

REPORT TITLE: Constitution updates

Meeting:	Corporate Governance and Audit Committee
Date:	7th March 2025
Cabinet Member (if applicable)	Cllr Tyler Hawkins
Key Decision Eligible for Call In	No No
Purpose of Report To seek approval for a number of amendments to the Constitution to be recommended to Annual Council.	
Recommendations <ul style="list-style-type: none"> • That the suggested amendments to the Constitution be recommended to Annual Council Reasons for Recommendations <ul style="list-style-type: none"> • The suggested amendments are intended to update and modernise the Constitution 	
Resource Implications: None	
Date signed off by Executive Director & name	Rachel Spencer-Henshall 25/02/25
Is it also signed off by the Service Director for Finance?	Kevin Mulvaney 25/2/2025
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Samantha Lawton 25/02/2025

Electoral wards affected: All

Ward councillors consulted: Members of the Monitoring Officer's Constitution Working Group

Public or private: Public

Has GDPR been considered? Yes

1. Executive Summary

- 1.1 It is essential that the Constitution is subject to regular review and, where necessary, is amended to ensure that it both follows any legal requirements placed on the Council and is fit for purpose.
- 1.2 Whilst certain changes to the Constitution can be made by the Monitoring Officer using delegated powers, most changes need to be made by Council, on the recommendation of this Committee.
- 1.3 The Monitoring Officer has set up the Constitution Working Group, comprised of officers and members, to review the Constitution and to consider proposed amendments. This is the first report to Committee that addresses some of the initial proposed amendments.

2. Information required to take a decision

2.1 Responsibility for Council (Non-Executive) Functions Part 3.3

2.1.1 Licensing and Safety Committee Terms of Reference

There are minor amendments to the Terms of Reference, visible on the 'track change' version at appendix A.

2.1.2 Corporate Governance and Audit Committee Terms of Reference

There are minor amendments to the Terms of Reference, visible on the 'track change' version at appendix B.

2.2 Council Procedure Rules Part 4.1

2.2.1 A number of changes have been proposed to the CPRs. The wording in black is the current wording within the rules and the wording in red is the proposed new wording.

2.2.2 Details of these are in table form in appendix C, which also provides details of the reasons for the proposed changes.

2.3 **Monitoring Officer Protocol**

2.3.1 The protocol is part 5.2 of the Constitution and has been updated to clarify the Deputy Monitoring Officer role and to bring references to legislation up to date.

2.3.2 The Standards Process has also been added to the protocol. This is to ensure that it does appear within the Constitution and is publicly accessible.

2.3.2 A tracked change copy of the revised protocol is at appendix D.

2.4 **Officer Code of Conduct**

2.4.1 The Officer Code of Conduct has been rewritten and the proposed version differs quite considerably from the one that is currently part 5.6 of the Constitution.

2.4.2 The purpose of the rewrite was to modernise the code and to make it easier to read and understand.

2.4.3 A copy of the proposed amended code is attached at appendix E.

2.5 **Licensing and Safety Committee Protocols**

2.5.1 The protocol is part 5.8 of the Constitution and has been updated with a number of minor amendments. These are visible in the 'track change' version of the protocol at appendix F.

3. **Implications for the Council**

3.1 **Working with People**
N/A

3.2 **Working with Partners**
N/A

3.3 **Place Based Working**
N/A

3.4 **Climate Change and Air Quality**
N/A

3.5 **Improving outcomes for children**
N/A

3.6 **Financial Implications for the People Living or Working in Kirklees**
N/A

3.7 Other (eg Legal/Financial or Human Resources)

Regular review of the Constitution will ensure that Kirklees Council is operating lawfully.

4. Consultees and their opinions

- 4.1 The Constitution Working Group has considered the proposed amendments and provided feedback which has informed a number of the changes, particularly with regard to the Council Procedure Rules.

5. Next steps and timelines

- 5.1 Any amendments recommended by this Committee will need to be considered by Council and a report to Annual Council will be prepared.
- 5.2 Any changes to the Constitution agreed by Annual Council will then be put into place.

6. Officer recommendations and reasons

- 6.1 That members approve the proposed amendments to the Constitution.

7. Cabinet portfolio holder's recommendations

N/A

8. Contact officers

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9. Background Papers and History of Decisions

N/A

10. Appendices

Appendix A – Licensing and Safety Committee Terms of Reference
Appendix B – Corporate Governance and Audit Committee Terms of Reference
Appendix C – Council Procedure Rules
Appendix D – Monitoring Officer Protocol
Appendix E – Officer Code of Conduct
Appendix F – Licensing and Safety Committee Protocol

11. Service Director responsible

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Appendix A

Licensing and Safety Committee Terms of Reference

Licensing and Safety Committee

Membership

14~~5~~ 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.

Appendix B

Corporate Governance and Audit Committee Terms of Reference

Membership

Seven **Elected** Members, **up to 2 Independent Members** and the following ~~four~~ **three** 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).~~

Independent and Ex-officio Members have the rights to speak but not vote.

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~~ **Determining** 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~~ **Keeping** 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~~

4. Consideration of the Council's arrangements relating to accounts, including:

- (a) Consideration of any material changes to accounting policies**
- (b) Approval of the statement of accounts**
- (c) Approval of any material amendments to the accounts recommended by the auditors**
- (d) Keep the Council's financial and management accounts and financial information under review 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~~

5. Consideration of the Council's arrangements relating to the external audit requirements including:

(a) the selection and appointment of the external auditor.

(b) the consideration of the external auditors' annual reports so as to gain the necessary assurance regarding accuracy, value for money and governance prior to the approval of the Council's accounts, and approval of any other reports

(c) meeting with the external auditor from time to time, and considering any matters that they wish to raise

The Committee shall be entitled to meet the external auditor without the presence of any council officers (other than for the purposes of minuting the conversation)

~~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~~

6. Consideration of the Council's arrangements relating to internal audit requirements including:

(a) reviewing the nature and scope of internal audit activity

(b) approval of Annual Audit Plan

(c) monitoring the performance of internal audit, including compliance with regulatory internal audit standards

(d) agreeing the adequacy of internal audit resourcing

(e) considering the Annual Internal Audit report, reviewing and making recommendations on issues contained therein

(f) monitoring progress in implementation of internal audit recommendations

(g) seeking responses from officers or portfolio holders about matters identified by internal audit

The Committee shall be entitled to meet the Head of Internal Audit without the presence of any council officers (other than for the purposes of minuting the conversation)

7. ~~To review~~ **Reviewing** 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 **Information Commissioners Office (ICO)**;
- 7.5. ~~To review~~ **Reviewing** and ~~approving~~ the annual statement of Corporate Governance.
- 8. ~~To agree and update~~ **Agreeing and regularly updating** 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"~~.
- 9. ~~To approve~~ **Approving** payments or ~~providing~~ 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
- 10. Undertaking a community governance review following a decision of Council to agree the terms of reference for and conduct such a review, making recommendations to Council who will determine the outcome of such reviews.
- 11. All 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)
- 12. Charities and charitable trusts (so far as not the responsibility of Cabinet).
- 13. ~~Responsibility for~~ **R**eviewing and challenging all treasury management activities.
- 15. ~~To determine appointments of individuals~~ **Noting the finalised list of appointments to** outside bodies (except school governing bodies) and revocation of such appointments.
- 14. ~~To~~ **Determining** nominations for charitable trustees in cases where there has been failure reach agreement.
- 15. ~~To~~ **Receiving** updates and monitoring compliance with the Council's Regulation of Investigatory Powers Act (RIPA) policy

Appendix C

Council Procedure Rules

CPR	Suggested Amendments in red	Comments/Rationale
5 (6)	<p>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.</p> <p>The Elected Mayor (West Yorkshire Combined Authority) shall attend a Key Discussion Meeting once in each municipal year, where practicable, to provide an overview of their work programme and priorities (for up to 15 minutes), followed by a question and answer session, of at least 45 minutes. Questions will be allocated on a proportional basis across groups, as determined by the Mayor.</p>	<p>Wording for CPR 5(6) re-written/simplified to reflect current practice.</p>
9 (2)	<p>2) When a petition is received at a Council meeting the petitioner (member of the public or elected member) 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.</p>	<p>Minor amend to clarify that procedure rule applies to both members of the public and elected members.</p>
10 (3)	<p>3) The Council will not receive more than four deputations at any ordinary meeting Committee, Panel, Board or Meeting of the Council</p>	<p>Amendment to clarify that CPR applies to deputations at Committees, Panels, Boards or Meetings of Council.</p>

<p>10 (7)</p>	<p>Deputations which will not be received 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 or other matters for determination 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.</p>	<p>Applies consistency in line with 11(3) in respect of both public and elected member questions.</p>
<p>11</p>	<p>The subheading of 'Additional Questions' to change to 'Supplementary Questions at Meetings of Council'</p>	<p>Change of heading reflects wording within the body of the procedure rule.</p>
<p>11 (3)</p>	<p>Questions Which Will Not Be Answered (Members of the Public) (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 concerning 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 duty to act quasi-judicially</p>	<p>Suggested amendments to 11(3) seeks to apply consistency in respect of both public and elected member questions</p> <p>Changes in (c) simplifies the language used without affecting the practical application of the</p>

<p>relating to planning, licensing and other administrative or regulatory matters. (d) Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious.</p> <p>Written Questions requirements 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.</p> <p>Written Questions by Members which Will Not Be Answered</p> <p>Questions will not be answered if the Chief Executive considers that they include references to the following:</p> <p>(a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.</p> <p>(b) Questions relating to complaints made under statutory provisions which have not been finally dealt with.</p> <p>(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 relating to planning, licensing and other administrative or regulatory matters</p> <p>(d) Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious.</p>	<p>procedure rule. Is consistent with changes to CPR 10(7)</p> <p>Removal of wording avoids duplication as is referenced in (d) below</p> <p>Wording amended for consistency with public questions and deputations.</p>
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	To add the definition of 'confidential' as defined in Rule 11 of the Access to Procedure Rules.	Added to ensure there is a clear definition of what is confidential.
11 (6)	<p>Answers to Questions at Meetings of the Council (Delete CPR)</p> <p>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.</p> <p>A copy of all written questions and written answers circulated at the meeting will be attached to the published agenda for the meeting.</p>	Changes to the question process at Full Council was introduced from May 2024. When originally introduced it was acknowledged that the implementation of the changes would be monitored. Following engagement with Group Leaders and Members it was felt that the new process had not been an improvement on previous practice. Deletion of this CPR 11 (6) will mean the Council revert to the process in place prior to May 2024 for public questions at Full Council meetings
12	<p>Written Questions by Members</p> <p>12(3) A written answer will be provided to a written question and will be published with the agenda, and provided to the questioner and all Councillors, the day before the meeting. The question and answer will then be taken as read at the meeting itself and not be read out. The schedule of written questions shall be published the day prior to the Council meeting.</p>	As above. Deletion of CPR 12(3) will mean the Council revert to the process in place prior to May 2024 for written questions by Members at Full Council meetings
12 (5)	<p>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.</p> <p>A Cabinet Member will be permitted a maximum of five minutes to respond to any written question or any supplementary question.</p>	Suggested amendment to place time limit for responses

<p>13</p>	<p>Procedure at Council Meetings in Relation to Reports and/or Minutes of Cabinet and Committees Holding the Executive to Account</p> <p>(1) Minutes for Information/Reports that require approval</p> <ul style="list-style-type: none"> (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 and 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 as they are presented for information only. If the Minutes are not considered due to lack of time they shall be deemed to have been presented to Council and will not require resubmission. <p>(2)(i) The Minutes of Cabinet shall be submitted to Ordinary meetings of Council followed by those of Cabinet Committee Local Issues. The Minutes of Cabinet and Cabinet Committee Local Issues shall be submitted to Ordinary Meetings of Council (Holding Executive to Account).</p> <p>(2) Questions/Comments on Cabinet Minutes (Holding Executive to Account)</p> <p>(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 municipal year, or on progress against that Plan.</p>	<p>Amendment to CPR 13 seeks to re-write the wording to provide clarity. The updated CPR does not change current arrangements</p>
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	<p>Comments and statements by Cabinet Members shall not exceed 30 minutes in duration including any questions arising from the information provided.-A total of 60 minutes shall be allocated to this item.</p> <p>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</p> <p>13 (3)(i) The Minutes of other Committees submitted to Ordinary (Holding Executive to Account) meetings of the Council shall be set out in alphabetical order.</p> <p>13(5) Time permitted Oral Questions to Committee/Sub Committee/Panel Chairs and Nominated Spokespersons of Joint Committees/External Bodies</p> <p>(i) Subject to the time limit for speaking set out in CPR13(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 Committee/Panel Chairs and Nominated Spokespersons of Joint Committees/External Bodies shall be a maximum of 30 minutes.</p>	
14 (6)	6) Every motion shall be relevant to some matter in relation to which the Council has powers or duties and/or which affects the area of Kirklees.	Widens scope in respect of relevance of Motions

14 (11)	<p>- Any proposed amendment to a Motion which has been included in the summons for a meeting, shall be delivered to the Service Director – Legal, Governance and Commissioning no later than 10.00am on the day prior to the Council Meeting. Any amendments will be published at no later than 5pm the day before the meeting.</p>	Minor amend to reflect working practice
14(12)	<p>Motions on Identical Subjects 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. If no composite motions are received, then the first motion submitted on the agenda on a similar topic will be debated. Once the motion or amendment is dealt with, the subsequent motions will fall.</p>	The additional wording is added to reflect the working practice where similar motions are submitted and no composite motion has been put forward.
21 Delete 18(5) and insert	<p>Member Conduct Addressing the Mayor Member Speaking When a Member wishes to speak, they will indicate that to the Chair/Mayor whilst remaining seated. No Member will speak unless called on to do so by the Chair. Unless the Chair/Mayor indicates otherwise, a Member must stand and address the Mayor while speaking. If two or more Members indicate that they wish to speak, the Chair/Mayor will ask one to speak and the other(s) will remain silent. While a Member is speaking the other Members shall remain seated and be</p>	Deletion of CPR 18(5) and amendment of CPR21 is suggested to avoid duplication and bring together clear wording in respect of Member Conduct

	<p>silent, unless rising on a point of order or in personal explanation.</p> <p>Respect for the Chair/Mayor</p> <p>Whenever the Chair/Mayor indicates that they wish to speak during a debate the rest of the Council shall be silent. If a Member disregards the ruling of the Chair/Mayor or behaves improperly, offensively or obstructs the business of meeting, the Chair/Mayor shall warn them regarding their conduct.</p> <p>Member not be heard</p> <p>If a member at a Council meeting any Member of the Council (in the opinion of the Mayor) persistently disregards (in the opinion of the Chair/Mayor) the ruling of the Chair/Mayor or behaves irregularly, improperly, offensively or obstructs the business of the Council, the Chair/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 voted on without discussion.</p> <p>General Disturbance</p> <p>(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.</p> <p>If there is a general disturbance which the Chair decides makes orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.</p>	
36(1)	Observer Attendance by Councillors at Committees, Sub-Committees or Panels	Amendment suggested to allow non committee/panel elected members to contribute to debate on individual agenda items. Time limit

<p>(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 be able to speak once for 5 minutes on any items on the agenda have the same speaking rights as any Member of that Committee Sub-Committee or Panel.</p>	<p>suggested to allow for the Chair to manage the debate and allow range of potential speakers.</p>
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Appendix D
Monitoring Officer Protocol

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. The Monitoring Officer may nominate a member of staff to act as Deputy Monitoring Officer while absent or ill and has appointed the Head of Legal Service and Head of Safeguarding as Deputy Monitoring Officers. The Deputies will act only in the absence of the Monitoring Officer.
- 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 and Scrutiny Committee 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 vices 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, vices 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 Executive Director and/or the Chief Executive for appropriate action to be considered, including disciplinary investigation if appropriate.

ANNEX 1

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 resources.	Section 5 Local Government and Housing Act 1989.
5	Establish and maintain registers of Members' interests and gifts and hospitality.	Section 29 Localism Act 2011
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
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
15	To be responsible for the operation and maintenance of the whistleblowing policy	Whistleblowing: Independent Reporting of Concerns at Work

ANNEX 2

STANDARDS PROCESS

KIRKLEES STANDARDS PROCESS – BRIEF DESCRIPTION

All complaints are subject to an initial assessment that involves consideration by the Monitoring Officer and Independent person to decide whether it is a matter which raises (a) Code of Conduct issue(s). Consideration will also be given to the public interest test at this initial stage¹.

Wherever possible, any complaints will be resolved at this first stage where appropriate and will only proceed to the Standards process outlined below where they cannot be resolved by the Group Business Manager working with the Member who is complained about.

Where it appears that the complaint is a 'repeat complaint' the Monitoring Officer will consider whether it is appropriate to use the 'fast track' option to resolve the complaint. This option condenses the process set out below, allowing complaints to be dealt with more quickly where, on assessment, it is determined that there would be no benefit from using the extended process.

The process is briefly described below. It was adopted by the Council pursuant to the Localism Act 2011 and replaced the previous Standards regime. A link to the current approach is attached:

<http://www.kirklees.gov.uk/beta/contact-the-council/councillor-complaints.aspx>

Under the Standards arrangements the process is briefly as follows:

1. When a complaint is to proceed it is shared with the Councillor or Councillors who are the subject of the complaint and they are given (usually) 14 days to respond to the complaint made. The complaint is also shared with the Councillor's Group Leader and Group business Manager (if the Councillor is in a political group).
2. When the response is received that is shared with the complainant who is able to make further comments (usually within 14 days).
3. Appropriate research will be conducted as appropriate, by the Monitoring Officer staff looking at documents, websites, witnesses and other evidence or information which may assist in informing a decision.
4. Once that has happened a summary report is written and the summary report is circulated to members of the Assessment Panel with relevant background papers (e.g. the complaint and response/emails). The Assessment Panel meets and consists of the Business Managers of each group, myself as Monitoring Officer (as well as a member of my staff usually) the Independent Person and the Chair of Standards. At the Assessment Panel the views of the Business Managers are sought

¹ Kirklees Council adopted a public interest test as one of the best practice recommendations from the CSPL. The test essentially asks if we can investigate a complaint and, if so, whether we should. 'Can' requires us to be satisfied that the person complained of is a Councillor, that the conduct complained about is covered by the code and that the conduct complained of occurred within the last 6 months, in the absence of any exceptional circumstances. 'Should' requires us to consider what evidence there is that supports the complaint, whether the conduct is something that it is possible to investigate and whether any investigation would be proportionate and in the public interest.

in relation to the complaint/as well as any background papers. These are taken into account but ultimately the decision in relation to what action (if any) is taken is the decision of the Independent Person, Chair of Standards and I. Councillor(s) who are the subject of the complaint and complainants are not required to attend.

5. There are various actions/decisions which might be taken including:

- No further action is required
- An apology
- It might involve training
- It might involve a conciliation meeting
- The decision might also contain some advice for future reference
- In addition, if the matter is more serious, the Assessment Panel might decide that we need to have a further investigation in which case I would commission someone to carry out that investigation (internally or a third party) and the results of that would be considered at a Sub-Committee of the Standards Committee. In turn the Sub-Committee would report any decision to the Standards Committee and make a recommendation about any actions. This might be a recommendation that the issues be considered by Council and/or consent of the relevant Councillor

6. I will inform the Councillor, their party Leader and the Group Business Manager of any decision as well as the Complainant.

7. A copy of the decision notice will be published on the Kirklees website to record the outcome of the complaint.

The 'fast track' process will move directly to stage 3, with the exception that the details of the complaint will still be shared with Group Leader and Business Manager, where applicable.

Stage 4 is amended to bypass the assessment panel, meaning that the decision on the complaint is made by the Monitoring Officer, Chair of Standards and the Independent Person, without any input from Group Business Managers.

Stages 5 to 7 will proceed as normal.

If you have got any questions or queries about the process please contact myself or David Stickley (Senior Legal Officer).

Appendix E
Proposed Officer Code of Conduct

KIRKLEES COUNCIL OFFICERS' CODE OF CONDUCT

INTRODUCTION AND INTERPRETATION

This Code of Conduct is in two parts.

The first part, **Standards and Principles**, sets out the fundamental standards of behaviour and propriety the Council requires of its employees and office holders. These are the guiding principles of your employment.

The second part, **Putting the Standards and Principles into practice**, gives examples of how the standards and principles require employees to act or behave in certain specific circumstances.

Other Council policies, protocols and procedures also contain guidance and directions to employees on standards of behaviour; for example the Employee Handbook contains standards of behaviour that employees must follow.

Interpretation

Who does this code cover?

This code covers all employees and office holders of the Council except teachers employed by the Council to work in maintained schools (who have their own set of professional standards).

This Code is not intended to supersede any code or rules of behaviour that may be imposed on employees by virtue of regulation by professional bodies, such as the SRA. Wherever there is any contradiction, officers will be expected to comply with the rules of their own professional bodies.

Part 1 – Standards and Principles

- **Selflessness**

Employees should act in the public interest at all times and should not act to gain financial or other benefits for themselves, their family or friends above or beyond their proper remuneration.

- **Integrity**

Employees must not place themselves under financial or other obligations to outside individuals or organisations that might seek to influence them in the performance of their duties. An employee should avoid behaviour that might cause the public to suspect an improper influence.

- **Objectivity and Impartiality**

In carrying out their duties Employees should show sound judgement and make choices or give advice on merit. Employees must remain politically neutral. Employees must observe any legal restrictions on political activity. This is particularly important for any employees who hold a politically restricted post.

- **Accountability**

Employees are accountable to the Council for their actions and the Council is accountable to the public.

- **Openness**

Employees should be as open as possible about the decisions and actions they take and must not prevent another person gaining access to information that they are entitled to by law. Equally employees should not disclose information that is confidential without proper authority and in the public interest.

- **Honesty**

Employees must behave honestly. Employees must declare personal interests as required by the Council and must not allow conflicts of interest to damage the public interest or undermine the integrity and standing of the Council.

- **Trust and Confidence**

Employees must not do anything calculated or likely to damage the relationship of trust and confidence between them and the Council and must serve the Council faithfully. Employees must use reasonable care and skill in performance of their duties. Employees must not do anything to discredit the Council or bring the Council into disrepute. This principle extends to activities in the employee's "private life".

- **Respect for others**

Employees must treat colleagues and the public with respect and courtesy and not discriminate unlawfully against anyone. Employees must maintain a high level of professionalism, objectivity and courtesy in their dealings with elected members.

- **Stewardship**

Employees must use public funds and Council assets properly, efficiently and with consideration for the environment.

Part 2 –Putting the Standards and Principles into Practice

***Selflessness,
Inducements,
Corruption,
Bribery
Integrity,
Honesty
Gifts and Hospitality***

Kirklees Council must be and must be seen to be free of corruption.

Kirklees Council takes the probity of its employees very seriously. This reflects the seriousness with which the law treats the corruption of public employees and office holders.

The Prevention of Corruption Acts 1889 and 1916 make it an offence for an employee to accept any gift or consideration as an inducement or reward for:-

- Doing or refraining from doing anything in their employment capacity; or
- Showing favour or disfavour, to any person in their employment capacity.

The Local Government Act 1972 makes it a criminal offence for anyone to accept any fee or reward whatsoever other than their normal remuneration.

Misconduct in a public office is itself a serious criminal offence.

The Bribery Act 2010 makes it an offence for a person to request, agree to receive or accept a financial or other advantage.

These are serious criminal offences for which public employees can and routinely are sent to prison even where the size of the bribe or inducement is comparatively small. This is of course in addition to any disciplinary action that the Council as employer would take.

Practical Steps

You should not accept personal gifts through your work for the Council and you should discourage service users or other people or organisations from offering gifts. This particularly applies to suppliers or other commercial organisations who deal with the Council.

You must do nothing that could be construed as acceptance of a gift for services rendered.

Gifts

Any gifts, regardless of value, must be declared and recorded in your service's Gifts and Hospitality record. Your Head of Service is responsible for maintaining this record and for making sure you know how to make declarations.

The only items permitted to be retained are

- Items of an advertising or marketing nature, for example pens, mugs, calendars etc. of a nominal value (less than £15) which may be used in the workplace.
- Items of a token value (less than £15) from an individual service user with whom the Council has a direct welfare or caring relationship.
- Gifts from other parts of the Council, or from partner organisations, such as KAL, or Lawrence Batley Theatre, for example, may be retained but must be recorded (including complementary tickets to events).

If you are offered or sent a gift whose value exceeds this you should, where possible, decline or return the gift and explain the reasons for doing so. If it is not possible to decline or return the gift without causing offence, you should pass it to your Head of Service.

Hospitality

Hospitality, such as meals, alcoholic drinks, or invitations to social events, must be appropriate and incidental to your duties. Any hospitality received, except for tea or coffee, should be recorded in your service's Gifts and Hospitality record.

You should be particularly cautious about accepting hospitality from any organisations that have commercial dealings with the Council.

***Openness,
Honesty,
Trust and Confidence***

Financial Interests Conflicts of Interest

You must declare to your Head of Service if you have any financial interest in any Council supplier or contractor, or if any of your relatives or close friends have a contractual relationship with the Council.

You must also declare if you are active within or have a personal interest in any charity, voluntary organisation, club or society or similar body which has a business relationship with the Council or receives grants or similar assistance.

You must declare any directorship or management role in any company, business, charity or voluntary organisation. The requirement to declare any directorship or management role exists even if the company or business is not actively trading or operates outside of Kirklees.

Any shareholding or interest in any business or ownership of shares in a company (other than shares in a public limited company comprising less than either 2500 shares or 0.1% of issued share capital).

You must declare membership of any secret organisation.

It is the responsibility of your Head of Service to maintain a register and to make you aware of how to declare any relevant interests. It is your responsibility to make accurate and up-to-date declarations.

Other Employment

You are permitted to have other jobs provided these do not have a detrimental impact on your work for the Council – for example by making you too tired to do your Council job properly, or where they create an unacceptable conflict of interest.

You are responsible for making your Head of Service aware of any potential impact or conflict of interest.

You must not undertake any work or do anything that might give rise to a suspicion that clients or customers of yours might get preferential treatment in their dealings with the Council.

You must not use your position with the Council to gain a private advantage or benefit for you or a member of your family.

Employees who provide professional or technical advice to the Council – for example lawyers, architects, engineers; or who are involved in the Council's regulatory functions - for example planning officers, Licensing officers, Environmental Health Officers should be particularly careful to avoid compromising their integrity and objectivity in their activities outside work.

The Employee Handbook gives further guidance in this area.

Integrity, Honesty, Trust and Confidence and Stewardship Use of Council Assets and Resources

You must use public funds and Council assets properly and efficiently.

You must not use any Council property or assets for your own personal benefit or gain (unless expressly permitted to do so). This means for example not to undertake private work on Council premises, not using Council equipment, tools or materials for private purposes.

You must use Council equipment and materials carefully and responsibly. You must help the Council avoid waste, damage and unnecessary expenditure.

You must follow the Council's rules and procedures for example the Contract Procedure Rules and the Financial Procedure Rules, as set out in the Council's Constitution.

You must follow the Council's Green policies and help the Council minimise its impact on the environment.

***Openness,
Accountability,
Trust and Confidence,
Information,
Confidentiality,
Loyalty and Whistleblowing***

All employees are accountable to the Council and the Council is accountable to the public.

The Council and its employees are subject to the rule of law.

You are required to carry out reasonable and lawful instructions given to you in the course of your employment. You are not required to do anything unlawful.

If you see something seriously wrong in your workplace you have a responsibility to voice any concerns you have with your manager or someone more senior – your Head of Service or other senior officer.

The Council has a whistleblowing policy and procedure which is part of the anti-fraud, anti-corruption and anti-bribery strategy. You will not be victimised or suffer disadvantage if you report genuine concerns.

You are under a duty to report suspected abuse of vulnerable adults or children.

Confidential Information

In the course of your work you may have access to information which is confidential. Information may be confidential for a number of reasons.

It may be information that the Council is justified in keeping confidential for commercial or administrative reasons, or it may be information held about individuals which by its nature is confidential.

The unauthorised use or disclosure of personal confidential information may be unlawful and put the Council at risk of adverse public criticism and having to pay compensation or financial penalties.

Practical steps

You must not make unauthorised disclosure of confidential information.

You must be alert to any unauthorised persons seeking to obtain confidential information from you and you should report this to your line manager or Head of Service. You must be aware of and comply with the Council's policies and procedures in relation to the security of information and not risk the loss or misuse of data – particularly sensitive personal data relating to individuals.

You must not misuse confidential information for your own personal gain or advantage. Unauthorised disclosure of confidential information in return for money or other inducement is likely to be a serious criminal offence.

As well as protecting confidential information the law gives individuals legal rights to access both their personal data and certain kinds of information held by the Council. You must help the Council comply with its legal obligations under the Data Protection Act, the Freedom of Information Act and the Environmental Impact Regulations.

You must be able to identify any formal requests for information, either as a Subject Access Request, or a Freedom of Information Act or the Environmental Impact Regulations request, and to deal with these appropriately.

You will be required to undertake training relevant to your role on data protection issues.

***Selflessness, Objectivity
and Impartiality,
Accountability
Working with Councillors***

Employees and councillors have a common purpose in serving the community. But their responsibilities are distinct. Councillors are responsible to the electorate for their term of office. Employees are responsible to the Council through their management.

Employees provide independent, impartial, professional advice and expertise and work to implement the policies and decisions taken by the Council.

Councillors have a political dimension to their roles, whereas employees do not and they should therefore take care to be politically neutral in their dealings with elected Councillors.

Mutual respect and courtesy between employees and councillors is essential for good local government and should be maintained at all times.

Councillors have their own Code of Conduct that sets out behavioural expectations that they are required to comply with, and the Constitution contains a 'Member-Officer Protocol' that employees should be familiar with.

Your work with councillors should follow these principles.

1. The mutual commitment to public service;
2. Mutual courtesy and respect;
3. Avoidance of over familiarity with individual members;
4. Provision of timely, accurate and impartial advice and information to members;
5. Political neutrality;
6. Sensitivity to the political context in which the councillors work.

If you work in a politically restricted post then you must observe the restrictions on your political activities. If you are contemplating standing for election to the Council you should make

yourself familiar with the restrictions on employment. More information is found in the Employee Handbook.

***Trust, Confidence and
Respect for Others
Behaviour outside Work, social media,
respect and equality***

Employees are entitled to a private life away from work. However you should not do anything in your private life that is calculated or likely to bring the Council into disrepute. For example you should not post anything on social media sites that makes reference to your role within the Council or is likely to bring the Council into disrepute or upset or offend your colleagues. You must observe the Council's policies and procedures with regard to use of electronic and social media.

You must make yourself familiar with and observe the Council's policies relating to dignity at work and equality of opportunity.

You must treat colleagues and members of the community with respect and dignity at all times.

The Council is subject by law to the public sector equality duty. Under this duty, the Council must have due regard to the need to:-

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between who share a protected characteristic and those who do not.

You must not do anything in the course of your employment which is inconsistent with the public sector equality duty and you must help the Council put it into effect.

Conclusion

If you are uncertain about any aspect of the Code of Conduct you should seek guidance from your line manager or Head of Service. Further information, can be found in:

- Kirklees behaviours
- Employee Handbook
- Whistleblowing Policy
- Member-Officer Protocol
- My Learning
- Members Code of Conduct

Appendix F
Licensing and Safety Committee Protocol

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, through its Licensing Panel. 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, including the licensing objectives, 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 / or 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 on DPIs 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~~ **their** 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 their representative do 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 DPs and Other interests are set out in the Code of Conduct for Members and should be strictly adhered to. 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 Governance Officer and the Panel's 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, **considering only those that relate to the Licensing Objectives.**

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 a member's impartiality and integrity being called into question. In order to avoid any such

criticism or legal challenge and to preserve ~~your~~ a member's right to vote on an application, ~~you~~ members should follow the following advice.

- Avoid organising support for or opposition to a licensing application or involving ~~yourself~~ themselves in such a process and avoid lobbying other councillors on the issue.
- If applicants, potential applicants or objectors ask to meet ~~you~~ a member about a proposal, ~~refer them they should be referred~~ to another councillor who does not serve on the licensing ~~sub-committee~~ panel and will not be involved in the decision; alternatively ~~refer them they should be referred~~ to an officer.
- If anyone (including another councillor) does lobby ~~you~~ a member or raise issues about a particular proposal, ~~refer them they should be referred~~ to officers for advice on procedure and ~~it should be suggested 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~~ a member has ~~have~~ to remain completely impartial.
- ~~members should~~ ~~K~~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 ~~panel~~ ~~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, ~~members should~~ take care to avoid expressing an opinion which others might regard as indicating that ~~you~~ they have already made up ~~your~~ their mind on the issue before hearing all the information and arguments presented at the ~~panel~~ ~~sub-committee~~ meeting. Members ~~You~~ can, if pressed, perhaps, indicate the sort of concerns or issues which ~~you~~ they think ~~will need to be considered~~ ~~you'll need to consider~~ when making any decision, but remember that if ~~you~~ a member cannot clearly demonstrate that at the meeting ~~you~~ they have an open mind and are balancing all the various issues and arguments, ~~you~~ they will run the risk of potentially invalidating the decision and making the Council subject to legal challenge. In addition, members should make sure that ~~you~~ they also say ~~you~~ they will not be making a decision until the meeting.
- If ~~you~~ a member cannot avoid expressing a clear opinion on the decision beforehand, ~~you~~ they should not sit on the ~~panel~~ ~~committee~~ concerned with determining the application.
- Remember that ~~your~~ a member's overriding duty in this role is to the whole community not just to the people in ~~your~~ their ward and, taking into account the need to make decisions impartially, ~~you~~ members should not improperly favour any person, company, group or locality or appear to do so. If local people put ~~you~~ a member under pressure, or if ~~you~~ they want to try to be as helpful as possible, ~~they should~~ try to explain the reasons why ~~you can't~~ they cannot 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~~ Panel is to decide individual applications which is a quasi-judicial function. The ~~Panel~~ ~~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 ~~Panel~~ ~~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 directly, 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 will 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 or panel making licensing decisions (whether as a full member or as a substitute) any ~~councillor~~ member must have undergone suitable training in both the procedural issues outlined in this protocol and in the basic principles of licensing law, so that they can understand the basis on which decisions need to be made and on which officers prepare reports.

~~New members who do not attend this training will not be able to take part in decision making~~

~~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.~~

This requirement will also apply to training ~~for returning committee members who will be~~ required to refresh and update their knowledge and understanding. Annual ~~update updating~~ training will ~~also~~ be provided ~~to these members~~. ~~You~~ Members will not be able to continue to take part in licensing decisions unless ~~you take they have taken~~ part in that training.