

## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

## **PART 2**

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# **ARTICLE 1 – THE CONSTITUTION**

## **1.1 Powers of the Council**

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

## **1.2 The Constitution**

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

## **1.3 Purpose of the Constitution**

The purpose of the constitution is to:

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

## **1.4 Review of the Constitution**

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

# **ARTICLE 2 - MEMBERS OF THE COUNCIL**

## **2.1 Composition and Eligibility**

### **(a) Composition**

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

### **(b) Eligibility**

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

## **2.2 Election and Terms of Councillors**

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

## **2.3 Roles and functions of all Councillors**

### **(a) Key Roles**

The key roles of councillors are set out below:-

#### *Leadership at Ward Level*

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

- about decisions that affect them
- about opportunities in the community
- regarding the rights of constituents within Kirklees
- as to why decisions are taken

### *Localism*

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

### *Representation*

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

### *Other*

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

### **(b) Rights and Duties**

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

## **2.4 Conduct**

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

## **2.5 Allowances**

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

# ARTICLE 3 - CITIZENS AND THE COUNCIL

## 3.1 Citizens' Rights

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

### a. Voting and Petitions

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

### b. Information

Citizens have the right to:

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

### c. Participation

Citizens have the right to:

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

- Ask questions at committee meetings or public meetings of the Cabinet or contribute to such meetings at the discretion of the Chair;
- Contribute to investigations by the Overview and Scrutiny Management Committee or panels.

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

#### d. **Complaints**

Citizens have the right to complain to:

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

Complaints may also be raised with individual councillors.

#### e. **Treatment**

Citizens have the right to:

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

### **3.2 Citizens' Responsibilities**

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

# ARTICLE 4 - THE FULL COUNCIL

## 4.1 Meanings

- a. **Policy Framework** – The policy framework means the following plans and strategies:
- Children and Young People’s Plan
  - Community Safety Partnership Plan
  - Sustainable Community Strategy
  - West Yorkshire Local Transport Plan 3
  - Plans and strategies which together comprise the Development Plan
  - Youth Justice Plan 2011/12
  - The Council’s Corporate Plan
  - Equality and Diversity Strategy Statement of Licensing Policy under the Licensing Act 2003
  - Three year Licensing Policy under the Gambling Act 2005
  - Customer Service Strategy
  - Municipal Waste Management Strategy
  - Joint Health and Wellbeing Strategy
  - Commissioning Plans for Adult Social Care
  - Community Cohesion Strategy
  - Housing Policy (to include Commissioning Housing/ wider Strategy)
  - Early Learning and Childcare 2011-2014
  - Economic Strategy
  - Climate Change and Fuel Poverty
- b. **Budget** – The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council’s borrowing requirement. It also includes the council’s capital plan, the control of its capital expenditure and investments, and the setting of virement limits.
- c. **Housing Land Transfer** – Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 50 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## 4.2 Functions of the Council

Only the Council will exercise the following functions:-

- a. Adopting and changing those parts of the constitution that relate to non-executive functions.

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

### **4.3 Council Meetings**

There are three types of Council meeting:

- The Annual meeting
- Ordinary meetings
- Extraordinary (additional) meetings

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

# **ARTICLE 5 - ROLE OF THE MAYOR**

## **5.1 Role and Function**

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

## **5.2 Chairing the Council meeting**

The Mayor will have the following responsibilities:-

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

## **5.3 First Citizen**

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

## **5.4 Promotion of the Council**

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

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

## **5.5 Ceremonial Role**

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

## **5.6 Urgent Decisions**

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

# ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION

## 6.1 Overview and Scrutiny Management Committee

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

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

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

### *Membership*

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

### *Panels and Sub-Committees*

6.1.3 The Overview and Scrutiny Management Committee will appoint a number of permanent and short term panels to carry out the overview and scrutiny function. All scrutiny panels will constitute formal subcommittees of the Overview and Scrutiny Management Committee. The Management Committee appoint single issue Ad Hoc Scrutiny Panels to carry out in depth scrutiny work and appoint members and co-optees to those panels. It will also appoint members to joint health scrutiny panels with neighbouring authorities, where required, to carry out scrutiny of cross boundary health issues.

## 6.2 Standing Scrutiny Panels

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

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

Panel	Scope
Economy and Neighbourhoods Scrutiny Panel	All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the Economy, Infrastructure, Regeneration and Culture and activities relating to partnerships and partner bodies within the portfolio
Health and Adult Social Care	As above in relation to service provision for adults including Public Health and activities relating to Health partner bodies. The Panel's role includes the specific responsibilities of the Council for scrutiny of health matters (see also 6.2.2 below)
Children's Scrutiny Panel	As above in relation to service provision for children and all matters considered by partnerships and partner bodies within the portfolio
Corporate Scrutiny Panel	As above in relation to any matters relevant to the issues of corporate services, including Finance and other support services and activities in respect of any partner bodies within the portfolio.

### **Health and Adult Social Care Scrutiny Panel**

6.2.2 The Health and Adult Social Care Scrutiny Panel will discharge

the specific statutory responsibilities of the council for scrutiny of health matters which are:

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

#### *Membership*

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

#### *Exceptions:*

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

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

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

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

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

### **6.3 Ad-hoc Scrutiny Panels and Joint Health Panels**

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

#### *Membership*

6.3.2 The Overview and Scrutiny Management Committee will appoint the membership of each panel (both elected members and co-opted members). Any councillor,

except a member of the Cabinet, may be a member. The number of members will be proportionate to the nature and requirements of the task, though no panel shall consist of less than two elected members and the number of co-opted members shall not exceed the number of elected members. Any panel dealing with education matters must also include the church and parent governor statutory representatives

#### *Joint Health Committees*

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

#### *Councillor Call for Action Scrutiny Panels*

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

## **6.4 Political Balance**

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

## **6.5 General Role of the Scrutiny Function**

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

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

- q) Make recommendations to Cabinet / Cabinet Committee and / or Council on issues arising from the overview and scrutiny of executive decisions, recommendations and performance, including for example recommendations that an area of Council policy should be reviewed.
- r) Identify issues for attention within the terms of reference of overview and scrutiny.

## **ARTICLE 7 - THE EXECUTIVE**

### **7.1 Title, Role and Transitional Provisions**

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

### **7.2 Leader and Deputy Leader**

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

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

### **7.3 Form and Composition of Cabinet**

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

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

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

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

### **7.4 Other Cabinet Members**

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

### **7.5 Terms of Office and Removal from Office**

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

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

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

office shall take effect upon the authority's Chief Executive receiving written notice of the removal from office, such notice to be given by the Leader or Deputy Leader as the case may be;

7.5.6.2 They resign as members of the Cabinet; or

7.5.6.3 They cease to be members of the authority.

## **7.6 Removal from Office of the Leader**

7.6.1 The Leader may be removed from office by resolution of the authority.

7.6.2 No such resolution may be considered by the authority unless a notice of motion has been submitted in writing and delivered to the Service Director – Legal, Governance and Commissioning by 10.00 am on the tenth day before the date of the council meeting at which the motion is to be considered. The notice of motion must be signed by not less than one third of the members of the authority.

7.6.3 Where the Leader is removed from office in accordance with article 7.6.1 the authority shall elect a new Leader at the meeting which the Leader is removed from office or at a subsequent meeting. During any period during which the office of Leader is vacant the Deputy Leader will act as Leader.

## **7.7 Proceedings of the Executive**

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

## **7.8 Responsibility for Functions**

7.8.1 The Leader will ensure that a list is maintained in Part 3 of this Constitution setting out which executive functions the Leader has allocated to himself / herself and which executive functions they have delegated to the Cabinet, specified individual members of the Cabinet, specified committees of the Cabinet or specified officers of the authority.

7.8.2 The Leader shall provide a copy of that list to the authority's Chief Executive and Service Director – Legal, Governance and Commissioning within five working days of being appointed as Leader and shall notify the Chief Executive and Service Director – Legal, Governance and Commissioning Support in writing of any amendments to that list. Following the appointment of a new Leader, all executive functions will vest in the Leader until the day upon which the Chief Executive gives written acknowledgment of receipt of such a list and any amendments to the list will not take effect until the day upon which the Chief Executive gives written acknowledgment of receipt of such notice of amendment.

7.8.3 Unless the Leader otherwise directs:

7.8.3.1 The Cabinet may arrange for the discharge of any of the executive functions delegated to it by the Leader to be exercised by a committee of the Cabinet or by an officer of the authority.

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

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

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

## **7.9 Executive arrangements in the event of no leader being elected**

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

## **ARTICLE 8 – REGULATORY AND OTHER COMMITTEES**

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

# **ARTICLE 9 – THE STANDARDS COMMITTEE**

## **9.1 Standards Committee**

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

## **9.2 Membership**

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

## **9.3 Role and Function**

The Standards Committee has the following roles and functions:

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

## **9.4 Sub-Committees**

The Council has established one sub-committee as follows:

### **Standards Sub-Committee**

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

Role and functions

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

## **9.5 Responsibilities of the Monitoring Officer**

The Council has delegated authority to the Monitoring Officer to:

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

# **ARTICLE 10 – THIS PAGE IS BLANK**

# ARTICLE 11 – JOINT ARRANGEMENTS

## 11.1 General Power of Competence

The council or the Cabinet, may subject to restrictions and limitations, exercise its general power of competence<sup>1</sup> to make joint arrangements

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

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

## 11.2 Joint Arrangements<sup>2</sup>

- a. The council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions, or to advise the council on such functions. Such arrangements may involve the appointment of a joint committee with those other local authorities.
- b. The council may also establish such arrangements in respect of a mixture of executive and non-executive functions, but will require the agreement of the Cabinet before doing so. Where the council appoints more than one member to such a joint committee, at least one of those members must be a member of the Cabinet.
- c. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions<sup>3</sup>. Such arrangements may involve the appointment of joint committees with those other local authorities.
- d. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- e. The Cabinet may appoint members to a joint committee from outside the Cabinet where:-
  - (i) The joint committee relates to five or more local authorities;

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<sup>1</sup> In accordance with Section 1 Localism Act 2011

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

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

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

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

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

### **11.3 Access to Information**

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

### **11.4 Delegation to and from other local authorities**

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

### **11.5 Contracting out**

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

## **11.6 General**

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

# ARTICLE 12 – OFFICERS

## 12.1 Management Structure

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

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive	<p>Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all officers)</p> <p>Provision of professional advice to all parties in the decision making process</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the council's decisions</p> <p>Developing and pursuing shared priorities with local, regional and national parties</p> <p>Member/Officer relations</p> <p>The Chief Executive is also the Returning Officer for local elections and the council's Electoral Registration Officer</p> <p>Kirklees Local Strategic Partnership (together with the relevant Service Directors engaged in partnership working)</p>
Strategic Director for Children and Families	<p>The post holder is the council's statutory Director of Children's Services carrying all the responsibilities which that role entails.</p>

Providing strategic and collaborative leadership for Children services

Ensuring that local policy and strategy effectively reflects both statutory and regulatory requirements and the needs of the Kirklees Community as expressed in commissioning intentions

Converting policy direction and statutory plans into strategy and action

Working closely with portfolio holders, to determine and commission the delivery of core values for the council as a whole and in particular children and families

Jointly championing outcomes for young people inside and outside Kirklees Council

Effective corporate management and transformation of the council

Establishing clear budgetary and performance accountability for commissioning intentions

Safeguarding of children including effectiveness of Safeguarding Boards

Management and commissioning of services for children

Partnerships for children

Youth Offending Team

Schools, children's centres and lifelong learning

Implementation and management of strategies for children

Strategic Director for the Economy and Infrastructure

Providing strategic and collaborative leadership in services with particular regard to the Economy, Place and Infrastructure

Providing expertise and influence to regional and sub-regional bodies as they develop the Leeds city region and LEP

Converting policy direction and statutory plans into strategy and action

Working closely with portfolio holders, to determine and commission the delivery of core values for the council as a whole and with particular regard to Economy, Place and Infrastructure

Effective corporate management and transformation of the council

Establishing clear budgetary and performance accountability for commissioning intentions

Asset Management and Corporate Landlord

Facilities Management

Schools Catering and Cleaning

Housing

Health and Safety

Highways and Streetscene

Bereavement Services

Building Services

Public Protection

Capital project review group

Coordinated sustainable investment strategies

Regeneration and skills strategies

Local development framework and land use planning

Town centre management

Rural strategies

Service delivery partnerships

Transport Strategy

Economic Strategy

#### Strategic Director – Adults and Health

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The post holder is the Council's statutory Director of Social Services for Adults and all the responsibilities which that role entails

The post holder is not the Council's statutory officer for the Director of Public Health and all the duties that role entails

Providing strategic and collaborative leadership for Adults and Health services

Strategic partnerships with key stakeholders

Converting national policy on health and care into clear direction and statutory plans into strategy and action

Working closely with portfolio holders, to determine and commission the delivery of core values for the council as a whole and in particular regard to Adults

Jointly championing outcomes for vulnerable adults

Effective corporate management and transformation of the council

Establishing clear budgetary and performance accountability for commissioning intentions

Safeguarding including effectiveness of safeguarding boards

Management and commissioning of services for children and adults

Partnerships for adults

Health Partnerships and effectiveness of the Health and Wellbeing Board

Implementation and management of strategies for adults

The local authority's duties to take steps to improve public health

c. **Statutory officers**

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

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

d. **Proper Officers.** The Council has appointed the Proper Officers listed in the Schedule to this Article.

e. **Structure.** The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## 12.2 Functions of the head of paid service

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

### 12.3 Functions of the monitoring officer

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

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

## 12.4 Functions of the chief finance officer

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

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

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

## **12.6 Conduct**

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

## **12.7 Employment**

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

## SCHEDULE OF PROPER OFFICER APPOINTMENTS

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

### LOCAL GOVERNMENT ACT 1972

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 83	To witness and receive declarations of acceptance of office by the:  Mayor  Deputy Mayor  Councillors	Chief Executive (Deputy – Strategic Director)  Service Director – Legal, Governance and Commissioning Service Director – Legal, Governance and Commissioning
Section 84	To accept written notice of resignations from persons holding office as Mayor, Deputy Mayor or Councillor	Chief Executive (Deputy – Service Director – Legal, Governance and Commissioning)
Section 88(2)	Convening meeting of the Council to fill casual vacancy in office of Mayor	Service Director – Legal, Governance and Commissioning
Section 89 (1)(b)	To accept written notice from two local government electors requiring election to fill casual vacancy on Council	Chief Executive
Section 100B(2)	Exclusion from public inspection of reports (or parts of reports) likely to be taken in absence of public	Service Director – Legal, Governance and Commissioning

Section 100B(7)(c)	Making available to the Press other documents already supplied to Members	Service Director – Legal, Governance and Commissioning
Section 100C(2)	Making of written summary in lieu of confidential minutes	Service Director – Legal, Governance and Commissioning
Section 100D(1)(a)	Compilation of list of background papers to a report	Strategic Director responsible for the Service from which the report originated (in the case of a joint report the first-named Director; in the case of a report issued on behalf of all Directors - the Chief Executive)
Section 100D(5)	Identification of the background papers on which a report is based which have been relied on in preparing the report	Strategic Director responsible for the Service from which the report originated (in the case of a joint report the first-named Director; in the case of a report issued on behalf of all Directors - the Chief Executive)
Section 100F(2)	Identification of documents not open to inspection by Members under Section 100F(1)	Service Director – Legal, Governance and Commissioning
Section 115(2)	Person to whom all officers (and former officers) shall pay monies received by them and due to the local authority	Service Director – Finance, Information and Transactional Services
Section 146(1)(a)	Statutory declarations in relation to securities on change of name of authority	Service Director – Finance, Information and Transactional Services (Deputy )
Section 151	Officer designated as being responsible for the administration of the	Service Director – Finance, Information and

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

	<p>Any document relating to housing including notices pursuant to relevant statutory provisions</p> <p>Any document relating to environmental or public health including notices pursuant to relevant statutory provisions</p> <p>Any document relating to a matter which is, or is likely to be, legally contentious or any statutory notice (including enforcement or stop notices) where specific provision is not made elsewhere in the delegation scheme</p> <p>Any document of a category not specifically referred to above</p>	<p>Service Director – Economy, Regeneration and Culture (Deputy – Head of Housing Services)</p> <p>Head of Public Protection</p> <p>Service Director – Legal, Governance and Commissioning</p> <p>The Strategic Director responsible for the Service in question, or in default, the Service Director – Legal, Governance and Commissioning</p>
Section 236(9)	Duty to send copies of all byelaws made by the Council to parish and community councils to which they apply	Service Director – Legal, Governance and Commissioning
Section 238	Certifying printed copies of byelaws	Service Director – Legal, Governance and Commissioning
Section 248 – Local Government Act 1972	Duty to keep a Roll of the Freeman of the Borough	Chief Executive
Schedule 12 para 4(2)(b)	<p>Issue of service of summons to all meetings of Council except for Full Council and Annual Council</p> <p>Issue of service of summons to meetings of</p>	<p>Service Director – Legal, Governance and Commissioning</p> <p>Chief Executive</p>

	Full Council and Annual Council	
Schedule 12 para 4(3)	Receipt of formal notification from councillors of alternative address for the service of summonses to attend meetings of Council	Service Director – Legal, Governance and Commissioning
Schedule 14 para 25(7)	Certification of copy resolutions under para 25 of Schedule 14 of the Local Government Act 1972	Service Director – Legal, Governance and Commissioning

### **REPRESENTATION OF THE PEOPLE ACT 1983**

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

### **BUILDING ACT 1984**

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

### **LOCAL GOVERNMENT FINANCE ACT 1988**

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

### **LOCAL GOVERNMENT AND HOUSING ACT 1989**

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

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

Section 41	Certifying copy resolutions, orders, reports and minutes and copy instruments appointing officers to perform certain functions	Service Director – Legal, Governance and Commissioning
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### **HOUSING ACT 2004**

Section 4	Receive complaints about the condition of residential premises and to carry out inspections of the premises or area	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)
Section 239(2) and (3)	To enter premises for the purpose of carrying out a survey or examination	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)

Section 249	To certify copies of designations under Sections 56 and 80 which purport to be made by the local housing authority	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)
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## HIGHWAYS ACT 1980

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

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

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

	provided by a political adviser or assistant	
Regulation 20(2)(a)	Determining whether documents to be disclosed or made available for public inspection contain confidential information	Service Director – Legal, Governance and Commissioning
Regulation 20(2)(b)	Determining whether documents to be disclosed or made available for public inspection are likely to contain exempt information or the advice of a political adviser or assistant	Service Director – Legal, Governance and Commissioning

### **LOCALISM ACT 2011**

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

### **PUBLIC HEALTH ACT 1925**

Section 8	Receipt of notice in writing of appeal and grounds of appeal to petty sessional court against a notice, direction, requirement, order or intended order	Service Director – Legal, Governance and Commissioning
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### **PUBLIC HEALTH ACT 1936**

Section 79	Service of notice on owner or occupier of premises requiring removal of noxious matter	Head of Public Protection
Section 84	Certification in relation to the cleansing or destruction of filthy or verminous articles	Head of Public Protection

Section 85	Providing reports that persons and/or their clothing are verminous	Head of Public Protection
Section 284	Authentication of documents	Service Director – Legal, Governance and Commissioning
Section 285	Accepting service on behalf of the local authority of notices, orders, consents, demands or other documents	Head of Public Protection

### **PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984**

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

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

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

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

Regulation 4(1)	Publication of verification number of local	Chief Executive
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	government electors for determining validity of petitions	
Regulation 4(5)	Power to require Electoral Registration Officer to provide information relevant to the verification number	Electoral Services Manager
Regulation 7(2)	Notifying post-announcement petition organiser of information	Chief Executive
Regulation 8(2)	Decisions to amalgamate petitions	Chief Executive
Regulation 8(3)	Decisions that petitions shall not be amalgamated	Chief Executive
Regulation 11	Responsibility for procedural requirements on receipt of petitions	Chief Executive
Regulation 13	Notifying petition organiser of validity of petition and that referendum will be held	Chief Executive
Regulation 14	Notifying petition organiser that petition is invalid and reasons	Chief Executive

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

Regulation 4(1)	Responsibility for publishing information and notices relating to the holding of a referendum	Chief Executive
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**TOWN AND COUNTRY PLANNING ACT 1990  
PLANNING AND COMPULSORY PURCHASE ACT 2004  
NEIGHBOURHOOD PLANNING (REFERENDUMS) REGULATIONS 2012**

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

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

Rule 50	Officer to be notified by Returning Officer of declaration of result	Head of Democracy
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**TRANSPORT ACT 2000  
BUS LANE CONTRAVENTIONS (PENALTY CHARGES, ADJUDICATION AND  
ENFORCEMENT) (ENGLAND) REGULATIONS 2005**

Regulation 11(1)(c)	Proper Officer for the purposes of the 2005 Regulations	Head of Strategy and Design – Investment and Regeneration
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**FREEDOM OF INFORMATION ACT 2000**

Section 36	Application of Exemption from disclosure	Service Director – Legal, Governance and Commissioning
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**LOCAL GOVERNMENT AND HOUSING ACT 1989  
LOCAL GOVERNMENT ACT 1992  
LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001**

Schedule 1 Part II	Notifications to the Executive concerning appointments and dismissals	Head of People Services – Support Services
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**REGULATION OF INVESTIGATORY POWERS ACT 2000**

Sections 27, 28 and 29	Senior Responsible Officer for the purposes of RIPA  (Officers empowered to authorise surveillance are specified in the Council's RIPA Policy)	Service Director – Legal, Governance and Commissioning
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**ANTI – SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2003**

Chapter 3 s.76, 77 & 78	Closure Orders	Service Director – Legal, Governance and Commissioning
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Approved by Annual Council on 22 May 2013

# ARTICLE 13 – DECISION MAKING

## 13.1 Responsibility for decision making

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

## 13.2 Principles of decision making

The following principles apply to decision-making:-

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

## 13.3 Types of decision

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

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

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

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

### **13.4 Decision making by the full Council**

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

### **13.5 Decision making by the Executive**

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

### **13.6 Decision making by officers**

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

### **13.7 Decision making by the Overview and Scrutiny Committees and scrutiny panels and commissions**

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

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

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

## **13.9 Decision making by Council bodies acting as tribunals**

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

### **13.10 Decision making by boards of council officers**

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

### **13.11 Access to Information**

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

# **ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

## **14.1 Financial management**

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

## **14.2 Contracts**

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

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

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

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

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

## **14.4 Authentication of documents for Legal Proceedings**

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

## **14.5 Common Seal of the council**

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

- the Service Director – Legal, Governance and Commissioning or

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

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

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

# **ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION**

## **15.1 Duty to monitor and review the Constitution**

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

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

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

## **15.2 Changes to the constitution**

### **a. Approval.**

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

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

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

# **ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

## **16.1 Suspension of the constitution**

### **a. Limit to suspension**

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

### **b. Procedure to suspend**

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

## **16.2 Interpretation**

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

## **16.3 Publication**

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

# ARTICLE 17 – HEALTH

## 17.1 General Duties

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

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

## 17.2 Health and Wellbeing Board

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

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

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

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

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

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

## 17.3 Director of Public Health

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

## 17.4 Health Scrutiny Functions

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