

Proposed Revisions to the Constitution (Reference from Corporate Governance and Audit Committee)

Meeting:	Annual Council
Date:	21st May 2025
Cabinet Member (if applicable)	Cllr Tyler Hawkins
Key Decision Eligible for Call In	No No
<p>Purpose of Report</p> <p>To seek the approval of the proposed changes to the council's constitution set out in paragraph 2 of this report and in more detail in the Appendices (the reports to CGAC). The reports are referred from the Council's CGAC, which has in the main recommended the proposed amendments.</p>	
<p>Recommendations</p> <p>That CGAC recommends that Council:-</p> <p>1) Notes the changes made to the Constitution in 2023-2024 listed in Appendix 1 of this report</p> <p>2) Approves the proposed changes to the Constitution set out in section 2 of the report considered by CGAC, which include</p> <ul style="list-style-type: none"> • Licensing and Safety Committee Terms of reference, amendments marked in red amendments – Appendix 2 • Corporate and Governance Terms of refence, amendments marked in red – Appendix - 3 • Council Procedure Rules, with the exception of rule 11.6, amendments marked in red – Appendix 4 • Monitoring Officer Protocol, additions marked in red – Appendix 5 • Officer Code of Conduct – Appendix 6 • Licensing and Safety Committee Protocols, amendments marked in red - Appendix 7 • Councillor-Officer Protocol – Appendix 8 <p>3) Votes on the proposed change to the Council Procedure Rule 11.6 on responses to written questions and approves one of the following options:</p> <p style="padding-left: 40px;">a) the publication of responses to written questions remains as per the current constitution requirements and are published before Council or;</p> <p style="padding-left: 40px;">b) the publication of responses to written questions before Council is removed</p>	

Reasons for Recommendations

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

Resource Implications:

None

Date signed off by Executive Director & name**Rachel Spencer-Henshall 7.5.25****Is it also signed off by the Service Director for Finance?****Kevin Mulvaney** not applicable**Is it also signed off by the Service Director for Legal Governance and Commissioning?****Samantha Lawton 7.5.25****Electoral wards affected: All****Ward councillors consulted: None****Public or private: Public****Has GDPR been considered? Yes****1. Executive Summary**

- 1.1 The Council's CGAC considered a number of reports and appendices at its meeting on the 7th March 2025. The report is linked to below, at paragraph 9 of this report.
- 1.2 The report set out a number of proposed changes to the council's constitution which are described in paragraph 2 of the CGA report and in the appendices to that report.
- 1.3 It also set out a number of issues to note including:
 - Changes made to the constitution by the monitoring officer using delegated powers during the 2024/25 municipal year
 - Other changes made during the year which do not require council consent
 - The ongoing work to keep the council's constitution under review
- 1.4 The CGAC recommended with some minor amendments all of the proposed changes to Annual Council with the exception of the proposed change to CPR 11.6. After some debate without consensus, it was proposed by CGAC that Council make the decision on whether or not to adopt the proposed changes relating to the publication of responses to written questions. The minor amendments requested by CGAC are noted in this report.

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 2 of this report.

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 3 of this report.

2.1.3 The revised terms of reference are recommended with the following amendments from CGA:

- Point 5 to add "to assess the progress made by the council in implementing the recommendations made by the External Auditor"
- Point 7.1 to add "systems for risk management"
- Point 9 to reword to include approval of the recommendation of payments
- Removal of point 12
- Point 14 to include making charity and charitable trust decisions required of the council other than whereas corporate trustees those decisions are those of the Cabinet.

Point 3 has also been altered to remove the words 'the portfolios of the Cabinet' as this is not the role of the committee using the Monitoring Officer delegation in consultation with the Chair of Audit & Committee.

2.2 Council Procedure Rules Part 4.1

2.2.1 A number of changes have been proposed to the CPRs.

2.2.2 Details of these are in table form in appendix 4 of this report, which also provides details of the reasons for the proposed changes.

2.2.3 As outlined earlier in this report, CGAC made no recommendation in respect of the proposed amendment to CPR 11.6.

2.2.4 The revised code is recommended with the following amendments:

- That at 5(6) the phrase "where practicable" be
- replaced by "in consultation with the Chief Executive"
- That at 14 (6) wording includes the word 'or'

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 5 of this report.

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 6 of this report.

2.4.4 The revised code is recommended with the following amendment:

- That gifts in appendix E be amended to less than £25

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 7 of this report.

2.6 **Councillor and Officer Protocol**

2.6.1 The revised protocol is recommended with the following amendments:

- That the *Distinct Roles of Councillors* be amended to advise that Councillors cannot amend Officer recommendations
- That *What Councillors can expect from Officers* be reworded to consider friendships/relationships between Councillors and Officers
- The reference to the Members Commission has also been removed

2.6.2 The amended version of the protocol is at Appendix 8 of this report.

3. **Implications for the Council**

3.1 **Council Plan**

The Council Constitution sets out the decision-making structures of the Council; how it conducts its business; who is responsible for making decisions; and how decisions are made that affect the residents of Kirklees and contribute to all Council priorities.

3.2 **Financial Implications**

N/A

3.3 **Legal Implications**

N/A

3.4 **Climate Change and Air Quality**

N/A

3.5 **Other (eg Risk, Integrated Impact Assessment or Human Resources)**

N/A

4. Consultation

A number of relevant officers have been consulted and the changes have been discussed at the Constitution Working Group with Councillors and Corporate, Governance and Audit committee.

5. Engagement

Members of the Constitution Working Group have been engaged.

6. Options

6.1 Options Considered

We are required to review the constitution. Any proposed amendments where there may be options are set out in the report.

6.2 Reasons for Recommended Option

As above

7. Next steps and timelines

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

8. Contact officer

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Commissioning
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9. Background Papers and History of Decisions

[\(Public Pack\)Agenda Document for Corporate Governance and Audit Committee, 07/03/2025 10:30](#)

10. Appendices

Appendix 1 – Changes to the Constitution since 2024 Annual Council

Appendix 2 – Licensing & Safety Committee Terms of Reference – track change copy

Appendix 3 – Corporate Governance and Audit Committee Terms of Reference – track change copy

Appendix 4 – Council Procedure Rules – track change copy

Appendix 5 – Monitoring Officer Protocol – track change copy

Appendix 6 – Officer Code of Conduct

Appendix 7 – Licensing & Safety Committee Protocols – track change copy

Appendix 8 - Councillor-Officer protocol

11. Service Director responsible

Samantha Lawton
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Appendix 1

Constitutional amendments

2024-2025 Changes made to the Constitution authorised by Council or by the Monitoring Officer under the delegation provided to her are set out in the table below.

Amendment	Authorisation	Date amended
PART 2 Articles of the Constitution		
Part 2	Agreed at Annual Council 22 May 2024	23 rd July 2024
PART 3 Responsibility for Functions		
Part 3.3 Section B	Monitoring Officer Delegation	23 rd July 2024
Part 3.4 Section C Responsibility for Executive Functions	Change to Portfolio Holders	17 th June 2024
Part 3.4 Section C Responsibility for Executive Functions	Change to Portfolio Holders	9 th July 2024
Part 3.4 Section C Responsibility for Executive Functions	Change to Portfolio Holders	22 nd July 2024
Part 3.9 Boards of Council Officers	Agreed at Annual Council 22 May 2024	23 rd July 2024
Part 3 Section F	Changing role titles to Executive Director	4 th November 2024
PART 4 Rules of Procedure		
Part 4.1 Council Procedure Rules	Monitoring Officer Delegation	2 nd December 2024
Part 4.1 Council Procedure Rules	Monitoring Officer Delegation	13 th January 2025
Part 4.5 Overview and Scrutiny Procedure Rules	Agreed at Annual Council 22 May 2024	23 rd July 2024

Part 4.6 Financial Procedure Rules	Agreed at Annual Council 22 May 2024	23 rd July 2024
Part 4.8 Officer Employment Procedure Rules	Agreed at Annual Council 22 May 2024	23 rd July 2024
PART 5 Codes and Protocols		
Part 5.2 Monitoring Officer Protocol	Agreed at Annual Council 22 May 2024	23 rd July 2024
Part 5.9 Councillors & Officers in Kirklees - A Protocol for Working Effectively	Agreed at Annual Council 22 May 2024	23 rd July 2024
PART 6 Members' Allowances Scheme		
Allowances updated	Monitoring Officer Delegation	18 th November 2024
Allowances updated	Monitoring Officer Delegation	9 th April 2025

Appendix 2

Licensing and Safety Committee Terms of Reference

Licensing and Safety Committee

Membership

145 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 3

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. **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 Commisioners 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~~ Reviewing 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 4

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>
10 (7)	<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:</p>	<p>Applies consistency in line with 11(3) in respect of both public and elected member questions.</p>

	<p>(a) Matters which in the opinion of the Chief Executive are likely to involve the disclosure of confidential or exempt information.</p> <p>(b) Information relating to complaints made under statutory provisions which have not been finally dealt with.</p> <p>(c) 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.</p> <p>(d) Information concerning the merit of applications or other matters for determination relating to planning, licensing and other administrative or regulatory matters.</p> <p>(e) Information of a personal nature or which is defamatory, offensive, frivolous, repetitive or vexatious.</p>	
11	<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>
11 (3)	<p>Questions Which Will Not Be Answered (Members of the Public)</p> <p>(3) 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 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 relating to planning, licensing and other administrative or regulatory matters.</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 procedure rule. Is consistent with changes to CPR 10(7)</p>

	<p>(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>To add the definition of 'confidential' as defined in Rule 11 of the Access to Procedure Rules.</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> <p>Added to ensure there is a clear definition of what is confidential.</p>
11 (6)	<p>Answers to Questions at Meetings of the Council (Delete CPR) A written answer will be provided to a written question and will be given to the</p>	<p>Changes to the question process at Full Council was introduced from May 2024. When originally introduced it</p>

	<p>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>	<p>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</p>
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>	<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</p>
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>	<p>Suggested amendment to place time limit for responses</p>
13	<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> <p>(i) Any matter expressly referred to Council by</p>	<p>Amendment to CPR 13 seeks to re-write the wording to provide clarity. The updated CPR does not change current arrangements</p>

	<p>Cabinet or a Committee for determination shall be dealt with first.</p> <p>(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> <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>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>	
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	<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>	
<p>14 (6)</p>	<p>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.</p>	<p>Widens scope in respect of relevance of Motions</p>
<p>14 (11)</p>	<p>- Any proposed amendment to a Motion which has been included in the summons for a meeting, shall be delivered to the Service Director – Legal, Governance and Commissioning no later than 10.00am on the day prior to the Council Meeting. Any amendments will be published at</p>	<p>Minor amend to reflect working practice</p>

	no later than 5pm the day before the meeting.	
14(12)	<p>Motions on Identical Subjects</p> <p>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>	<p>The additional wording is added to reflect the working practice where similar motions are submitted and no composite motion has been put forward.</p>
21 Delete 18(5) and insert	<p>Member Conduct</p> <p>Addressing the Mayor Member Speaking</p> <p>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 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,</p>	<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>

	<p>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. If there is a general disturbance which the Chair/Mayor decides makes orderly business impossible, the Chair/Mayor may adjourn the meeting for as long as they think necessary.</p>	
36(1)	<p>Observer Attendance by Councillors at Committees, Sub-Committees or Panels</p> <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>Amendment suggested to allow non committee/panel elected members to contribute to debate on individual agenda items. Time limit suggested to allow for the Chair to manage the debate and allow range of potential speakers.</p>

Appendix 5

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 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 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 vices 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
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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

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.

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 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 6

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 £25) which may be used in the workplace.

- Items of a token value (less than £25) 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 7

**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~~ ~~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.

Appendix 8

Councillors and Officers in Kirklees – A Protocol for Working Effectively

Introduction

1. The purpose of this protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships for the benefit of the community. This protocol seeks to provide greater clarity, understanding and best practice of the various relationships between Councillors and Officers of all levels of the 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.

For the most part it is a statement of current practice and convention. It is a source of advice and context in developing such relationships built on trust. 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 supplements and should be read alongside other codes, procedures and protocols agreed by the Council that regulate the conduct of Councillors and Officers such as the Councillors Code of Conduct, and Officer Codes of Conduct. The objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand high standards of personal conduct. The nature and complexity of the relationships means that the protocol cannot be exhaustive. If any Councillor or Officer is unclear about a particular aspect of this Protocol they should contact the Monitoring Officer.

This protocol applies whenever Councillors and Officers are undertaking the Council's business in public and private meetings. This protocol applies to voting non-elected members of committees.

2. Expectations

Councillors and Officers should expect each other to....

- ~~Comply with ethical standards and probity requirements~~

~~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~~
- ~~Comply with the Officers Code of Conduct~~

~~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~~
 - ~~Comply with the Members Code of Conduct~~

3. The Kirklees Context

4. COUNCILLOR AND OFFICER ROLES

- Officers and councillors carry out a wide variety of roles. Mutual trust and respect are essential in setting the right tone for effective working relationships between Councillors and Officers. ~~Leadership – councillors should promote and support these principles by leadership and example.~~

Both Officers and Councillors

- Be professional
- Adhere to respective Codes of Conduct and uphold ethics and values of the Council
- Are accountable for decisions and actions
- Maintain confidentiality as appropriate
- Act as an Ambassador for the Council
- Continually develop knowledge and skills – keep up to date on Council policy and performance
- Represent the Council on external bodies and provide feedback
 -
 - Be part of an effective working partnership
 - Contribute to safeguarding the reputation of the council

- 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 society relations and activities
- Understand and explain difficult decisions
- Provide advice, information and guidance

Quick Guide to the Distinct Roles

Councillors	Officers
Accountable to the electorate and act in the public interest	Accountable to the Council
Representative role for a Ward Community Leader understanding and representing the interests of the whole community	Serve the whole Council
Add a political dimension	Politically impartial
Set high level strategy and make high level decisions	Provide guidance on policy Undertake delegated decisions on behalf of Councillors Ensure operational delivery
Do not influence recommendations of reports but may at formal meetings, accept or reject recommendations	Produce reports and make recommendations
Are involved in senior appointments	Day to day staff management and appointment to more junior roles
Regulate certain activities	Implement decisions
Lobby on national/local policy issues	

Key Officer Roles

Statutory Posts. Certain Senior Officers hold posts with mandatory statutory responsibilities including the Chief Executive, the Monitoring Officer (Director of Legal, Governance and Commissioning), appointed under Section 5 of the Local Government and Housing Act 1989, the Chief Finance Officer (Director of Finance and Commercial Services) appointed under Section 151 Local Government Act 1972, the Director of Public Health appointed under Section 2 of the Local Government and Housing Act 1989 and the Executive Director for Children's and Families appointed under Section 18 of the Children Act 2004. Councillors must respect these responsibilities and accept that these Officers may be required to give advice or make decisions which Councillors may not agree with or support.

The Monitoring Officer role includes responsibility for reporting to the Council any case where s/he is of the opinion that a proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code and for investigating any such reportable incident including allegations of breach of Councillors standards of conduct.

The Chief Finance Officer (Section 151 Officer) role includes responsibility for the strategic arrangements for the administration of the Council's financial affairs, delivery by the whole authority of good financial management to safeguarding public money and ensuring it is used appropriately, effectively, efficiently and economically.

The Executive Directors are individually responsible for their portfolio of services and collectively responsible for management of staff their work and delivery of Council functions and priorities. The role of Deputy Chief Executive will be filled by one of the Executive Directors.

Service Directors manage the service for which they have responsibility, ensure that the statutory responsibilities are properly discharged on a day to day basis, account for the efficiency and effectiveness and professional practice of their service.

Officers and Councillors have day to day responsibilities for adhering to the rules of procedure and the financial regulations in the Constitution which are there to protect the whole Council. In addition, certain officers may have, by virtue of their qualifications and memberships of professional bodies, additional requirements placed upon them to comply with additional professional obligations. To further understand roles, Members and Officers refer to the Constitution and easy to read role profiles, job descriptions and induction materials. In reality, there are grey areas, where Councillors and Officers need to work together and for this reason, it is important to set out ways of working, expectations, relationships and communications.

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.

THE PROFESSIONAL RELATIONSHIP

A Guide to Expectations

In forging an effective working relationship, Councillors and Officers will have certain basic expectations of each other. Much of this is about ensuring high standards of behaviour and acting within a clear framework of ethical governance.

Courtesy

It is important that Councillors and Officers are courteous to each other at all times, even if they disagree strongly with each other's views. Contact between Councillors and Officers should always be courteous both in public and in private.

Bullying

Councillors and Officers must not bully any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once, or be part of a pattern of behaviour. Councillors may from time to time become frustrated by what they regard as unacceptable or incompetent Officer behaviour. It is self-evident that sometimes these feelings may be entirely justified although sometimes there may be a legitimate reason why Councillor expectations cannot be met – for example, due to Council Policy or a legal requirement. In these circumstances, Councillors are to take up their concerns through the Service or Executive Directors as set out in the dispute procedure described in this document, rather than through public criticism.

Councillor and Officer Development

Councillors and Officers should participate in the Council's development and training programme which is core to their role.

Councillors should participate in Councillor inductions and all learning identified as mandatory from time to time including any committees such as Planning, licensing or the Appeals committee.

What Councillors can expect from Officers

Officers Do	Officers Don't
Pursue lawful policies and comply with the Officers Code of Conduct	Deviate from the Constitution, legal or contractual obligations

Promote inclusion, serve all Councillors equally with dignity, respect and courtesy, regardless of political group or position	
Comply with legal duty to provide professional advice, impartiality and implement Council policy	Allow their personal or political opinions to interfere with their work or professional judgement and advice
Avoid close personal familiarity with Councillors Disclose any personal relationships which might be seen as unduly influencing their work in their role where a personal relationship does exist Follow any Council guidance on personal relationships	
Follow Council procedures when answering or dealing with Councillor enquiries effectively efficiently Respond in a timely manner and keep Councillors updated	
Act with integrity and appropriate [not absolute] levels of confidentiality	<ul style="list-style-type: none"> • Seek to improperly influence Councillors; • Improperly disclose information received from one Councillor to another; or • Raise their personal circumstances or those of another directly with Councillors.
Be prepared to justify and give reasons for decisions made under delegated powers;	
Report the least suspicion of fraud, corruption or impropriety	Conceal any information which it is proper for them to disclose (particularly where they have a duty to reveal it);
Be respectful of the different roles of Councillor and the political process	

Be sensitive to the politics and pressures that Councillors face

What Officers can expect from Councillors

Councillors Do	Councillors Don't
Comply with the Councillor Code of Conduct – ensuring the highest standards of behaviour	
<p>Promote equality and treat all Officers with dignity and respect.</p> <p>Councillors must comply with the equality laws prohibiting discrimination, harassment and victimisation</p> <p>Chairs of meetings are expected to apply the rules of debate/procedures to prevent abusive or disorderly conduct</p>	<p>Subject individuals to unreasonable or personal attacks</p> <p>Undermine respect for Officers in public meetings, the media or at any other time when dealing with Council business;</p>
<p>Only ask Officers to provide professional advice on matters that clearly arise from being an elected Councillor;</p> <p>Respect impartiality and integrity of Officers and do not compromise it</p>	<p>Ask Council Officers to improperly spend Council time or resources for political purposes.</p> <p>Insist an Officer changes his/her professional advice</p>
Provide political leadership and direction, making timely decisions	<p>Get involved in day to day management</p> <p>Ask Officers to breach Council procedures or policy when acting on behalf of constituents</p> <p>Put pressure on an Officer on matters which have been delegated for Officer</p>

	<p>decision. A Councillor who behaves in this way may lead Officers to make decisions that are not objective and that cannot be accounted for</p> <p>Seek special or adverse treatment for themselves or any individual by using his/her position as a Councillor, nor improperly seek to gain an advantage or disadvantage for his/herself or any other person when dealing with Council Officers</p>
Apply appropriate levels of confidentiality to information	
Report the least suspicion of fraud, corruption or impropriety	Instruct Officers to take actions which are unlawful, financially improper or likely to amount to maladministration. Councillors have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.
<p>Where relevant to casework or a decision, declare any special relationships/other interests with constituents to relevant Officers and/or constituents.</p> <p>Where the relationship causes a conflict of interests, Councillors will ask another Ward Councillor to assist.</p>	

5. Cabinet and Officers - Decision Making

- 6.1 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.
- 6.2 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.

- 6.3 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.
- 6.4 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.
- 6.5 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, 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.

6. Overview and Scrutiny Councillors and Officers

- 7.1 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.
- 7.2 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.
- 7.3 In giving evidence to the Committee or its Panels officers must not be asked to express political views.
- 7.4 Officers should respect scrutiny members in the way they respond to their questions.
- 7.5 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.
- 7.6 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.

7.7 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.

7. Party Political Groups and Officers

8.1 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.

8.2 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.

8.3 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.

8.4 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.

8.5 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.

8.6 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.

8. Ward Councillors and Officers

9.1 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.

- 9.2 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
- 9.3 Issues may affect a single ward. Where they have a wider impact, a number of local councillors will need to be kept informed.
- 9.4 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.
- 9.5 In your capacity as an Officer you must not attend ward or constituency political party meetings.
- 9.6 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 to 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.

Committees

Committee/panel decisions cannot by law be made by the Chair alone but are made by the committee collectively. The Chair should not seek to influence Officers to reduce the options or withhold information which they should properly report to a committee.

The Senior Officers will offer to arrange regular informal meetings with Chairs as necessary.

Senior Officers (including the Monitoring Officer and the Chief Finance Officer) have the right to attend meetings and to present reports and give advice to committees.

Members of a committee/panel shall take decisions within the remit of that committee and will not otherwise instruct Officers to act.

Chairs and Members of the relevant committee/panel should accept briefings from the Officers to inform decision making for complex or technical cases/items or where there is new national legislation or guidance.

At some committee/panel meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair (or other Members). In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it. A Chair has no legal power to take decisions on behalf of a committee, neither should they seek inappropriately to influence the Officer. Whilst the Officer is required to consult the Chair, and the Chair may express a view, it is the Officer who takes the final decision.

A Chair (or cabinet Member) are able to take a decision if it has been specifically delegated to them by the Committee/Panel (usually in consultation)

9. Councillors' Access to Documents and Information

(To be read in conjunction with the Access to Information Procedure Rules in the Council's Constitution).

- 10.1 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.
- 10.2 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.
- 10.3 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
- 10.4 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.
- 10.5 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.

10.6 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.

10.7 A councillor should obtain advice from the Monitoring Officer in circumstances where they wish 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.

10.8 Information given to a councillor must only be used by the Councillor for the purpose for which it was provided i.e. in connection with the proper performance of a Councillor’s official duties.

10. Communication and Social Contact Between Officers and Councillors

11.1 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.

11.2 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.

11.3 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’ bypass 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.

11.4 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.

11. Councillors and Council Resources

(To be read in conjunction with the Code of Conduct, Members' Allowances Scheme, Pre-election Guidance and the Support for Councillors document produced by Governance).

12.1 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.

12.2 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.

12.3 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.

12. Complaints and Breaches of the Protocol

13.1

13.2 Officers concerns about Councillors

Councillor behaviour needs to be respectful. Bullying or harassment of officers is entirely unacceptable

If an individual officer has a complaint about a Councillor, it should be raised by the officer with their line manager or with the appropriate or Service Director to have an informal discussion.

If the conduct continues or is disputed, an officer may refer the complaint to the Monitoring Officer if there is evidence of a breach of the Code of Conduct.

If informal procedures do not reach a satisfactory conclusion where an Officer feels a Councillor has breached the Councillor Code of Conduct, in particularly serious cases and with the advice of the Monitoring Officer referral of the matter through the Standards Process, may be appropriate.

13.3 Councillor concerns about Officers

Officer behaviour towards Councillors needs to be equally respectful.

If a Councillor has a complaint about an officer or officers, this should be raised with the appropriate Service Director for response.

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

13.4 Councillor Concerns about Senior Officers

If the complaint concerns a Statutory Officer or an Executive Director the complaint may be referred to the Deputy Chief Executive and/or Chief Executive who will consider how the issue should be dealt with.

Where a complaint 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.

Nothing in this protocol prevents 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.

A breach of this protocol by an officer may lead to an investigation under the Council's Disciplinary Policy and Procedure.