiality of any group discussions at which they are present and will not relay the content of such discussions to another party group or to any other councillors. This shall not prevent an officer providing feedback to other senior officers on a need to know basis.

7. Ward Councillors and Officers

- 7.1 All of the 23 electoral wards in Kirklees are represented by three councillors. It is they who provide the bedrock of representative democracy and as such it is important that they are supported effectively to carry out their community leadership role. With this in mind, communication is a very important factor for officers to bear in mind. Councillors need to be fully informed about matters affecting their ward.
- 7.2 Executive Directors and Service Directors must ensure that all relevant staff are aware of the requirement to keep local councillors informed. This will allow councillors to perform their local leadership role. This requirement is particularly important:
- (1) During the formative stages of policy development, where practicable and through Policy Committee where appropriate.
 - (2) In relation to significant or sensitive operational matters
 - (3) Whenever any form of public consultation exercise is undertaken, and
 - (4) During a scrutiny episode
- 7.3 Issues may affect a single ward. Where they have a wider impact, a number of local councillors will need to be kept informed.
- 7.4 Where a public meeting is organised by the council to consider a local issue, all councillors representing the wards affected should be invited to the meeting as a matter of course.
- 7.5 In your capacity as an Officer you must not attend ward or constituency political party meetings.
- 7.6 In seeking to deal with constituents' queries or concerns councillors should be mindful of the pressures on officer time. They may not be able to carry out the work required by councillors in the requested timescale. On some occasions it may not be possible to do what the councillor wants. It is important that councillors are realistic when managing the

expectations of their constituents in terms of what officers and the council are able to do. Officers have a responsibility to ensure councillors are clear as to what is possible, and more importantly, what is not and communicate that. Officers should be aware that a timely response is required but timescales will vary from service to service depending on what the enquiry is and how complex it is to answer.

8. Councillors' Access to Documents and Information

(To be read in conjunction with the Access to Information Procedure Rules in the Council's Constitution).

- 8.1 It is important that officers keep councillors routinely informed about the major issues concerning the council. Similarly, councillors should be informed about proposals that affect their ward before they are announced publicly.
- 8.2 Where an issue affecting a particular ward is to be discussed by the Cabinet, a committee, sub-committee or panel on which the local councillor does not serve the councillor will be invited to attend and may speak on it if he or she wishes to do so.
- 8.3 Councillors may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as councillors. This may range from general information about Council services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
 - It is in the public domain, and
 - It is not barred by legislation from being given
 - It does not compromise personal confidentiality
- 8.4 Every member of the Cabinet, Overview and Scrutiny Management Committee / Panels, and / or any other committee or sub-committee has a right to inspect documents about the business of that Cabinet, Overview and Scrutiny Management Committee / Panels, and / or any other committee or sub-committee.
- 8.5 A councillor who is not a member of the Cabinet, Overview and Scrutiny Management Committee / Panels, and / or any other committee or sub-committee may have access to any document published by that specific part of the Council provided:
 - He / she can demonstrate a reasonable need to see the documents in order to carry out his / her role as a councillor (the "need to know" principle), and
 - The documents do not contain "confidential" or "exempt" information as defined by law.

- 8.6 Should disputes occur with regards to the validity of a councillor's request to see a document on a need to know basis, these will be determined by the Monitoring Officer.
- 8.7 A councillor should obtain advice from the Monitoring Officer in circumstances where he / she wishes to have access to documents or information:
- Where to do so is likely to be in breach of the Data Protection Act, or
 - Where the subject matter is one in which he / she has a personal or "other" interest as defined in the Members' Code of Conduct.
- 8.8 Information given to a councillor must only be used for the purpose for which it was requested.

9. Communication and Social Contact Between Officers and Councillors

- 9.1 Officers must recognise that it is their duty to keep members of all political groups (not just members of the majority party) fully informed about developments of significance in relation to the Council's activities.
- 9.2 Regular contact between councillors and senior officers is necessary to ensure the efficient working of the Council. In this context, it is the responsibility of Executive Directors and / or Service Directors to identify senior officers who should have regular contact with councillors and to inform them of that. This will depend upon the nature of the service they provide and the nature of the councillor contact envisaged. As part of any contact and relationship bullying and harassment should not take place.
- 9.3 Councillors should ensure contact is through the members of staff identified by the Executive Director and /or Service Director and should always bring major concerns about issues directly to the attention of the relevant Executive Director and /or Service Director concerned. Such concerns should, where possible, be evidenced based. Serious problems can arise if councillors' by-pass appropriate lines of communication to Executive Directors and /or Service Directors and their senior colleagues and, for example, deal with more junior members of staff, or more than one member of staff, to seek views on policy issues, non-routine business, or attempt to give instructions to staff. This has the effect of depriving councillors of the formal, informed and accountable advice they have a right to expect from Executive Directors and /or Service Directors and which they have a duty to consider. It may also serve to undermine the formal accountability of staff to their line manager.
- 9.4 Social contact between senior officers and councillors is only beneficial in a public setting and a work-related context. For example the management team may wish to invite appropriate councillors to an office Christmas lunch. Professionalism must be maintained at all times.

10. Councillors and Council Resources

(To be read in conjunction with the Members' Allowances Scheme, Pre-election Guidance and the Support for Councillors document produced by Governance and Democratic Services).

- 10.1 The Council provides councillors with a range of support services (computers, IT facilities, stationery, printing, photocopying etc). Such services should only be used to assist them in discharging their roles as members of the Council. They should not be used in connection with party political or campaigning activities. Personal use of technology is permitted:
- Subject to the terms of the Council's Use of Electronic Communications Policy and Information Security Policy
 - Where councillors who have mobile technology have agreed for the appropriate deduction to be made from their allowance.
- 10.2 Councillors should not approach or pressure officers to carry out duties or provide resources which they are not permitted to give. Examples include:
- Business which is solely to do with a political party;
 - Work in connection with a ward or constituency party political meeting;
 - Electioneering
 - Work associated with an event attended by a councillor in a capacity other than as a Member of the Council;
 - Private personal correspondence;
 - Work in connection with another body or organisation where a councillor's involvement is other than as a Member of the Council; and
 - Support to a councillor in his / her capacity as a councillor of another local authority.
- 10.3 It is important that councillors are equipped with the skills and knowledge to carry out their roles effectively. Officers have a role to play in ensuring that councillors are kept up to date. Councillors have a responsibility to read appropriate documentation and attend training as relevant to their role.

11. Courtesy, Complaints and Breaches of the Protocol

- 11.1 Contact between councillors and officers should always be courteous both in public and in private. If an individual councillor has a complaint about a junior officer, it should be raised with the appropriate Executive Director and /or Service Director. This does not however preclude a councillor from making public, at a meeting or in another appropriate way, a concern about the manner in which the Service has acted. Nor does it

prevent councillors at formal meetings being critical of officer advice or action or of the quality of reports before them.

- 11.2 Councillor behaviour needs to be equally respectful. Bullying, harassment or hectoring of officers is entirely unacceptable and should be referred by the relevant Executive Director and /or Service Director to the relevant Group Leader and Group Business Manager for consideration and resolution in the first instance. If satisfactory resolution cannot be reached the matter will be referred to the Monitoring Officer who will then liaise with the relevant Group Business Manager. Where resolution still cannot be reached the Monitoring Officer will progress through the formal Standards route.
- 11.3 If a councillor feels that an officer has acted contrary to the spirit of this protocol they should raise it with the relevant Service Director who will consider how the issue should be dealt with. Where this relates to a Service Director this should be raised with the relevant Executive Director. Where this relates to an Executive Director this should be raised with the Chief Executive. A breach of this protocol by an officer may lead to an investigation under the Council's Disciplinary Policy and Procedure.

Protocol for Elected Members Re: Safeguarding Children & Adults

Introduction

The Council has statutory responsibilities to safeguard children (Children Act 1989) and vulnerable adults (Care Act 2014).

Safeguarding is about keeping people safe and protecting them from harm, neglect, abuse and injury. It is about creating safe places, being vigilant and doing something about any concerns you might have.

Safeguarding is everyone's responsibility, and it is essential that all elected Members understand their role in this.

Corporate Parent

For children in care, the Council has a statutory responsibility as corporate parent. Members have an important role in making sure that the Council acts as a good corporate parent for all children in its care, to seek the outcomes that any good parent would want for their own children, to enable each child to reach its full potential.

This includes education, health and welfare and cultural needs.

As corporate parent, the Council needs to ensure that there are appropriate steps in place to ensure it listen to the voice of looked after children, prioritise their needs and have high aspirations for them.

Relationship to the Member Code of Conduct

This protocol is additional to the Members' Code of Conduct, and you should always apply that code to any issue arising.

You should also comply with any other relevant protocols.

Processes

Families may be involved in processes, meetings or court proceedings relating to:

- Child in Need
- Common Assessment Framework for children
- Child protection
- Care Assessments for adults and carers
- Safeguarding adults

Your constituents may ask for your help with these issues, or ask you to accompany them to, or represent them in meetings, or even to intervene on their behalf in the context of court proceedings.

In these circumstances, you should explain that you cannot help, and suggest that your constituents seek their own legal advice. It is not appropriate for you to become involved because it would give rise to a conflict of interest with the Council's statutory responsibilities, particularly its duties to safeguard children and adults, and to investigate and take action in respect of allegations of abuse and neglect.

Also, as a ward member you are not entitled to take part in confidential meetings or to receive confidential information about third parties.

Duty to Report Safeguarding Concerns

If you become aware of any individual case of safeguarding concerns, relating either to children or vulnerable adults, arising through your work with constituents, you must report this to the relevant services. Contact details are:

For Adults:

To report abuse:

- Gateway to Care: **01484 414933** (24 hours)
- Emergency Duty Team (Out of Hours) **01484 414933**
- Emergency Duty Team: gatewaytocare@kirklees.gov.uk

For advice:

- Safeguarding Adults Partnership Team: **01484 221717**,
Fax number: 01484 226949.
- E-mail: protection@kirklees.gov.uk

For Children:

- Kirklees Duty and Assessment Service
01924 326097 | 01924 326076 | 01924 431429
- Kirklees Emergency Duty Service
01484 414933 (outside office hours)
- Child In Need [On-line Referral Form](#)
- NSPCC Helpline: 0808 800 5000
- NSPCC email: help@nspcc.org.uk
- NSPCC text: 88858 (free service)
- NSPCC [ONLINE FORM](#)

Leading Member Roles

The Lead Member for Children Services sits as a participating observer on the Kirklees Safeguarding Children Board.

The Safeguarding and Child Sexual Exploitation Member Panel which will oversee local developments in the monitoring of, and response to, the risks associated with Child Sexual Exploitation.

Training

Because of the importance of safeguarding for all Members, it is essential that members fully understand the duties and issues involved.

Safeguarding training will be provided to all new councillors as part of the induction process.

It is also a requirement that all councillors undertake annual refresher training that will take place in the autumn of each year. This will enable councillors to refresh and update their knowledge and understanding of safeguarding issues. The annual training will enable councillors to be able to respond appropriately when they become aware of potential safeguarding issues.

5.11 Protocol for Online Meetings

Reference from Council Procedure Rule 51

In accordance with the [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#) the Council is able to make provision for remote attendance at, and remote access to, council meetings held on or before 7 May 2021. This Council has done that and makes reference to that at Council Procedure Rule (CPR) 51. This is the protocol referred to in CPR 51 and shall apply to Council meetings which are held entirely or partially in a virtual way up to and including 7 May 2021.

This protocol should be read in conjunction with CPR 51.

In order for members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard (and, where possible, see and be seen by) other councillors and members of the public attending remotely or in person.

In this Protocol:

“Remote Access” means by electronic means, including by telephone conference, video conference, live webcasts, and live interactive streaming.

“Remote Attendance” means attending a meeting by Remote Access and complying with the conditions set out in the interim Council Procedure Rules about being heard and seen by other attendees.

1. Prior to the meeting

- 1.1. Attendees should join the meeting 15 minutes prior to the meeting start time or at such earlier time as may be specified in advance by the Governance Team.
- 1.2. Attendees should use a headset wherever possible
- 1.3. If using video, attendees should avoid sitting in direct sunlight
- 1.4. Attendees should adjust their settings prior to the start of the meeting to:
 - 1.4.1. Mute their microphone
 - 1.4.2. Select a suitable background as instructed by the Governance Team
 - 1.4.3. Switch video off
 - 1.4.4. Open a chat window
 - 1.4.5. If applicable, set Skype to ‘Do not disturb’

2. During the meeting

- 2.1. At the start of the meeting, attendees will be expected to introduce themselves. They will not be called by the Chair to speak but will be brought ‘live’ by the Chair to introduce themselves. Attendees will know they are ‘live’ when their video window has a red outline, this means that their video feed is visible to all attendees.
- 2.2. Attendees who wish to speak should type the word ‘speak’ in the open chat window.
- 2.3. Attendees should not use the chat window for any other purpose.

- 2.4. Attendees who have indicated that they wish to speak should turn their video feed on when they are third in the chat queue.
- 2.5. Attendees should speak only once invited to do so by the Chair and should only unmute their microphone once the Chair has called them to speak.
- 2.6. Attendees should only speak once the 'live' red outline appears around their video window.
- 2.7. Attendees should always state their name before speaking, even though the Chair will have just called them.
- 2.8. Attendees should avoid asking if they can be seen or heard, the Chair will monitor and address any problems.
- 2.9. If attendees are referring to any of the published documents, they should announce the page or slide number clearly.
- 2.10 Attendees should remember to mute themselves when they have finished speaking and to turn their video feed off.

3. Role of the chair

- 3.1. The Chair will communicate with the meeting production team, governance and other officers independently of the meeting. This is to enable administrative tasks to be undertaken and for advice to be taken where applicable.
- 3.2. The Chair or a Council officer will go through the meeting etiquette before the stream goes live.
- 3.3. The Chair will introduce the meeting and confirm that the meeting is being streamed.
- 3.4. The Chair will ensure that attendees introduce themselves.
- 3.5. The Chair will manage speakers using the chat window, inviting attendees to speak by name when they are next.
- 3.6. Once a speaker has finished the Chair will thank them and introduce the next speaker if applicable.
- 3.7. The Chair should be proactive and verbally note the order of speaking at the beginning of discussion on an item.
- 3.8. The Chair or a member of the Governance Team will facilitate any voting and will do this by means of a roll call, asking each voting attendee by name whether the vote for or against any motion, or abstain.

4. Officers

- 4.1. A Governance Services Officer must be present at the meeting and should, wherever possible, be in the room if a meeting is held in a physical room with some Members in Remote Attendance. If this is not possible, then a Governance Services Officer must be present remotely.

- 4.2. Other Council Officers will be present as required to present reports or assist in the administration / production of the meeting.

5. Other Attendees

- 5.1. Any other person may attend and contribute to a meeting (in accordance with Standing Orders or otherwise invited to do so by the Chair), provided that they have Remote Access to the meeting which enables them to be heard by attendees including the public.

6. Exempt and Confidential Items

- 6.1. The usual requirements in relation to these continue to apply.
- 6.2. These items should be considered at the end of a meeting to facilitate prohibiting the public's access during these items.
- 6.3. An Officer will be responsible for ensuring that the public do not have access to the meeting during these items.
- 6.4. The Chair must not allow the meeting to discuss any exempt or confidential item until the Governance Services Officer has verbally confirmed that the public does not have access to the meeting.
- 6.5. A Member in Remote Attendance must not breach their duty of confidentiality to the council by allowing any unauthorised person to be present in the same room as them when the meeting discusses an exempt or confidential item.

7. Technical Difficulties

- 7.1. If the Chair is made aware that the live link to the meeting is lost or interrupted, the Chair should adjourn the meeting during any item which is open to the public.¹
- 7.2. The Chair should also adjourn the meeting if the Governance Services Officer loses their connection.
- 7.3. The Chair may briefly adjourn a meeting if made aware that a Member in Remote Attendance has lost their connection to the meeting.
- 7.4. If a significant number of Members in Remote Attendance lose their connection at the same time, the Chair may adjourn the meeting to another date or time even if the meeting is still quorate.
- 7.5. During any period when a Member has lost their connection, they are not deemed to be present at the meeting. In such circumstances, a Member should consider whether their absence during the item is such that it is inappropriate for them to take part in the vote.
- 7.6. The Chair may also defer an item if any other person who was expected to participate or contribute in relation to that item loses their connection and it is not possible to reconnect in a reasonable time period during the meeting.

¹ The Chair would only be expected to adjourn if the public link was down and would not be expected to adjourn if only a single member of the public were to lose their connection.

8. Conflicts of interest

- 8.1. Members need to comply with the Members' Code of Conduct including making declarations of interest at a meeting. Any declarations made will be recorded in the minutes of the meeting.
- 8.2. A Member in Remote Attendance with a disclosable pecuniary interest in an item who has to leave the meeting should declare their interest verbally to the Chair and leave the meeting. Once the item has been dealt with, the officer responsible for controlling access to the meeting, will tell the Member that they may re-join the meeting.

This is a copy of the Protocol agreed by Kirklees on 16 March 2021 and by West Yorkshire Combined Authority on 22 April 2021

Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents

This Protocol is dated 2021

Parties

1. **WEST YORKSHIRE COMBINED AUTHORITY** of Wellington House, 40-50 Wellington Street, Leeds, LS1 2DE (“Combined Authority”).
2. **CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL** of City Hall, Centenary Square, Bradford, West Yorkshire BD1 1HY.
3. **BOROUGH COUNCIL OF CALDERDALE**, of the Town Hall, Crossley Street, Halifax, West Yorkshire, HX1 1UJ.
4. **THE COUNCIL OF THE BOROUGH OF KIRKLEES**, of the Town Hall, Ramsden Street, Huddersfield, West Yorkshire, HD1 2TA.
5. **LEEDS CITY COUNCIL** of Civic Hall, Calverley Street, Leeds, LS1 1UR.
6. **THE COUNCIL OF THE CITY OF WAKEFIELD**, Town Hall, Wood Street, Wakefield, West Yorkshire, WF1 2HQ.

Each a **party** together the **parties**, and the parties (2) to (6) above collectively the “**Constituent Councils**” of the Combined Authority.

1 Background and Introduction

1.1 The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 SI 2021/112 made on 29 January 2021 (“2021 Order”) provides for:

- the election of a mayor for the area of the Combined Authority (“Mayor”) from May 2021,
- the Mayor to exercise the functions of a Police and Crime Commissioner, and
- the following functions to be conferred on the Combined Authority:
 - adult education functions of the Secretary of State (to be exercised instead of or concurrently with the Secretary of State),
 - functions of Homes England relating to housing and regeneration (to be exercised concurrently with Homes England),
 - functions relating to grants to bus operators,
 - functions in relation to the designation of a Mayoral Development Area (MDA) and establishing a Mayoral Development Corporation (to be exercised by the Mayor)

- functions in relation to Business Rates Supplements (to be exercised by the Mayor),
- functions of the Constituent Councils to be exercised concurrently by the Combined Authority relating to
 - education, skills and training,
 - housing, regeneration and planning, and
 - transport (including in relation to highways, traffic orders, traffic signs, pedestrian crossings, street works, permit schemes and bus lane contraventions).

Concurrent Functions

1.2 Appendix A to this protocol sets out each function (that is, power or duty) of the Combined Authority (including a function exercisable by the Mayor) conferred by the 2021 Order which is exercisable concurrently with the Constituent Councils (a “**Concurrent Function**”).

1.3 Under the 2021 Order, there is

- no transfer of any Concurrent Function to the Combined Authority from any Constituent Council; each Constituent Council may continue to exercise any Concurrent Function in relation to its area,
- no requirement for the joint exercise of any Concurrent Function by the Combined Authority with Constituent Councils – that is, that they are not required to act together, and
- no requirement for a Constituent Council to involve, consult or seek the consent of the Combined Authority in relation to the exercise of any Concurrent Function by a Constituent Council.

1.4 That is, each Constituent Council may continue to exercise any Concurrent Function within their area, and in the exercise of any Concurrent Function no Constituent Council is subject to any restriction or condition imposed by the 2021 Order.

Statutory Consents

1.5 The 2021 Order provides that the Combined Authority’s exercise of specified functions is subject to a consent provision, (“**Statutory Consent**”), to safeguard the Constituent Councils’ role in local decision-making and delivery. These are detailed in Appendix A to this protocol.

Aim of this Protocol

1.6 The aim of this protocol is to promote:

- **co-operation** and **collaboration** between the Combined Authority and the Constituent Councils in a spirit of partnership,
- **transparency** of roles and processes to engender mutual trust and confidence, and
- the **best use of resources** through co-ordination and reducing duplication between the parties.

- 1.7 The Combined Authority and Constituent Councils have agreed to follow this protocol when exercising any Concurrent Function, and in relation to any Statutory Consent.
- 1.8 The Combined Authority is committed to on-going engagement with Constituent Councils about all aspects of its work. This includes engagement about how the Combined Authority exercises its functions. Any timescales set out in this protocol therefore should be regarded as a minimum; there should be additional lead-in time in relation to the development of any projects or schemes involving the possible exercise of any Concurrent Function.

Miscellaneous

- 1.9 For some Concurrent Functions, (as indicated in Appendix A), the 2021 Order provides that a Constituent Council's duty to exercise the Concurrent Function is met when the Combined Authority carries it out. This means that provided the Combined Authority performs the duty, the Constituent Councils will not be in breach of their statutory duty if they do not do so.
- 1.10 The 2021 Order provides for a Statutory Consent in relation to some functions of the Combined Authority which are to be exercised by the Mayor, (as indicated in Appendix A), including the power to acquire land for housing development under section 17(3) of the Housing Act 1985, which is a Concurrent Function. It is intended this protocol shall extend to the Mayor once they are in office in relation to the exercise of these functions.
- 1.11 Where the Combined Authority and any relevant Constituent Council reasonably consider that the nature and scale of the exercise of any Concurrent Function is of a complex, sensitive or significant nature, then the Combined Authority and Constituent Council may agree a **bespoke protocol** to govern the way the Combined Authority exercises that Concurrent Function¹.
- 1.12 This protocol does not itself constitute an arrangement for the discharge of functions made in accordance with section 101 of the Local Government Act 1972 and/or the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. Any such arrangement may be made by separate agreement between relevant parties.
- 1.13 This protocol does not address the **scrutiny** of the Combined Authority in relation to how it exercises any Concurrent Function, which will be subject to separate arrangements.

2 Concurrent Functions – Underlying Principles

- 2.1 This protocol sets out how the Combined Authority and each Constituent Council intend to **work together** to secure that Concurrent Functions are exercised in the best interests of the inhabitants of their areas and for their

¹ The Combined Authority will send a copy of any bespoke protocol to any Constituent Council which is not a party to it, for information.

mutual benefit, although the Combined Authority and each Constituent Council acknowledge that, by law, a Concurrent Function may be exercised by the Combined Authority or a Constituent Council acting alone (subject to any Statutory Consent requirement).

- 2.2 The Combined Authority will **consult** Constituent Councils about the exercise of any Concurrent Function in accordance with paragraph 3 below.
- 2.3 The Combined Authority will exercise any Concurrent Function **reasonably** and after **taking all relevant factors or considerations into account**, including how any Constituent Council is exercising or proposes to exercise the Concurrent Function and the potential effect of a decision on any Constituent Council. In exercising any Concurrent Function, the Combined Authority will comply with the public sector equality duty under section 149 of the Equality Act 2010².
- 2.4 The Combined Authority will so far as reasonably practicable exercise any Concurrent Function in such a way as to be **compatible** with and **complementary to** the exercise of the Concurrent Function by any Constituent Council.
- 2.5 Subject to each party complying with requirements relating to data protection and the law of confidentiality, the Combined Authority and each Constituent Council agree to **share any information** as reasonably requested by any other party, to facilitate their exercise or proposed exercise of any Concurrent Function.
- 2.6 The parties will consult with each other before **approving, varying or revoking any strategy or plan** which is likely to determine or significantly affect how any Concurrent Function is exercised by the Combined Authority.
- 2.7 The Combined Authority will so far as reasonably practicable seek to develop and agree with each Constituent Council a common and consistent approach to any **monitoring arrangements** relating to any Concurrent Function exercised by the Combined Authority.
- 2.8 The Combined Authority will so far as reasonably practicable seek to develop and share **best practice** with each Constituent Council in relation to the exercise of any Concurrent Function exercised by the Combined Authority.

3 Concurrent Functions: Consultation with Constituent Councils

- 3.1 The Combined Authority will consult the Constituent Councils about any proposal by the Combined Authority to exercise any Concurrent Function, except where the Constituent Councils have agreed that no consultation is required.

² That is, will have due regard to those matters specified in S149 Equality Act 2010.

- 3.2 The Managing Director will also notify the relevant Chief Executive (or their nominee) of any proposal to exercise a Concurrent Function which would require a Key Decision by the Combined Authority as soon as practicable, and in any event before any Key Decision notice is published by the Combined Authority in relation to exercising the Concurrent Function, and unless the Chief Executive (or their nominee) agrees that no consultation is required, the Combined Authority will then proceed to consult the relevant Constituent Council in the manner set out in 3.3 and 3.4 below about such proposal.
- 3.3 The Managing Director will consult the Chief Executive (or their nominee) of any relevant Constituent Council as soon as reasonably practicable about the proposed exercise of any Concurrent Function, including the commencement date/projected timescales and the manner in which it is to be exercised.
- 3.4 Such consultation must be fair and carried out with adequate notice for responses which must be conscientiously considered by the Combined Authority with a view to reaching agreement on the exercise of the Concurrent Function.

4 Statutory Consents: Procedure

- 4.1 The 2021 Order provides for any **Statutory Consent to be given at a meeting of the Combined Authority**³. The request for any consent will therefore be set out in a report to be considered at a meeting of a Combined Authority, and any consent will be duly recorded in the minutes of the meeting.
- 4.2 The Combined Authority will seek any Statutory Consent **in a timely way**. To facilitate this, and to promote transparency, a notice of the request for Statutory Consent (Statutory Consent Request Notice) should be published on the Combined Authority's Forward Plan at least 28 clear days before the Combined Authority meeting at which it is sought, subject to this requirement being waived in exceptional circumstances by any relevant Chief Executive.
- 4.3 To further facilitate the appropriate and timely briefing by the Chief Executive (or their nominee) of the member of the Combined Authority who may provide a Statutory Consent, the Combined Authority's Managing Director will **notify the Chief Executive** of each relevant Constituent Council (or their nominee) as soon as reasonably practicable of any proposal to seek a Statutory Consent, and at the latest when the Statutory Consent Request Notice is published. The Combined Authority will provide the Chief Executive with details about the proposed exercise of the function, including the commencement date/projected timescales and the manner in which it is to be exercised.
- 4.4 In relation to any transport-related function in respect of which a Statutory Consent is required, the Combined Authority agrees that this is subject to the

³ See further the Combined Authority's Procedure Standing Orders

Combined Authority and the Constituent Councils agreeing a **Key Route Network** in respect of which the function is to be exercised.

5 Dispute Resolution

- 5.1 The Combined Authority and the Constituent Councils will act at all times in a constructive spirit of mutual cooperation and partnership to resolve disagreements.
- 5.2 Any dispute between the Combined Authority and any Constituent Council about the exercise of a Concurrent Function (whether before or after its exercise) will be referred to the Managing Director of the Combined Authority and the Chief Executive of the relevant Constituent Council with a view to resolution.
- 5.3 In default of successful resolution between the parties, any dispute will be referred to the Mayor of the Combined Authority and the Leader of any relevant Constituent Council for resolution, provided always that notwithstanding any recommendations made, any Statutory Consent of any Constituent Council will continue to be required in their absolute discretion.

6 Review

- 6.1 The Combined Authority and the Constituent Councils agree to review this protocol **annually** and before any additional concurrent functions which may be conferred on the Combined Authority in future by any other Order are exercisable by the Combined Authority.
- 6.2 The Combined Authority and the Constituent Councils may revise this protocol from time to time, provided such **revisions** are **agreed in writing** by the Managing Director of the Combined Authority and the Chief Executive of each Constituent Council.

7 Signature

Signed for and on behalf of the West Yorkshire Combined Authority

Name

Date.....

Signed for and on behalf of the City of Bradford Metropolitan District Council

Name

Date.....

Signed for and on behalf of the Borough Council of Calderdale

Name

Date.....

Signed for and on behalf of the Council of the Borough of Kirklees

Name

Date.....

Signed for and on behalf of Leeds City Council

Name.....

Date.....

Signed for and on behalf of the Council of the City of Wakefield

Name

Date

Appendix

Concurrent Functions and Statutory Consents requirements

Appendix A: Functions of the Combined Authority conferred by the West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021

Non- Mayoral functions

Note: Questions relating to the Non-Mayoral functions conferred by the 2021 Order (that is, those which are not solely exercisable by the Mayor), cannot be carried without the Mayor's vote in favour of the question.

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
Education, Skills and Training Functions				
Power to give a notice to the governing body of an FE institution requiring them to provide specified individuals 16-19 with appropriate education	Section 51A Further and Higher Education Act 1992	Article 5(2)(a)	Y*	N
Duty to promote high standards and fulfilment of potential in exercising relevant education and training functions	Section 13A Education Act 1996	Article 5(2)(b)	Y*	N
Power to secure work experience / Duty to encourage participation in work experience / encourage employers to participate in providing	Section 560A Education Act 1996	Article 5(2)(c)	Y*	N
Duty to exercise functions so as to promote participation by persons under section 2	Section 10 Education and Skills Act 2008	Article 5(2)(d)	Y*	N

* Any requirement for a Constituent Council to exercise this function may be fulfilled by the exercise of that function by the Combined Authority.

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
Duty to identify people in their area who are failing to fulfil their duty under section 2 to participate in education or training.	Section 12 Education and Skills Act 2008	Article 5(2)(e)	Y*	N
Duty to provide services enabling, encouraging and assisting young people and relevant young adults to participate in education and training.	Section 68 Education and Skills Act 2008	Article 5(2)(f)	Y*	N
Power to provide services enabling, encouraging or assisting young people and relevant young adults to participate in education and training.	Section 70 Education and Skills Act 2008	Article 5(2)(g)	Y*	N
Power to provide support given to young people conditional on specified action (e.g. learning support agreement).	Section 71 Education and Skills Act 2008	Article 5(2)(h)	Y*	N
Duty - this places further requirements on arrangements made by a children's services authority in England under section 10 of the Children Act 2004 (which requires authorities to co-operate with each other).	Section 85 Education and Skills Act 2008	Article 5(2)(i)	Y*	N
Housing, Regeneration and Planning Functions				
Power to compulsorily acquire land development/planning	Section 226 Town and Country Planning Act 1990	Article 11(1)(a)	Y	Requires the consent of each member of the Combined Authority whose area contains

* Any requirement for a Constituent Council to exercise this function may be fulfilled by the exercise of that function by the Combined Authority.

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
				any part of the land, or substitute members acting in place of those members.
Power to acquire land by agreement	Section 227 Town and Country Planning Act 1990	Article 11(1)(b)	Y	
Power to appropriate land	Section 229 Town and Country Planning Act 1990	Article 11(1)(c)	Y	
Power to acquire land for exchange	Section 230(1)a Town and Country Planning Act 1990	Article 11(1)(d)	Y	
Power to appropriate land held for planning purposes	Section 232 Town and Country Planning Act 1990	Article 11(1)(e)	Y	
Power to dispose of land held for planning purposes	Section 233 Town and Country Planning Act 1990	Article 11(1)(f)	Y	
Power to develop land held for planning purposes	Section 235 Town and Country Planning Act 1990	Article 11(1)(g)	Y	
Power to extinguish rights over land	Section 236 Town and Country Planning Act 1990	Article 11(1)(h)	Y	
Power to use and develop consecrated land	Section 238 Town and Country Planning Act 1990	Article 11(1)(i)	Y	
Power to use and develop burial grounds	Section 239 Town and Country Planning Act 1990	Article 11(1)(j)	Y	
Power to use and develop open spaces	Section 241 Town and Country Planning Act 1990	Article 11(1)(k)	Y	

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
Power to acquire land for housing development	Section 17 Housing Act 1985 except for <i>S17(3) (compulsory purchase) which is a Mayoral function (see below)</i>	Article 11(1)(l)	Y	Requires the consent of each member of the Combined Authority whose area contains any part of the land, or substitute members acting in place of those members.
Duty to secure buildings where land acquired under section 17	Section 18 Housing Act 1985	Article 11(10)(m)	Y	
Transport-related functions				
Power to be an authority to whom functions may be delegated by SoS/HE or agreements entered into re construct, improve or maintain trunk roads . <i>(Enabling power of SoS/HE)</i>	Section 6 Highways Act 1980	Article 19(1)	Applies to LAs as local highway authorities	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Power to be an authority who may be party to agreement on highway construction, improvement, maintenance etc.	Section 8 Highways Act 1980	Article 19(2)	Applies to LAs as local highway authorities	
Power to make a traffic order re routes for heavy commercial vehicles	Road Traffic Regulation Act 1984 Section 1 And 2(4)	Article 20(1)(a) Article 20(1)(b)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council
Power to make an experimental traffic order	Road Traffic Regulation Act 1984 Section 9	Article 20(1)(c)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
Power to place Pedestrian crossings	Road Traffic Regulation Act 1984 Section 23	Article 21(1)(a)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Power to place traffic signs <i>(Power of SoS to direct local authority traffic)</i>	Road Traffic Regulation Act 1984 Section 65	Article 21(1)(b)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Duty to notify of works likely to affect apparatus in street	Section 83 New Roads and Street Works Act 1991	Article 22(1)(a)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Duty to take measures where apparatus affected by major works	Section 84 New Roads and Street Works Act 1991	Article 22(1)(a)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Sharing of costs of necessary measures	Section 85 New Roads and Street Works Act 1991	Article 22(1)(a)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Sharing the costs of diversionary works between Combined Authority and undertakers	Street Works (Sharing of Costs of Works) (England) Regulations 2000	Article 22(1)(b)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Preparation of Permit schemes	Section 33 Traffic Management Act 2004	Article 23(1)(a)	Y	Requires the consent of each member of the Combined Authority

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
				appointed by a constituent council.
Implementing Permit schemes	Section 33A Traffic Management Act 2004	Article 23(1)(b)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Varying/ revoking permit schemes	Section 36 Traffic Management Act 2004	Article 23(1)(c)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Permit schemes	Traffic Management Permit Scheme (England) Regs 2007	Article 23(2)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
	Part 3 of 2004 Act	Article 23(4)	Y	N
Enforce bus lane contravention	Bus Lane Contraventions (Penalty charges, Adjudication and Enforcement (England) Regulations 2005	Article 24(3)	Y	Requires the consent of each member of the Combined Authority appointed by a constituent council.
Assessments of Economic Conditions				
Duty to prepare economic condition assessment	Section 69 Local Democracy, Economic Development and Construction Act 2009	Article 25(1)	Y*	N

* Any requirement for a Constituent Council to exercise this function may be fulfilled by the exercise of that function by the Combined Authority.

Function	Legislation	Order Reference	Concurrent with Constituent Councils	Relevant CA member(s) to consent
Information Sharing				
Information sharing (crime and disorder)	Section 17A Crime and Disorder Act 1998 ⁴	Articles 26(1) and 26(2)	Y	N

Mayoral Functions

Function	Legislation	Order Reference	Concurrent with LAs	Relevant CA member(s) to consent
Housing, Regeneration and Planning functions				
Power to acquire land	Section 9(2) Housing and Regeneration Act 2008	Article 27(2)(d)	N	Requires the consent of each member of the Combined Authority whose local government area contains any part of the land, or substitute members acting in place of those members.
Power to acquire land for housing development	Section 17(3) Housing Act 1985 - compulsory purchase	Article 27(6)	Y	Requires the consent of each member of the Combined Authority whose local government area contains any part of the land, or substitute members acting in place of those members.

⁴ The Combined Authority is also a relevant authority for the purposes of Section 115 of the Crime and Disorder Act 1998 (disclosure of information).

Mayoral Development Area (MDA) functions

MDA - designation	Section 197 Localism Act 2011	Article 27(2)(a)	N	Requires consent of each member of the Combined Authority whose local government area contains any part of the area to be designated as a Mayoral development area, or substitute members acting in place of those members; and the National Park authority if the Combined Authority proposes to exercise the function in respect of the whole or any part of the area of the Peak District National Park.
MDA - exclusion of land	Section 199 Localism Act 2011	Article 27(2)(a)	N	Requires consent of each member of the Combined Authority whose local government area contains any part of the area to be excluded from a Mayoral development area; or substitute members acting in place of those members.
Planning functions in relation to MDA	Section 202 Localism Act 2011	Article 27(2)(a)	N	Requires consent of each member of the Combined Authority whose local government area contains any part of the area to be designated as a Mayoral development area, or substitute members acting in place of those members; and the National Park authority if the Combined

			<i>Authority proposes to exercise the function in respect of the whole or any part of the area of the Peak District National Park.</i>
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Kirklees Council Members' Allowances Scheme 2024-2025

This Members' Allowances Scheme is made under the Local Authorities (Members' Allowances) (England) Regulations 2003, and the Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003.

1. The Members' Allowances Scheme will apply from 1 April 2024 to 31 March 2025.

2. Basic allowances for ward duties

2.1 The amount allocated per annum to each elected councillor for ward duties is £16,211.

2.2 The role of councillor is dynamic and the expectations and responsibilities associated with the role are constantly changing. This is an ongoing consideration in determining the basic allowance which recognises the level of responsibility, time devoted and expenses incurred in dealing with their constituents, political group and cross-party discussions on a ward basis.

No additional payment will therefore be made for travel and subsistence costs for duties within the Kirklees district.

2.3 Basic allowances will be paid calendar monthly in arrears to each elected councillor in equal monthly instalments.

2.4 Where the term of office of a councillor begins or ends otherwise than on the 1 April 2024 or 31 March 2025 his/her entitlement to the allowance will be pro-rata.

3. Special responsibility allowances

3.1 The amounts allocated per annum to councillors of specific duties, which are additional to the basic allowance are: -

Special duties	£ per year
Leader	28,004
Deputy leader	21,412
Band A	
Cabinet member	14,503
Band A1	
Chair of Overview and Scrutiny	13,217
Group Leader (30+ councillors)	13,217

Special duties	£ per year
Band B	
Group Leader (7-29 councillors)	11,877
Business Manager (30+ councillors)	11,877
Band B1	10,425
Band C	
Business Manager (20-29 councillors)	8,937
Band C1	
Chairs of Planning Committees	7,447
Lead Members of Scrutiny Panels	7,447
Band C2	
Police and Crime Panel Members	7,280
Band D	
Business Manager (7-19 councillors)	5,959
Chair of Licensing and Safety Committee	5,959
PCN and Local Health Improvement Lead Members	5,959
Band D1	
Group Leader (2-6 councillors)	4,469
Deputy Group Leader (12+ councillors)	4,469
Chair of Appeals panel	4,469
Band E	
Chair of Corporate Governance and Audit committee	2,978
Chair of Standards Committee	2,978
Business Manager (3-6 councillors)	2,978
Band E1	
Adoption Panel member	1,488
Fostering Panel member	1,488

Chairs of Overview and Scrutiny Ad-Hoc Panels will receive £46.56 per day split into half day sessions (2 x 4 hours) to commence at the start of formal meetings to their conclusion. The Overview and Scrutiny Management Committee will place a time allocation on the work of the ad-hoc panel.

- 3.2 The special responsibility allowance recognises the additional time and expenses incurred by those councillors effectively performing additional special responsibilities.
- 3.3 Special responsibility allowances will be paid calendar monthly in arrears to the appropriate councillor in equal monthly instalments.

3.4 Where the term of office entitling a councillor to a special responsibility allowance begins or ends otherwise than on the 1 April 2024 or 31 March 2025 his/her entitlement to the allowance will be pro-rata.

3.5 No councillor shall receive more than one special responsibility allowance.

4. **Renunciation of allowances**

4.1 A councillor may, by giving notice in writing to the Service Director – Legal, Governance and Commissioning, elect to forego any part of his/her entitlement to an allowance payable under this scheme.

5. **Travel and subsistence outside the district**

5.1 Travel and subsistence allowances for approved duties outside the district can be paid only:

- * approved duty are those as described in paragraph 8 of the Local Authorities (Members' Allowances) (England) Regulations 2003.
- * any other duty approved by the body, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the body, or of any of its committees or sub-committees
- * for approved duties previously authorised by the appropriate body (Cabinet or Overview and Scrutiny Management Committee) and Service Director – Legal, Governance and Commissioning. The approval must precede the performance of the duty and not be given retrospectively.

Claims for expenses must be made and received by the Service Director – Legal, Governance and Commissioning within two months of the expense being incurred.

5.2 Attendance at conferences: The Head of Governance has delegated powers to determine councillor attendance at conferences etc.

5.3 Attendance at training and development events: The council will reimburse a councillor for travel and subsistence costs, at the approved rates, for training and development events. The appropriate Business Manager will approve councillor attendance.

5.4 The council will book accommodation on behalf of councillors to a maximum of the rates given in [Appendix 1](#), subject to availability. Councillors requiring overnight accommodation may claim daytime meal allowance(s) in the usual way.

5.5 The authority will pay car mileage at HMRC rates and daytime subsistence allowances at the same rates determined for officers by the National Joint Council for Local Government Officers. The allowance rates are given at Appendix 1.

- 5.6 The rate of travel by public transport shall not exceed the amount of an ordinary fare or any available cheap fare and wherever possible should be arranged through Councillor Support to maximise available discounts and concessions.

Tickets or receipts must always accompany travel and subsistence claims for over £8.

- 5.7 Councillors' use of private motor vehicles should demonstrate either a substantial saving of the councillors' time, or being in the best interests of the council.

- 5.8 The rate of travel by taxicab will not normally exceed the fare for travel by appropriate public transport. In cases of urgency or where no public transport is reasonably available, the council will reimburse the amount of the actual fare and any reasonable gratuity. Taxi receipts more than £8 must support the claim.

- 5.9 Travel by any other hired vehicle is limited to the rate applicable had the vehicle belonged to the member who hired it unless prior approval to the actual cost of hiring.

- 5.10 The rate for travel by air should not exceed the rate applicable to travel by any appropriate alternative means of transport together with the equivalent saving in subsistence allowance.

Where the saving in time is so substantial as to justify payment of the fare for air travel the amount paid will not exceed:-

- (i) the ordinary fare or any cheap fare, or
- (ii) where no such service is available or in case of urgency the fare actually paid by the councillor.

6. Pensions

With effect from 1 April 2014, any Councillor who is not an active member of the Councillors pension scheme will no longer have access to the pension scheme. Councillors who are currently contributing to the pension scheme will only be allowed to remain in it, until the end of their current term in office. Councillors elected after April 2014 will not be entitled to access the pension scheme.

7. Parental Leave Policy

The Policy is set out at [Appendix 2](#).

8. Dependants' carers' allowance

Councillors who need to engage carers to look after dependants whilst undertaking duties specified in regulation 7 of the Local Authorities (Members Allowances) (England) Regulations 2003 may receive a carers' allowance. The criteria are given at [Appendix 3](#).

9. Support for a councillor with a disability

Even though local councillors are not explicitly covered by the Disability Discrimination Act Part II (employment provisions), it is an expectation on councils that they will make every reasonable effort to meet the individual needs of disabled councillors. The council will provide support for disabled councillors, where appropriate, by actively discussing an individual's needs and putting in place the necessary support mechanisms wherever practicable.

10. Information technology

Each councillor is offered a PC or laptop to be used in their homes through a broadband link and/or a smart device to assist them in the discharge of their functions as a councillor. Use of a smart device abroad is restricted to Council business only and councillors are encouraged to connect to wifi wherever possible.

11. Publicity

- 11.1 The regulations place certain duties on local authorities in connection with publicising the recommendations made by their independent remuneration panel, their scheme of allowances and the actual allowances paid to councillors in any given year:

The regulations require, as soon as reasonably practicable after the end of a year to which the scheme relates, that local authorities must make arrangements for the publication in their area of the total sum paid by it to each recipient, in respect of each of the following:

- Basic allowance
- Special responsibility allowance
- Dependants' carers' allowance
- Travelling and subsistence allowance

12. Sickness and holiday

The scheme recognises the right of councillors to holiday and entitlement to sickness absence.

An entitlement is made for 28 days of holiday. During periods of sickness a councillor is not expected to make up any hours lost as a result of that illness.

13. Suspension of Allowance

Where a Member, since election has been convicted of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, the Council shall suspend any part of any allowance payable from the date of sentence. Such suspension shall remain in force until such time as section 80 of the Local Government Act 1972 (disqualification for election and holding office as member of a local authority) takes effect.

14. Education appeals panel members

Members of Education Appeals Panels (who are not elected councillors of Kirklees Council), will receive an allowance of £138 for a full day meeting and £78 for meetings less than four hours. Periods of adjournment will not be included in the allowance payment.

APPENDIX 1

Travel and subsistence rates from 1 April 2024 (for approved duties performed outside Kirklees only)

1. Motor mileage rates

Car

First 10,000 business miles in the tax year: 45p per mile

Each business mile over 10,000 in the tax year: 25p per mile

Bicycle or other non-motorised forms of transport: 20p per mile

Motorcycle (for journeys less than 10,000 miles per year): 24p per mile

Passenger supplements: The supplement remains unchanged; an increase in the above rates by 5p per person per mile not exceeding four passengers. (Subject to change by HMRC)

Members of the council shall be entitled to an official parking permit for use when undertaking official council duties and otherwise used in accordance with the rules relating to their use, and specifically to take account of the contribution to parking permits in line with any resident's charge as agreed by Council on 19 February 2014.

2. Day subsistence

Breakfast allowance £6.06

(more than 3 hours away from normal place of residence before 11.00 a.m.)

Lunch allowance £8.37

(more than 3 hours away from normal place of residence to include the period 12.00 noon - 2.00 p.m.)

Tea allowance £3.29

(more than 3 hours away from normal place of residence to include the period 3.00 p.m. - 6.00 p.m.)

Evening meal allowance £10.35

(more than 3 hours away from normal place of residence ending after 7.00 p.m.)

3. Overnight accommodation costs up to:

London/LGA annual conference £105.00

Outside London £90.00

(maximum room/bed-breakfast rates per person per night, but subject to availability)

4. Meals on trains

Where **main meals (i.e. breakfast, lunch or dinner) are taken on trains** during a period for which there is an entitlement for a day subsistence allowance, the reasonable cost of meals (including VAT) may be reimbursed in full. This reimbursement would replace the entitlement to the day subsistence allowance for the appropriate meal period. Councillors are asked to submit receipts for meals when claiming.

APPENDIX 2

Parental Leave Policy

Introduction

This Policy sets out Members' entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances.

The objective of the policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

There is at present no legal right to parental leave of any kind for people in elected public office. This applies to MPs as well as councillors, and has been the subject of lengthy debate. These policies can therefore only currently be implemented on a voluntary basis. Discussions are ongoing about changing the law to enable compulsory provision.

Legal advice has been taken on these policies, and they conform with current requirements.

1. Leave Periods

- 1.1 Members giving birth are entitled to up to 52 weeks maternity leave.
- 1.2 Where the birth is premature the leave will commence the day after the birth takes place. The Member is entitled to take up to 52 weeks maternity leave.
- 1.3 If your baby is born prematurely and you have already started your maternity leave, there is the option for you to request extended leave at the end of the maternity leave.
- 1.4 Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).
- 1.5 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest

possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

- 1.6 Where both parents are Members leave may be shared up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.
- 1.7 A Member who adopts a child through an approved adoption agency shall be entitled to up to 52 weeks adoption leave.
- 1.8 Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.
- 1.9 Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.
- 1.10 Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

2. Basic Allowance

- 2.1 All Members will receive:
 - 6 weeks at 90% of the Basic Allowance.
 - 33 weeks at half the Basic Allowance plus the equivalent weekly amount paid of Statutory Maternity/Adoption pay.

3. Special Responsibility Allowances

- 3.1 Members entitled to a Special Responsibility Allowance whilst on Maternity, Paternity, Shared Parental or Adoption Leave will receive:
 - 6 weeks at 90% of the Special Responsibility Allowance.
 - 33 weeks at half the Special Responsibility Allowance.
- 3.2 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.
- 3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of 39 weeks, or until the

date of the next Annual Meeting of the Council, or until the date when the member taking leave is up for election (whichever is soonest).

- 3.4 Should a Member appointed to replace the member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.
- 3.5 Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

4. Resigning from Office and Elections

- 4.1 If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. If a Member decides not to return or does not return for 33 weeks, The Council is entitled to claim back the 33 weeks allowance paid at 50%. If a Member fails to return for a full 33 weeks a proportion of the allowance will be claimed back.
- 4.2 If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election see point 4.1.

APPENDIX 3

Kirklees Council

COUNCILLORS' ALLOWANCES


Criteria for dependants' carers' allowance

1. Councillors who care for children or dependants can claim a carer's allowance paid at the rate of the national minimum wage for age 21 and above (currently £11.44 per hour), subject to paragraph 3 below.
2. Payment is claimable in respect of children aged 14 years or under. In respect of dependant relatives, payment is claimable subject to written medical or social work evidence.
3. The Corporate Governance and Audit Committee will determine any application by a councillor on the grounds of special circumstances for payment of dependants' carers' allowance at a higher rate than that of the national minimum wage for age 21 and above.
4. The carer must not be a member of the same household.
5. Councillors should submit their claims, using a claim form and supported by receipts and, if applicable, declare any other care payment received from another agency, to the Councillors' Allowances section each calendar month in arrears.
6. Councillors can only claim for the carers' allowance in respect of expenses of arranging for care of their children or dependants necessarily incurred for attendance at meetings and performance of duties specified in the regulations, and any other duties approved by the Council including training sessions held within the induction period following an election. **Approved duties do not include meetings with officers and constituents and attendance at political group meetings.**
7. Any allegations of abuse of the scheme will be investigated through the Council's Standards process.
8. The dependants' carers' allowance is subject to annual review.

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Chief Executive, strategic directors and service directors


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Chief Executive

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Corporate

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- Director of Public Health
- Policy work
- Intelligence and Joint Strategic Assessment

Service Director Governance & Commissioning

Monitoring Officer

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- Insurance
- Legal services
- Governance
- Monitoring
- Member relations
- Information management
- Elections

Service Director Finance

Section 151 Officer

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- Section 151 Officer (statutory responsibility)
- Strategic finance
- Business and financial advice to services
- Treasury management

- Risk management
- Internal audit

Service Director for Strategy and Innovation

Andy Simcox

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- Intelligence and performance
- Policy, partnerships and corporate planning
- Strategic communications
- Technology
- Transformation and culture change

Service Director Environmental Strategy and Climate Change

Katherine Armitage

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- Directorate Programme Office
- Climate Change Programme
- Environmental campaigns and community engagement
- Environmental Health
- Air Quality and Environmental Protection
- Licensing

Strategic Director Growth and Regeneration

David Shepherd

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Service Director Homes and Neighbourhoods

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The following areas are covered by this service director:

- Housing Management
- Partnerships
- Repairs and Maintenance
- Building Safety
- Assets and Development
- Governance (Homes and Neighbourhoods)

Service Director Skills and Regeneration

Edward Highfield

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The following areas are covered by this service director:

- Major Projects
- Employment and Skills
- Business and Economy
- Planning and Building Control

Service Director Development and COVID-19 Recovery Programme

Joanne Bartholomew

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The following areas are covered by this service director:

- Housing Growth and Regeneration
- Strategic Housing
- Corporate Landlord and Capital
- Development and Town Centre Master Planning
- COVID-19 Community Response

Service Director Highways and Street Scene

Graham West

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- Highways
- Road Safety Unit
- Parking Services


- Urban Traffic Control
 - Waste Services
 - Fleet Services
 - Street Cleansing
 - Greenspaces and Parks
-


Adults and Health

 Show

Strategic Director Adults and Health

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- Assessment and care management - Older people and physical disabilities
- Partnerships with acute trusts
- Statutory safeguarding services
- Safeguarding function
- Related customer services
- Commissioning of carers (shared with Michelle Cross)
- Integrated services (shared with Michelle Cross)
- Delivery of partnerships with community health services
- Community equipment services

- Performance management

Service Director Customers and Communities

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Service Director Learning Disabilities and Mental Health

Michelle Cross

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- Assessment and care management - Mental health and learning disabilities
- Internal Provider services
- Short term and urgent support services
- Partnerships with mental health and learning disability
- Care Quality Commission (CQC) regulated services
- Commissioning of carers
- Integrated services
- Commissioning
- Market development
- Regulation and quality

Service Director Culture and Visitor Economy

Adele Poppleton

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- Creative Development
- Visitor Economy Strategy
- Museums
- Galleries
- Events and Festivals
- Venue Management
- Markets
- Catering Services
- Cleaning Services
- Bereavement Services

Children and Families

⤴ Hide

Strategic Director Children and Families

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Service Director Child Protection and Family Support

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- Model of social work
- Support for children and families
- Social care and assessment
- Services for disabled children
- Corporate parenting for looked after children
- Youth Offending Team
- Integrated youth support
- Specialist support for children with special needs and additional needs
- Independent review and advocacy
- Management and leadership of the Safeguarding Children Board

Service Director for Learning and Early Support

Jo-Anne Sanders

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- Transforming the school system
- 14-19 education and skills and adult learning
- School and early years improvement
- Inclusive learning
- Learning support for vulnerable children and young people

- Promoting and supporting school attendance
- School and early years planning and school admissions
- Early help

Service Director Resources, Improvement and Partnerships

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