



GENERAL PURPOSES COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Wednesday, 9th May, 2012 at 10.00 am

MEMBERSHIP

Councillors

A Blackburn - Farnley and Wortley;
J Blake - Middleton Park;
R Finnigan - Morley North;
S Golton - Rothwell;
P Gruen - Cross Gates and Whinmoor;
J Lewis - Kippax and Methley;
M Lobley - Roundhay;
A Lowe - Armley;
J Matthews - Headingley;
E Nash - City and Hunslet;
J Procter - Wetherby;
M Rafique - Chapel Allerton;
K Wakefield (Chair) - Kippax and Methley;

Agenda compiled by:
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A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an appeal the press and public will be excluded).</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF INTERESTS</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p>MINUTES OF THE PREVIOUS MEETING</p> <p>To confirm as a correct record the minutes of the meeting held on 19th March 2012.</p>	1 - 4
7			<p>ELECTION AND TERM OF OFFICE OF THE LEADER</p> <p>To receive a report of the City Solicitor informing the Committee about an amendment to the Local Government Act 2000, relating to the election and term of office of the Leader.</p>	5 - 10
8			<p>NEW STANDARDS ARRANGEMENTS UNDER THE LOCALISM ACT 2011</p> <p>To receive a report of the City Solicitor presenting proposals in relation to new conduct arrangements for Members under the Localism Act 2011.</p>	11 - 34

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p>REVIEW OF THE DECISION MAKING FRAMEWORK</p> <p>To receive a report for the Director of Resources and the City Solicitor presenting proposed amendments to the Council's Executive decision making framework.</p>	35 - 64
10			<p>CONSTITUTIONAL AMENDMENTS - SCRUTINY ARRANGEMENTS</p> <p>To receive a report of the Director of Resources proposing amendments to the authority's scrutiny arrangements, following an annual review by the Scrutiny Officer.</p>	65 - 102
11			<p>CONSTITUTIONAL AMENDMENTS - MISCELLANEOUS</p> <p>To receive a report of the City Solicitor asking the Committee to recommend amendments to the constitution to full Council, following the annual review of the constitution.</p>	103 - 108

Agenda Item 6

GENERAL PURPOSES COMMITTEE

MONDAY, 19TH MARCH, 2012

PRESENT: Councillor J Blake in the Chair

Councillors A Blackburn, J Blake, S Golton,
P Gruen, G Latty, J Lewis, J Matthews,
E Nash, J Procter and M Rafique, R Lewis
(as substitute for A Lowe) L Yeadon (as
substitute for K Wakefield) and T Leadley
(as substitute for R Finnigan)

Apologies Councillor R Finnigan, M Lobley, K
Wakefield, A Lowe, S Golton

90 Appeals against refusal of inspection of documents

There were no appeals against the refusal of inspection of documents.

91 Exempt Information - possible exclusion of the press and public

There were no resolutions to exclude the public.

92 Late items

A late item was submitted to the agenda for consideration minute 96 refers.

93 Declaration of Interests

There were no declarations made at this point or any other point during the meeting.

94 Apologies for absence

Apologies for absence were received from Councillors Lowe, Lobley, Wakefield, Finnigan and Golton.

95 Minutes of the Previous Meeting

RESOLVED – That the minutes of the General Purposes Committee meeting held on 16th February 2012 be approved as a correct record.

96 Late Item - Amendments to the constitution in relation to governance arrangements and the proposed circulation of factual information relating to referendum

The Head of Governance Services introduced a report of the Chief Executive and the City Solicitor. The report asked the Committee to consider the City

Draft minutes to be approved at the meeting
to be held on Wednesday, 9th May, 2012

Solicitor's proposed amendments to Sections 2A (full council functions) and 2C (officer delegation scheme) of Part 3 of the constitution, to reflect legislative changes. The report also asked Members to consider a leaflet being considered for circulation by the Chief Executive (under the proposed delegations outlined in the report) to the electorate in respect of the Mayoral Referendum.

The Head of Licensing and Registration and the Chief Executive were in attendance to answer Members' questions and concerns

In relation to the proposed delegation Members expressed concern at the broad scope of the proposed delegations and were of the view that decisions taken by the Chief Executive under the delegation should be subject to terms and conditions, to the effect that, any matters requiring a decision be subject to timely consultation with General Purposes Committee in advance of any action being taken. Members were also of the view that the delegation be reviewed as soon as practicable.

The Chief Executive outlined the challenging timescales imposed by DCLG and the regrettable implications this has had in terms of officers ability to consult widely with Members on the content of the proposed leaflet and the arguments for and against distribution. The Chief Executive apologised to Members of the Committee for the circumstances which had led to the Committee being consulted at the 'eleventh' hour and undertook to ensure that DCLG were made aware of the unacceptable timescale that had been presented by them.

A motion was put by the Chair to determine whether there was support for the Chief Executive's proposal that the leaflet be distributed. A majority of Members expressed a vote in favour of distribution of the leaflet.

RESOLVED – The General Purposes Committee resolved to:

- (a) endorse the amendments proposed to be made by the City Solicitor under her delegated authority to Section 2 A of the constitution as set out at Appendix 1 to the report;
- (b) endorse the amendments proposed to be made by the City Solicitor under her delegated authority to the delegation to the Chief Executive under the officer delegation scheme (Council (non executive) Functions) in the constitution as set out at appendix 2 to the report with the proviso that the delegation includes terms and conditions which require the Chief Executive to consult with General Purposes Committee in a timely fashion in advance of any action being taken under the delegation ;
- (c) endorse the Chief Executive's view that a leaflet in respect of the Mayoral referendum should be distributed to the Leeds electorate as set out at appendix 3 to the report;
- (d) request a review of the delegation scheme of the Chief Executive as early as practicable as agreed at resolution (b) ; and
- (e) request that a press release concerning the leaflet be issued.

97 Implementation of the 2012/13 Pay Policy Statement

The Head of HR presented a report of the Director of Resources which sought Members' views on the draft Pay Policy Statement (attached at Appendix 1 to the agenda) and requested Members of the Committee to make recommendations to full Council to approve the Pay Policy Statement for the 2012/13 financial year.

Members of the Committee considered the report and questioned the Head of HR on the differences between the draft Pay Policy Statement attached at Appendix 1 to the report to what currently happens.

Members sought further clarification in the policy to ensure that the Employment Committee will appoint to all chief officer posts.

RESOLVED – Members of the General Purposes Committee resolved to:

- (a) recommend to full Council that the Pay Policy Statement as attached at Appendix 1 to the report for the 2012/13 financial year be adopted by the Council subject to Section 2 being amended to state that all Chief Officer appointments will be made by the Employment Committee; and
- (b) receive a further report on how the Pay Policy Statement can be reviewed.

98 Work Programme

The Director of Resources submitted a report notifying Members of the work programme.

The Committee reviewed its forthcoming work programme.

RESOLVED – Members of the General Purposes Committee resolved to:

- (a) note the contents of the work programme;
- (b) request the review of the City Solicitor's delegation scheme on the work programme; and
- (c) include previously requested items on the published work programme schedule from the previous meeting 16th February 2012 to which minute 89 refers.

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Report of City Solicitor

Report to General Purposes Committee

Date: 9 May 2012

Subject: Election and term of office of the Leader

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The “strong Leader” form of governance under the Local Government Act 2000, required executive arrangements to provide for a Leader’s term of office to end on the day when the Council holds its first annual meeting after the Leader’s normal day of retirement as a councillor – usually, therefore, a four year term of office.
2. Executive arrangements by a local authority could also provide for the Council to remove the Leader by resolution. Current executive arrangements include the power to remove the Leader during their term.
3. The 2000 Act has now been amended. Under new section 9I, executive arrangements may decide the Leader’s term and must provide for the election of Leader, including where there a vacancy in the office. Under new Section 9IA, executive arrangements must include provision for the Council to remove the Leader by resolution.
4. Transitional provisions require the authority to include provisions within their executive arrangements under the new Section 9I and 9IA, as soon as reasonably practicable.

Recommendations

5. General Purposes Committee is asked to recommend full Council to:
 - confirm existing executive arrangements relating to current term of office for the Leader, and the power to remove the Leader during their term;

- agree that Council Procedure Rule 1 is amended to reflect the updated legislation and provide for the election of a Leader in the event of a vacancy; and
- note that the City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A of Part 3 of the constitution to reflect legislative changes.

1 Purpose of this report

- 1.1 This report asks Members to consider provisions within the Council's executive arrangements following amendments to the Local Government Act 2000.

2 Background information

- 2.2 The "strong Leader" form of governance under the Local Government Act 2000, required executive arrangements to provide for the election of a Leader, and for the Leader's term of office to end on the day when the Council holds its first annual meeting after the Leader's normal day of retirement as a councillor. The Leader usually has therefore a four year term (depending on at what point in their term as a councillor they become Leader).
- 2.3 The current arrangements are reflected in Council Procedure Rule 1.1 and Article 7.
- 2.4 The "strong Leader" form also provided that executive arrangements may include provision to remove the Leader by resolution. Current executive arrangements include the power to remove the Leader during their term, as reflected in Article 7 and the summary of full Council functions at Section 2A of Part 3 to the constitution.
- 2.5 With effect from 4 May 2012, provisions about the election and term of office of the Leader are now contained in new Section 9I of the 2000 Act (as amended by the Localism Act 2011). This requires executive arrangements to provide for the election of a Leader including where there is a vacancy in the office. Executive arrangements may now also provide for the term of office of the Leader. This is subject to any regulations to be made¹ (although none have as yet been issued).
- 2.6 New Section 9IA (amended by the Localism Act 2011) provides that executive arrangements must provide for the Council to remove the Leader by resolution.
- 2.7 Transitional provisions require executive arrangements to include these provisions under section 9I and 9IA as soon as reasonably practicable.

3 Main issues

- 3.1 Executive arrangements already provide for the Leader's term of office. The authority may now vary or choose to retain the existing provisions. The previous legislative requirement aimed to provide a degree of stability and continuity of leadership.
- 3.2 Executive arrangements already provide for full Council to remove the Leader during their term, and thus no variation is required to comply with the new requirements.

¹ Under New Section 9ID of the 2000 Act

3.3 There is existing provision for the election of the Leader at the annual meeting (Council Procedure Rule 1). However, there is no specific reference to the election of a Leader in the event of a vacancy, as is now required. The City Solicitor therefore proposes that the position is clarified by inserting a footnote into the Council Procedure Rules, requiring the authority to elect a Leader in the event of a vacancy, at a subsequent meeting of full Council. The Rules also need to be updated to reflect the amended statutory provisions.

3.4 Statutory references within Article 7 and Section 2A of Part 3 of the constitution (summary of full Council functions) also need to be updated to reflect the legislative changes. The City Solicitor proposes to make these changes under her delegated authority.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 No additional consultation was considered necessary on this report, since the matter is being considered by this Committee, before being considered by full Council.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no equality issues arising from this report.

4.3 Council policies and City Priorities

4.3.1 The Council's Code of Corporate Governance commits the authority to having clear responsibilities and arrangements for accountability.

4.3.2 The accountability of the Leader is secured by the Council's existing power to remove the Leader at any time.

4.4 Resources and value for money

4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 A change to executive arrangements requires a resolution of the authority (that is, cannot be delegated²).

4.5.2 The authority is required to publish a notice in a local newspaper, outlining any changes to its executive arrangements³. The Chief Executive has been delegated authority to publish such a notice.

4.6 Risk Management

² Changing executive arrangements under Section 9KC is treated as a change in governance arrangements for the purposes of Chapter 4 of the 2000 Act, by virtue of Section 9OA (2), which triggers the requirement to publish a notice in Section 9KC.

³ New Section 9KC of the 2000 Act

4.6.1 The constitution should be kept up to date and comply with legislation, to minimise risk of challenge.

5 Conclusions

- 5.1 The authority is not required to amend the Leader's term of office, but it may do so. Existing arrangements in relation to the Leader's term of office may be considered to promote a degree of stability and continuity, whilst accountability is secured as full Council can remove the Leader during their term.
- 5.2 The constitution (including Council Procedure Rules) should be updated to reflect the requirement to appoint a Leader in the event of a vacancy, and the amended statutory references.

6 Recommendations

- 6.1 General Purposes Committee is asked to recommend full Council to:
- confirm existing executive arrangements relating to current term of office for the Leader, and the power to remove the Leader during their term;
 - agree that Council Procedure Rule 1 is amended to reflect the updated legislation and provide for the election of a Leader in the event of a vacancy;
 - note that the City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A of Part 3 of the constitution to reflect legislative changes.

7 Background documents⁴

7.1 None

⁴ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

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Report of the City Solicitor

Report to General Purposes Committee

Date: 9th May 2012

Subject: New standards arrangements under the Localism Act 2011

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The purpose of this report is to present proposals in relation to new conduct arrangements for Members under the Localism Act 2011.
2. Group Whips established a Cross Party Working Group to consider the requirements of the Act and produce detailed proposals. Whips have endorsed the proposals presented in this report and the associated documents.
3. The proposals presented in this report are contained in the documents attached as follows:
 - A Members' Code of Conduct – at Appendix 1
 - Terms of Reference for a Standards and Conduct Committee – at Appendix 2
 - Procedure Rules for the handling of complaints that a Member may have failed comply with the Code of Conduct – at Appendix 3

Recommendations

4. General Purposes Committee is asked to recommend that the proposals in this report, and the documents attached as appendices 1, 2 and 3, be put to the Annual Meeting for approval and to be with effect from 1st July 2012.
5. General Purposes Committee is also asked to consider and recommend to full Council that the City Solicitor be given delegated authority to amend the Code of Conduct, in

consultation with Group Whips, in light of pending Regulations which will define Disclosable Pecuniary Interests.

1 Purpose of this report

1.1 The purpose of this report is to present proposals in relation to new conduct arrangements for Members under the Localism Act 2011.

2 Background information

2.1 The Localism Act 2011 (the Act) requires a relevant authority¹ to promote and maintain high standards of conduct by members and co-opted members of the authority. As part of this duty a relevant authority must adopt a code of conduct dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity², and that code must be consistent with the seven 'Nolan' principles of standards in public life. These are:

- Selflessness
- Objectivity
- Openness
- Leadership.
- Integrity
- Accountability
- Honesty

2.2 The code of conduct must set out the authority's requirements for the registration and disclosure of pecuniary and non-pecuniary interests. The definition of a 'disclosable pecuniary interest' (which must be registered and restrict members involvement in meetings) will be defined in Regulations issued by the Secretary of State. The Council can add to the provisions in the Localism Act regarding the registration and declaration of disclosable pecuniary interests, but nothing in its code of conduct can override these sections.

2.3 The section "Register of Interests" provides that the Monitoring Officer of a relevant authority must establish and maintain a register of interests of members and co-opted members of the authority.

2.4 Where a complaint is made that a Member has:

- Failed to notify the Monitoring Officer of their disclosable pecuniary interests within 28 days;
- Taken part in the discussion or vote on a matter in which they have a disclosable pecuniary interest, or fail to disclose such an interest to a meeting which is not included on the register; or
- Knowingly or recklessly provided false or misleading information in relation to their pecuniary interests,

the handling of the complaint will be the responsibility of the Police.

¹ Generally in this chapter the definition of a 'relevant authority' includes County Councils, District Councils and Parish Councils. However, in certain sections Parish Councils are excluded from the definition.

² Baroness Hanham has clarified that where the relevant authority has appointed a member to represent the authority on an outside body, if there is a complaint about the councillor, the council is still responsible for them, and as such complaints of this nature would be considered to be within the scope of the adopted complaints handling process.

- 2.5 For other complaints the Council must put in place arrangements under which, written allegations that a member has not complied with the authority's code of conduct, can be considered, and decisions taken. This includes allegations against parish councillors in their area³.
- 2.6 After a relevant authority has considered an allegation of misconduct, but before taking a decision, the authority must seek the view of an appointed Independent Person. The authority is required to appoint at least one Independent Person; this must be done following an open advert and application and the appointment made by the majority of members at Full Council. Transitional arrangements are anticipated to allow our existing Independent Members of the Standards Committee to be appointed, so long as they are no longer Members of the Standards Committee at the time of their appointment.
- 2.7 DCLG have advised that the standards and conduct arrangements will commence on the 1st July 2012. Officers are currently working to a timetable linked to approval of the new arrangements at the Annual Council meeting, and for those arrangements to be effective from the 1st July. However to allow sufficient time to carry out a recruitment process for the Independent Person, it is proposed that the Independent Person is appointed at the meeting of full Council on 11th July 2012.

3 Main issues

- 3.1 In January 2012 a cross party working group⁴ was established to consider how the authority might best address the duties relating to Member Conduct in the Localism Act. As part of those deliberations the working group was mindful of the need to reflect the high priority which the Authority places on good conduct and behaviour and also ensure that the complaint handling processes adopted enable the speedy resolution of complaints.
- 3.2 Working group members have consulted widely with group colleagues and presented final draft proposals to all group whips in March 2012, which received unanimous cross party support.

Code of Conduct

- 3.3 Attached at Appendix 1 is a Code of Conduct for General Purposes Committee's consideration. The code is consistent with the general principles of public life and in respect of other requirements of the Act relating to registration and declaration of pecuniary interests and interests other than pecuniary interests (i.e. those interests not relating to money or finances). General Purposes Committee is asked to recommend approval of the Code to full Council.
- 3.4 Since this code of conduct was considered by Whips in March, both the Local Government Association and DCLG have issued example codes of conduct for authorities to consider on 11th April 2012. These documents have been reviewed

³ The Government recognises the administrative limitations of parish councils and therefore have concluded that the relevant district or unitary council should administer the scheme for them.

⁴ Councillors Nash, Latty, Campbell, Leadley and D Blackburn

by the Head of Governance Services, and it is considered that all the elements are adequately covered by the draft Leeds City Council Code of Conduct.

- 3.5 However, it may be appropriate for the Standards and Conduct Committee (see below) to consider the content of these documents in more detail when they review the Authorities local codes and protocols⁵ after 1st July 2012.
- 3.6 Members of the General Purposes Committee will note that the definition of a 'Disclosable Pecuniary Interest' is not currently included in the draft Code of Conduct at Appendix 1. This is because the relevant Regulations have not yet been issued by the Secretary of State.
- 3.7 General Purposes Committee is asked to consider and recommend to full Council that the City Solicitor be given delegated authority to amend the Code of Conduct, in consultation with Group Whips, in light of pending Regulations which will define Disclosable Pecuniary Interests.
- 3.8 As part of the new arrangements it is proposed that the codes and protocols relating to:
- Member/Officer Relations;
 - Roles of Members and Officers in Decision Making;
 - Determining Planning Applications; and
 - Determining Licensing Applications,

should be withdrawn and reviewed as a matter of urgency by the new Standards and Conduct Committee after 1st July 2012. The Member Working Group also considered that the Joint Plans Panel and the Licensing Committee should be involved in the review of the codes and protocols relating to their functions.

- 3.9 This work would be consistent with the new statutory duty placed on the authority to promote and maintain high standards of conduct. The review would be able to consider the content and status of codes and protocols and the extent to which they might be regarded as supplementary to the code or simply guidance to assist in interpretation.

Standards and Conduct Committee

- 3.10 Group Whips propose thorough this report that full Council delegates functions in relation to standards to a Council committee. This will be necessary in relation to considering complaints and making decisions on complaints that have been investigated, as it would be impractical for full Council to discharge this function.
- 3.11 The Standards and Conduct Committee and its Sub-Committee would have two main, and distinct, roles and responsibilities:

⁵ E.g. the Code of practice for determining Planning Applications and the Protocol on Member/Officer Relations.

- Responsibility for functions conducive to fulfilling the authority's duty to promote and maintain high standards of conduct amongst its members and co-opted members; and
- Responsibility for functions in relation to receiving and considering written allegations of misconduct against City and Parish Councillors, and making recommendations for appropriate action to full Council, Group Whips, or the Leader.

- 3.12 The proposed Terms of Reference for the 'Standards and Conduct Committee' are attached at Appendix 2. General Purposes Committee is asked to recommend approval of the appointment of a Standards and Conduct Committee to full Council.
- 3.13 The replacement Standards and Conduct Committee would be an ordinary Council committee appointed under Sections 101 and 102 of the Local Government Act 1972 and would therefore be subject to the rules around political balance. It will also be possible for such a committee to have substitute arrangements, although Group Whips are of the view that, as the decisions the committee will need to be based on a detailed understanding of the code of conduct, it would be appropriate that substitutes be drawn from a pool of trained members.
- 3.14 The Group Whips are also of the view that it would be appropriate for a Parish Councillor (who is not a dual hatted Member) to be present at meetings of the Standards and Conduct Committee when the Committee is considering a complaint against a Parish Councillor⁶. However, according to the Act, this co-opted member would not have a vote. Whips were also of the view that it might be appropriate to pay the expenses of the Parish Councillor in relation to any meetings they are required to attend. The Independent Remuneration Panel will be required to give further consideration of this matter and will report to Council in due course.
- 3.15 Group Whips are of the view that the size of membership of the Standards and Conduct Committee should be in the order of seven Members and that this, so far as practicable, should provide for membership (including alternate membership through substitute arrangements) from all political groups.
- 3.16 Group Whips are also of the view that, in due course, the Standards and Conduct Committee should establish a sub committee to deal with any complaints which, following attempts to achieve resolution informally, require formal resolution. Whips considered that a membership of three (not all from the same political group and at least one Member being from the same political group at the subject Member) would be appropriate, along with an additional non-voting Parish Member to deal with the formal resolution of complaints against Parish Councillors. The Chair of the Sub-Committee would be elected on the day of the meeting by the other Members present – although the Chair should not be from the same group as the subject Member.

⁶ The two current Parish Members of the Standards Committee have been invited to fulfil this role after the 1st July 2012.

- 3.17 The proposed Standards and Conduct Committee would not have the same powers and functions in relation to complaints as the current Standards Committee, as these come directly from legislation. Instead the committee would have powers to make a finding of whether or not there has been a failure to comply with the Members' Code of Conduct and to make recommendations to others in respect of the complaint.
- 3.18 A list of sanctions was considered by the Member Working Group. These were derived from advice provided to the Association of Council Secretaries and Solicitors by Mr Clive Sheldon QC; that advice indicates that the following limited sanctions are available to the authority:
- A formal letter to the Councillor found to have breached the Code from the Chair of the Standards and Conduct Committee;
 - Formal censure by a motion of the full Council; and
 - Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements.

Complaints handling process

- 3.19 The authority is required to have in place arrangements under which allegations can be investigated and decisions on allegations can be made. Group Whips have endorsed a new complaints procedure which is presented at Appendix 3. General Purposes Committee is asked to recommend this procedure to full Council for approval.
- 3.20 The proposed procedure will enable Members to be fully aware of the complaint from the date that it is received, and will enable them to attend the committee meeting to present their case before the Standards and Conduct Committee make a decision on a matter.
- 3.21 The procedure provides for complaints to be initially received by the Monitoring Officer or their nominee rather than through the corporate complaints process. The Monitoring Officer will then decide whether the complaint is 'valid' or not i.e. whether it is a complaint about a potential breach of the code of conduct and whether the complaint is about a Leeds City Councillor, voting co-opted member or relevant Parish or Town Councillor (rather than for example a service based issue).

Independent Person

- 3.22 The Member Working Group have considered the role description and person specification for the role of the Independent Person, and a summary of their role in the complaints handling process is attached as Annex 1 to the proposed complaints procedure.
- 3.23 Due to time constraints, the recruitment process for an Independent Person has already begun and the advertisement is currently visible on the Council's website.

Applications have also been sought from people nominated by Members. The closing date for applications is Monday 14th May 2012.

- 3.24 Members will then shortlist the applications and carry out any interviews, and an initial recommendation for appointment will be made to General Purposes Committee on 25th June 2012. General Purposes Committee will then be asked to make a recommendation for appointment to full Council for consideration at the meeting on 11th July 2012.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Extensive consultation has taken place with Whips and the Member Working Group from February 2012 onwards. Members of the Working Group were also responsible for briefing other Members of their political groups on the proposed new arrangements and for presenting their comments back to the Whips.
- 4.1.2 A series of training sessions on the new Code of Conduct have been arranged for Leeds City Council Members during June and early July.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.
- 4.2.2 Equality and diversity issues are addressed by the principles of selflessness, objectivity and leadership and by the associated explanations.

4.3 Council policies and City Priorities

- 4.3.1 The proposed new standards arrangements are consistent with the principles in the Code of Corporate Governance, particularly principle three "Good Conduct and Behaviour".

4.4 Resources and value for money

- 4.4.1 Special Responsibility Allowances will no longer be payable to Independent and Parish Members of the current Standards Committee after 1st July 2012, saving £14,374.88 per annum. This will be slightly offset by the fee payable to the Independent Person which is anticipated to be in the region of £2,500 per annum, and by any expenses which may be payable to co-opted parish members.
- 4.4.2 Current arrangements also provide for any investigations referred by Assessment Sub Committees to be undertaken by an external solicitor – typically such investigations have amounted to several thousand pounds each. However under the new arrangements such referrals will no longer be necessary.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The proposed new standards arrangements as set out in this report are compliant with the requirements of Chapter 7 of the Localism Act 2011.

4.5.2 No part of this report is confidential or exempt, and the report relates to Council functions and so the decision is not open to call in.

4.6 Risk Management

4.6.1 There is a risk that if the arrangements are not approved at the Annual Meeting there will be a short gap of seven working days between Chapter 7 of the Localism Act 2011 coming into force and the arrangements being adopted at the next Council meeting on 11th July 2012. In order to mitigate this risk it is being proposed that the arrangements are approved at the Annual Meeting to come into force on 1st July 2012.

4.6.2 The Monitoring Officer has considered the risk of not appointing the Independent Person until 11th July 2012 but has concluded that this risk is acceptable given that it is unlikely that we will require the services of the Independent Person in relation to any complaints during the seven working days prior to the meeting of full Council. This delay also allows adequate time to carry out a public recruitment exercise, followed by short listing and interviews if required.

5 Conclusions

5.1 The Whips established a Working Group to consider the requirements of the Act and produce detailed proposals. The Working Group reported back to the Whips at their meeting on 27th March 2012. Whips have endorsed the proposals presented in this report and the associated documents..

5.2 The documents for General Purposes consideration are attached as follows:

- A Members' Code of Conduct – at Appendix 1
- Terms of Reference for a Standards and Conduct Committee – at Appendix 2
- Procedure Rules for the handling of complaints that a Member may have failed comply with the Code of Conduct – at Appendix 3

6 Recommendations

6.1 General Purposes Committee is asked to recommend that the proposals in this report, and the documents attached as appendices 1, 2 and 3, be put to the Annual Meeting for approval and to be with effect from 1st July 2012.

6.2 General Purposes Committee is also asked to consider and recommend to full Council that the City Solicitor be given delegated authority to amend the Code of Conduct, in consultation with Group Whips, in light of pending Regulations which will define Disclosable Pecuniary Interests.

7 Background documents⁷

- 7.1 Chapter 7, Localism Act 2011, available at:
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- 7.2 Advice from Clive Sheldon QC in the matter of the Localism Act, available at:
<http://www.acses.org.uk/news/standards-%E2%80%93-sanctions-and-independent-persons-press-release>
- 7.3 Notes of the Whips meeting, 27th March 2012
- 7.4 Illustrative text for local code of conduct, Department for Communities and Local Government, available at:
<http://www.communities.gov.uk/publications/localgovernment/localcodeconduct>
- 7.5 Template code of conduct issued by the Local Government Association

⁷ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

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Leeds City Council Members' Code of Conduct

This Code applies to elected Members and voting co-opted Members of Leeds City Council in all aspects of their public life. This means that the Council expects Members to follow this Code when they are conducting the work of the Council, representing the Council on any external organisation, and otherwise acting in their official capacity. The Code of Conduct does not apply to what Members do in their purely private and personal lives¹.

Part One - Standards of Conduct

You must have regard to, and act in accordance with, the following standards of conduct²:

1. **Selflessness**
You should serve only in the public interest, and should never improperly confer an advantage or disadvantage on any person, organisation or group, or any other third party.³

2. **Honesty and Integrity**
You should not place yourself in situations where your honesty and integrity may be questioned, you should not behave improperly and should avoid the appearance of such behaviour.

3. **Objectivity**
You must make decisions based on the information before you, having had regard to any professional advice provided to you and in accordance with your view of the public interest.

You should make decisions on merit, this includes when making appointments, awarding contracts, or recommending individuals for awards or other recognition.

4. **Accountability**
You are accountable to the public for your decisions and actions and the manner in which you carry out your duties. You must co-operate fully and honestly with any scrutiny appropriate to your office.

You should not undertake any action which would bring the Council, your position, or the position of Members generally, into disrepute.

5. **Openness**
You must be as open as possible about your actions and those of the authority, and should be prepared to give reasons for those actions.

¹ When engaging in political activities such as canvassing for re-election Members are not acting in their official capacity, and for the purposes of this Code of Conduct, such political activities are considered part of a Member's private and personal life.

² And in accordance with any supplementary guidance or protocols agreed by the authority from time to time.

³ This does not mean that Members are under any obligation to support or become involved in all requests for assistance from their constituents.

6. Leadership

You must promote and maintain high standards of conduct by supporting these principles by leadership and by example, and should act in a way that secures or preserves the confidence of others.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees⁴.

Part Two – Registration and disclosure of interests

Registration of Interests

7. Within 28 days of your election or co-option, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time⁵.
8. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
9. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
10. A 'disclosable pecuniary interest' is *[definition to be inserted from regulations made by the Secretary of State]*.
11. A pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described above, and either:
 - (a) it is an interest of yourself, or
 - (b) it is an interest of -
 - (i) your spouse or civil partner,
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if they were civil partners, and the you are aware that that other person has the interest.
12. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50⁶ which you receive in your role as a Leeds City Councillor⁷. You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.⁸

⁴ Members may express themselves robustly in representing their, or their constituents' views, although where a Member engages in a sustained or systematic challenge of an employee which is unfounded or in any other way unreasonable, such conduct would fall within the scope of this code. However an unintentional remark, made in isolation, is unlikely to amount to a failure to comply with the code of conduct.

⁵ The Monitoring Officer must enter these interests into the Register of Interests, which will be made available for public inspection and published on the Council's website

⁶ This financial limit will be maintained in line with the definition of a donation to be declared by election candidates during local authority elections in England and Wales (as set out in Schedule 2A of the Representation of the People Act 1983).

⁷ This does not include civic gifts or hospitality received by the Lord Mayor of Leeds whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Lord Mayor's office.

⁸ These details will be removed from the register two calendar years after they were added by the Monitoring Officer.

Sensitive interests

13. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the register that is made available for public inspection

⁹ ¹⁰

Disclosure of disclosable pecuniary interests at meetings

14. The following provisions apply if you are present at a meeting of the authority or of any committee¹¹, sub-committee, joint committee or joint sub-committee of the authority, and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting.
15. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
16. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
17. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
18. You may not:
 - (a) participate, or participate further, in any discussion of the matter at the meeting,
 - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless the Member has requested and been granted a relevant dispensation by the Standards and Conduct Committee), or
 - (c) remain in the room during the discussion or vote on the matter.
19. Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not remain in the room during the discussion or vote on the matter.

⁹ Instead the Register of Interests may state that the Member has an interest the detail of which are withheld under section 32(2) of the Localism Act 2011

¹⁰ If the Member is required to disclose such an interest in a meeting, the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

¹¹ This includes the Executive Board and any committee of the executive.

Disclosure of other interests at meetings

20. Where you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and identify any other significant interests which you feel should be declared in the public interest, such interests may be declared to the meeting.
21. In such circumstances you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion.

Allegations of a Failure to Comply with Code of Conduct

22. All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

Standards and Conduct Committee

The Standards and Conduct Committee is authorised to discharge the following functions:

1. To promote and maintain high standards of conduct by members and co-opted members of the authority¹.
2. To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
3. To consider and determine written allegations that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or that a member or co-opted member of a parish council in the Leeds area has failed to comply with the parish council's code of conduct².
4. Following a determination of whether or not a member or co-opted member of the authority has failed to comply with the code of conduct, to consider whether or not action might be necessary, and to make recommendations³ on the form of action⁴.
5. To consider and determine written requests for dispensations⁵.
6. To advise the authority in relation to the adoption, revision or replacement of the code dealing with the conduct that is expected of employees of the authority⁶.

¹ In accordance with Section 27 of the Localism Act 2011.

² In accordance with Section 28(6), (7) and (9) of the Localism Act 2011.

³ Including to full Council, the Leader, the Chief Executive, or the relevant Group Whip.

⁴ In accordance with Section 28(11) of the Localism Act 2011.

⁵ In accordance with Section 33 of the Localism Act 2011.

⁶ It is not the function of the Committee to determine or become involved in individual employee conduct or disciplinary cases.

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Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct within the area of Leeds Metropolitan District Council.

Introduction

1. This procedure should be used to deal with complaints submitted under the Members' Code of Conduct adopted by Leeds City Council and the Parish and Town Councils in the Leeds area.
2. The Members' Code of Conduct applies to elected Members and voting co-opted members when they are acting in that capacity. Complaints which relate to a failure to comply with the rules about 'Disclosable Pecuniary Interests' should be directed to the West Yorkshire Police for their consideration. Complaints about a potential breach of the general obligations should be submitted to the Monitoring Officer for consideration.
3. The Monitoring Officer may nominate another officer of suitable experience and seniority to carry out any of the functions listed in this procedure.

Stage 1 - Initial assessment by the Monitoring Officer

4. Complaints must be submitted in writing, must provide substantiated information, and should outline what form of resolution the complainant is seeking. Otherwise the Monitoring Officer should ask the complainant to resubmit their complaint. Ideally the complainant will use the correct complaints form to submit their complaint, but other written complaints will be accepted so long as they contain the relevant information.
5. The Monitoring Officer will consider the complaint and make a decision as to whether it will be treated as a valid complaint or not.
6. The following types of complaint will not be considered as 'valid complaints' under this procedure:
 - a. Complaints which are submitted anonymously^{1 2};
 - b. Complaints which do not identify a subject Member;
 - c. Complaints which relate to a Member's personal or private life;
 - d. Complaints concerning a failure to respond to a request from a constituent or other individual;
 - e. Complaints which relate to the alleged actions of employees of the Council or non-voting co-optees;

¹ Complaints which contain a request for the complainant's identity to be withheld may be considered to be 'valid complaints', although the complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the complainant's identity, the complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.

² Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

- f. Complaints which relate to a decision of an employee or a Committee;
 - g. Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council;
 - h. Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now;
 - i. Complaints containing trivial allegations, or which appear to be simply malicious, politically motivated or tit-for-tat;
 - j. Complaints regarding alleged behaviour which has already been the subject of an investigation or some form of action;
 - k. Complaints which relate to an alleged failure to comply with the rules regarding 'Disclosable Pecuniary Interests'³.
7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint. If the Monitoring Officer decides that the complaint is 'invalid', this notification is made for information only.
 8. If the complaint relates to an employee or is a service related issue, the Monitoring Officer will refer the complaint to the relevant service in order for them to respond to the complainant directly.
 9. In any case where the Monitoring Officer decides that the complaint is 'invalid', they will write to the complainant explaining why their complaint cannot be dealt with under this procedure. There is no appeal process for decisions taken by the Monitoring Officer at this stage.

Stage 2 - Informal resolution

10. If, following initial assessment, the Monitoring Officer decides that the complaint should be treated as a 'valid complaint' they will write to the complainant and explain that the matter is to be referred to the subject Member for them to seek to resolve the issue in accordance with this procedure. The complainant will also be provided with an outline of the procedure for dealing with complaints against Councillors.
11. At the same time the Monitoring Officer will refer the matter to the subject Member and the relevant Group Whip⁴ for their consideration. In this correspondence the Monitoring Officer will provide the subject Member with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 28 days), and will provide the subject Member with the contact details for the Independent Person⁵.

³ Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

⁴ If the subject Member is the Group Whip, the complaint will be copied to his or her Group Leader. In the case of a Parish or Town Council without structured political groups, the Monitoring Officer could consider involving the Chairperson of the Council.

⁵ See Annex 1 for a summary of the role of the Independent Person.

12. Types of informal resolution might include:

- a. An explanation by the subject Member of the circumstances surrounding the complaint;
- b. An apology from the subject Member;
- c. An agreement from the subject Member to attend relevant training or to take part in a mentoring process;
- d. Offering to engage in a process of mediation or conciliation between the subject Member and the complainant; or
- e. Any other action capable of resolving the complaint.

13. Before deciding upon a course of action the subject Member may seek guidance from a Group Whip, the Independent Person, and/or the Monitoring Officer. It may also be advisable to seek advice from the complainant to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

14. The Independent Person is available to the subject Member to give them advice on the severity of the complaint and what form of resolution they would consider appropriate. Providing such guidance will not prevent the Independent Person from giving a view to the Standards and Conduct Committee about the complaint at a later stage.

15. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee, seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.

16. Where the subject Member has appropriately addressed the matters raised there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the complainant and the subject Member of this decision.

17. Where it has not been possible to appropriately address matters, the complaint will be referred to the Standards and Conduct Committee for consideration. The Monitoring Officer will notify both the complainant and the subject Member of this decision, and will provide the subject Member with information regarding the Council's insurance arrangements (and how legal representation may be accessed).

18. There will be no appeal process for decisions taken by the Monitoring Officer and the Chair of the Standards and Conduct Committee at this stage.

Stage 3 – Standards and Conduct Committee

19. The Monitoring Officer will prepare a report for consideration by the Standards and Conduct Committee. This report will include readily obtainable information (such as minutes of meetings or Clerk's notes), a summary of the complaint and the efforts made to resolve the matter informally.
20. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee) to be convened to consider the Monitoring Officer's report of the complaint. Wherever possible the meeting will take place within 28 days of the Monitoring Officer's report being finalised.
21. The Sub-Committee will be made up of three Members of the Standards and Conduct Committee, one of whom must be from the same political group as the subject Member (wherever possible), but not all of the Members will be from the same political group. The Chair will be elected from among the membership at the beginning of the meeting, but cannot be from the same political group as the subject Member.
22. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the Sub-Committee meeting. The Parish Member will not be entitled to vote at the meeting, but will be entitled to speak at the discretion of the Chair.
23. The following people will also be invited to attend the Sub-Committee meeting:
 - a. The complainant;
 - b. The subject Member;
 - c. The Group Whip (if relevant); and
 - d. The Independent Person.
24. The Monitoring Officer will also attend the meeting in order to present their report.
25. After initial consideration of the Monitoring Officer's report, the Sub-Committee will take statements from the following parties (either in person or in written form if the person is unable to attend the meeting):
 - a. The complainant; and
 - b. The subject Member.
26. The Sub-Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.
27. Before reaching a final decision on the complaint, the Standards and Conduct Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.

28. If the Sub-Committee is unable to reach a conclusion on the complaint on the basis of the information before it, it may adjourn the meeting and request that the Monitoring Officer seeks the further information required. However, when doing so the Sub-Committee should consider whether the information will be readily available to the Monitoring Officer.
29. Once the Sub-Committee is satisfied with the information before it, it must decide the following issues:
 - a. Whether the subject Member has failed to comply with the Members' Code of Conduct;
 - b. Whether further action is warranted; and
 - c. What form of action might be appropriate.
30. If the complaint relates to a Parish or Town Councillor the Sub-Committee will only make a decision regarding whether the subject Member has failed to comply with the relevant Members' Code of Conduct. This decision, and the reasons for it, will be communicated to the relevant Parish or Town Council in order for it to make a decision as to whether further action is warranted and what form of action would be appropriate.
31. In all other cases, if the Sub-Committee concludes that, on the balance of probabilities, the subject Member did not fail to comply with the Members' Code of Conduct, this will conclude the complaints process. In such cases no further action will be taken in respect of the complaint, although the Sub-Committee may still wish to consider making a recommendation to the authority with a view to promoting and maintaining high standards of conduct in general. Such recommendations may include proposed changes to internal procedures and practices or training for Members in general.
32. If the Sub-Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the Sub-Committee must go on to consider whether action should be recommended in respect of the subject Member, and what form of action might be appropriate.
33. The recommendations available to the Sub-Committee are limited to:
 - a. A formal letter to the subject Member from the Chair of the Standards and Conduct Committee;
 - b. Formal censure by a motion of full Council; or
 - c. Removal by the authority of the Member from a relevant Committee(s) subject to statutory and constitutional requirements.
34. The Sub-Committee may make a recommendation in relation to one or more of the above sanctions to full Council, the Group Whip or the Chair of the Standards and Conduct Committee. The Chair will confirm any such recommendations in writing within five working days of the Sub-Committee meeting.

35. The Sub-Committee may also make general recommendations to the authority with a view to promoting and maintaining high standards of conduct within the authority. As stated above, such recommendations may include proposed changes to internal procedures and practices or training for Members in general. The Monitoring Officer will be responsible for communicating such recommendations to the relevant Committee or officer for consideration.
36. Within five working days of the meeting the Chair of the Sub-Committee will write to the complainant and the subject Member explaining the final decision of the Sub-Committee and detailing any recommendations made.
37. There will be no right of appeal against a decision of the Sub-Committee.

ANNEX 1 - Role of the 'Independent Person'

Role of the Independent Person

The role of the independent person is set out in Section 28 of the Localism Act 2011.

As part of its arrangements under which decisions on allegations can be made, each principal authority must appoint at least one independent person.

The independent person's views **must** be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.

The authority may also seek the independent person's views on an allegation that it has not decided to investigate. However, there is no requirement for the authority to do so, or to take those views into account.

Finally, a member or co-opted member of the authority (or of a parish council in the area) may seek the independent person's views on an allegation made against them.

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Report author: Andy Hodson/
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Report of Director of Resources and The City Solicitor

Report to General Purposes Committee

Date: 9th May 2012

Subject: Review of the Decision Making Framework

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

The Director of Resources and the City Solicitor have reviewed the Council’s Executive Decision making Framework. Amendments to the framework have been identified to;-

- increase the opportunity for Member input/oversight of decisions at a Ward level
- speed up the implementation of decisions taken by Area Committees
- clarify accountability arrangements and simplify decision making procedures

Recommendations

General Purposes Committee is asked to consider the proposals contained in this report and recommend to Full Council approval of;

- Amendments to Article 13 of the Constitution concerning the definition of a Key Decision and incorporation of definitions of other Executive decision categories;
- New Executive and Decision Making Procedure Rules which consolidate decision making procedures into one set of rules (and corresponding consequential amendments to the documents affected); and
- Amendments to the Officer Delegation Scheme (Council Functions) to withdraw concurrent delegations.

General Purposes Committee is also requested to note the Leader's intention to withdraw concurrent delegations to officers contained in the Executive arrangements.

1 Purpose of this report

- 1.1 This report presents proposed amendments to the council's Executive decision making framework.
- 1.2 The Director of Resources and the City Solicitor have reviewed the Executive Decision Making arrangements and identified scope to;
 - Enhance opportunities to ensure Ward Councillors are engaged at an early stage in the decisions which affect their constituencies
 - Speed up the implementation of decisions of Area Committees
 - Make arrangements more transparent, with a focus on clear accountability

2 Background information

- 2.1 Following the enactment of the Local Government Act 2000, and in common with comparable local authorities, Leeds City Council adopted Executive Decision making arrangements. As part of these arrangements Leeds introduced a categorisation of Executive Decisions as follows;
 - Key – decisions of a value of £500,000 and above and with a significant impact on two or more Wards. Such decisions requiring prior notification on the Forward Plan and being available for Call In.
 - Major – decisions of a value of £100,000 and above and with a significant impact on one or more Wards. Such decisions being available for Call In.
 - Significant Operation Decisions – decisions which were not Key or Major, but – according to a list of definitions, were of such significance as being required to be published. These decisions not being available for Call In.
 - Administrative – essentially all other decisions with no requirements to publish or be available for Call In.
- 2.2 Leeds City Council also introduced a delegation scheme to Directors.
- 2.3 Over time these arrangements have varied only slightly ;–
 - In 2004 Area Committees were introduced by the Council with a range of Executive responsibilities – known as Area Functions. Decisions in relation to these functions being open for Call In.
 - In February 2007 Executive Board approved arrangements whereby accountability was delegated concurrently to Directors and Chief Officers;
 - In 2008, following work undertaken by a member Working Group, Full Council amended the definition of a Key Decision – with the financial component being reduced from £500,000 to £ 250,000.

- 2.4 The Director of Resources has completed a survey of decision making arrangements in the Core Cities and across West Yorkshire. From that review it can be seen that no other authority within the sample employs categories of decisions other than Key and non Key, which are those required by legislation.
- 2.5 However, each authority deals differently with these categories of definition; some employing varying definitions dependent on the type of expenditure involved, some limit the taking of Key Decisions to Members acting in a Committee, whilst others, like Leeds, allow delegation of Key Decisions to officers.
- 2.6 The Director of Resources has also received feedback from Members and Officers in respect of the arrangements in Leeds. A concern common to both members and Officers is that the various tiers of decision are complex, and in some instances, are difficult to understand. This view may well be mirrored by the general public but has not been tested.
- 2.7 Members were particularly concerned that Members needed to be aware and consulted on all significant decisions at a Ward level, and that the speed of implementation of decisions within localities needed to be improved.

3 Main issues

- 3.1 In response to the review, and following consultation with Members, the Director of Resources and the City Solicitor make the following proposals for changes to the Council's decision making framework :-

Amend the definition of a Key Decision

- 3.1.1 The Director of Resources and the City Solicitor recommend that the definition of a Key Decision be reconsidered as follows :-

“a decision relating to an Executive function which is likely

- To have a significant effect on communities living or working in an area comprising one or more ward.
- To result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000

And

- which is not a decision which is a direct consequence of implementing a previous Key decision, or in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed, or
- which is not the result of varying a previous Key decision in line with recommendations made by a Scrutiny Board following a Call In of that decision.”

- 3.1.2 This proposal introduces a change in the requirements in that that decisions having a significant effect on only one ward will be treated as Key decisions.

- 3.1.3 In addition it is proposed that the receipt or loss of income be included within the Leeds definition of a Key decision (rather than being included in the list of Significant Operational Decisions).
- 3.1.4 A potential moot point is the definition of 'significant' in this context. To assist in this respect the Director of Resources and the City Solicitor recommend that a decision will be considered to have a significant effect on a Ward if it will involve;
- The closure of any facility provided by the Council in fulfilment of its functions (e.g. a school, library or sports facility)
 - A change of use of a community asset
 - the implementation of schemes targeting areas of deprivation
 - schemes which might otherwise impact, for better or worse, on the amenity of the community, including the quality or level of services provided by the authority to a significant number of people living or working in the locality affected
 - Where doubt exists as to the significance of the effect of the decision officers are advised to treat the matter as a Key Decision.
- 3.1.5 These amendments will assist in embedding the need for consultation and engagement with Members in relation to decisions which most affect their wards.
- 3.1.6 It is proposed that these definitions be reviewed by General Purposes Committee after 6months of operation to ensure they are proportionate and fit for purpose.

Delete the Major category of Executive Decisions

- 3.1.7 Major decisions form a proportionately small number of recorded executive decisions – in 2010/11; some 290 out of 2000. When coupled with the proposal to amend the significant impact definition of Key Decision to one or more ward , it is considered that the removal of this category of decision making will assist in the simplification, understanding and application of the Council's Decision Making arrangements.
- 3.1.8 From a sample of Directorates (Children's and City Development) it is considered that there the majority of decisions currently treated as Major would be captured by the new definition of Key Decision.

Simplify the definition of Significant Operational Decisions

- 3.1.9 As part of the review the Director of Resources and the City Solicitor have considered the definition of a Significant Operational Decision and propose a simplification of the existing provisions so that would read as follows:-

“Those decisions which are not Key decisions¹ and which;

a.) Do not fall within the definition of Administrative decisions; or

¹ Or would have been a Key decision but for a specific provision in the definition of a Key Decision to remove them from this category (see paragraph 3.10.2 of this report)

- b.) Would have been a Key decision but for a specific provision in the definition of a Key Decision to remove them from this category; or
- c.) result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000 each year; or
- d.) are, in the opinion of the Director, Chief Officer or Head of Service, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority, for example:-
- a decision to approve or change an officer sub delegation scheme, or
 - a decision which requires the virement of funding within approved virement powers of officers.

3.1.10 This proposed definition, which compliments the existing requirement on Local Authorities to publish details of all expenditure over £500, will ensure that any decisions which are currently Major decisions and are not captured by the new definition of Key will still be subject to the requirement to record, and that Members are therefore aware of them.

3.1.11 The proposals set out in paragraphs 3.1.1 – 3.1.10 will require amendments to Article 13 of the Constitution as set out at Appendix 1.

Remove Area Committee Decisions from those open to Call In

3.1.12 In order to facilitate the potential Call In of Area Committee decisions officers prepare a 'Decision Notice' detailing those decisions of each meeting which are open to Call In; this is in addition to the formal requirements for Minutes.

3.1.13 Only two Area Committee decisions have been subject to Call In since the Area Committees were first appointed five years ago. Of these two decisions one was withdrawn and one was sent back for reconsideration.

3.1.14 This low Call In rate for Area Committee decisions may well be, in part, as a result of the fact that the decisions delegated to Area Committees are being made by those ward members with knowledge of their own locality and, as a consequence, democratic accountability is built into the decision making arrangements.

3.1.15 The Director of Resources and the City Solicitor recommend that Area Committee decisions be removed from those eligible for Call In. It is considered that this would have a negligible impact on Members' involvement in decisions but would enhance the ability of each Area Committee to 'get on with' implementing decisions at a local level, for example in relation to the implementation of Well Being Fund Capital and Revenue decisions, which are currently delayed by some 7 working days due to Call In.

3.1.16 In addition efficiencies would be made in relation to the administration of Area Committee meetings as a result of decision notices no longer being produced.

Decision Making Procedure Rules

3.1.17 The Council's Constitution contains a number of procedure rules, which, in part, form elements of the Council's Executive Decision Making Framework – this is illustrated in the table below.

Constitutional Document	Content related to Executive Decision Making
Guidance Notes on Delegated Decision Making	Sets out the definition of some categories of Executive Decision and summarises some of the processes
Executive Procedure Rules	Sets out the arrangements for Executive Board meetings
Scrutiny Procedure Rules	Sets out the processes for Call In
Budget and Policy Framework Procedure Rules	Sets out the process for taking decisions outside the Budget and Policy Framework
Access to Information Procedure Rules	Set out the processes taking Key Decisions (e.g. the Forward Plan and Notification requirements)

3.1.18 A programme of training for officers involved in decision making has been rolled out throughout the Council. Feedback from participants indicates that the fragmentation of rules in relation to the Council's decision making framework has led to a lack of clarity, understanding and transparency.

3.1.19 It is therefore proposed that a set of Decision Making Procedure Rules is introduced. These rules would bring together all relevant provisions in relation to decision making and provide much needed clarity and transparency for officers, Members and the public. The proposed Procedure Rules are set out in Appendix 2.

Remove Concurrent Delegations

3.1.20 The original objective of the concurrent delegations was to make chief officers directly accountable to Members for operational matters and in so doing free directors up to be more strategic. There is a widely held view that the arrangements have not added value to the Council's governance arrangements – but rather, have added unnecessary complexity and lack of clarity in respect of accountability.

3.1.21 The Leader has indicated his intention to remove all Concurrent Delegations to Chief Officers from the Officer Delegation Scheme (Executive Functions), with the intention that Chief Officers should operate under the sub delegation schemes of their respective Directors.

- 3.1.22 It is therefore proposed that the all Concurrent Delegations to Chief Officers under the Officer Delegation Scheme (Council (non executive) Functions) should be removed to reflect this position. Members may wish to note that those delegations made to the Chief Planning Officer alone would not be removed from the delegation scheme, as these are necessary to enable the authority to carry out its planning functions with no conflict of interest arising between these and its land and asset management functions.
- 3.1.23 This would result in simplification of delegation arrangements; provide clarity in terms of responsibility for executive decision making and clarify lines of accountability for members and the public whilst also reducing the administrative burden of maintaining numerous sub delegation schemes.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Members from across all political groups have been consulted on these proposals. This has included senior group members, Scrutiny Chairs, and the Chair of the Corporate Governance and Audit Committee.
- 4.1.2 In addition, over a two year period, there has been a program of training delivered to those of the Council's officers who are responsible for taking decisions in accordance with the officer delegation scheme. Whilst primarily intended to advise those officers of the requirements of the decision making framework it has enabled the development of a dialogue with officers, and the feedback obtained through this process has been considered in the making of proposals for future change.
- 4.1.3 The draft Executive and Decision Making Procedure Rules has been shared with a sample group of officers, all of whom are involved with the decision making process, and has been amended on the basis of that peer review.
- 4.1.4 Members of the Scrutiny Board (Corporate and Council Services) have met as a working group to consider the Call In process and have made a number of recommendations in relation to Member consultation, accountability and transparency of decision making. Whilst these recommendations are being separately met, their base requirement of appropriate Member consultation has informed the proposals made in this review.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An initial consideration of the equality, diversity, cohesion and integration screening form indicates that there are no issues raised by the review of the decision making framework.

4.3 Council Policies and City Priorities

- 4.3.1 The Council's Business Plan 2011 – 2015 sets out the Council's priorities in delivering services to the public over that period. Particularly the priorities and performance measures for Corporate Directorate require that we "Ensure there are good rules and procedures to govern the council's business".

4.4 Corporate and Value for Money

4.4.1 The controls in place on decision making enable Members to scrutinise decisions to ensure value for money. The proposed amendments seek to support this requirement for appropriate consultation with Members, whilst freeing decision making in relation to those matters where there is little or no value to be gained by the imposition of time consuming control processes.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Some of these proposed amendments to the Constitution will fall to be made by Full Council. It will therefore be necessary to report to the General Purposes Committee with the outcome of consultation and to seek their recommendation of the proposed amendments to Full Council.

4.6 Risk Management

4.6.1 There are no risks arising from the review of the decision making framework.

5 Conclusions

5.1 The proposals contained within this report seek to further embed democratic accountability within the Council's Executive Decision Making arrangements.

6 Recommendations

6.1 General Purposes Committee is asked to consider the proposals contained in this report and recommend to Full Council approval of;

- Amendments to Article 13 of the Constitution concerning the definition of a Key Decision and incorporation of definitions of other Executive decision categories;
- New Executive and Decision Making Procedure Rules which consolidate decision making procedures into one set of rules (and corresponding consequential amendments to the documents affected); and
- Amendments to the Officer Delegation Scheme (Council Functions) to withdraw concurrent delegations.

6.2 General Purposes Committee is also requested to note the Leader's intention to withdraw concurrent delegations to officers contained in the Executive arrangements

7 Background documents

7.1 Feedback from Officer Training Sessions

7.2 Review of Executive arrangements within West Yorkshire and Core Cities

ARTICLE 13 - DECISION MAKING

13.0 CATEGORIES OF DECISION MAKING

13.1 Council Decisions

Council Decisions are made in relation to Council functions, as defined by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Council Decisions are not further categorised.

13.1.1 Decision Making By The Full Council

Decisions relating to the functions listed in Article 4.2 or detailed in Part 3 of this Constitution as matters reserved to full Council will be made by the full Council and not delegated.

Subject to Article 13.5, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.1.2 Decision Making By Other Committees And Sub-Committees established by the Council

Subject to Article 13.5, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.1.3 Decision Making By Officers

Officers will act in accordance with the Officer Delegation Scheme set out in Part 3 of this Constitution when considering any matter

13.2 Executive Decisions

Executive Decisions are made in relation to Executive functions, as defined by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

13.2.1 Decisions made in relation to Executive Functions are categorised as follows:-

Key Decision:- a decision relating to an executive function which is likely

- to result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000 pa², or
- to have a significant effect on communities living or working in an area (including one ward).

and

- which is not a decision which is a direct consequence of implementing a previous Key Decision³, or in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed⁴, or
- which is not the result of varying a previous Key decision in line with recommendations made by a Scrutiny Board following a Call In of that decision.

Significant Operational Decisions:- those decisions which are not Key decisions and which;

a.) Do not fall within the definition of Administrative decisions; or

b.) Would have been a Key decision but for a specific provision in the definition of a Key Decision to remove them from this category; or

c.) result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000 each year; or

d.) are, in the opinion of the Director, Chief Officer or Head of Service, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority, for example:-

- a decision to approve or change an officer sub delegation scheme, or
- a decision which requires the virement of funding within approved virement powers of officers.

² Except where this expenditure, saving or income will result from :-

- a) a Treasury Management decision in relation to the making, payment or borrowing of a loan; or
- b) a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or
- c) a decision to approve a care plan which the Council has a duty or power to provide as defined by s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970. Ss17 and 20 Children Act 1989 or s2 Local Government Act 2000
- d) the settlement of proceedings to which Leeds City Council is a party.

³ Where a scheme or proposal changes following the original decision to the extent that the additional spend or save, or the additional impact of the decision, reaches the threshold for a Key decision it shall be treated as a new Key decision.

⁴ Under the capital programme, a decision to **authorise expenditure** over £250,000 will be a **key** decision, but a decision to **inject a scheme** into the capital programme, or to **award a contract** over the value of £250,000 will not.

Administrative Decisions

A decision is an Administrative Decision if it is not a Key, or Significant Operational decision and:

- (a) it is within an approved budget; and
- (b) it is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- (c) it does not raise new issues of policy.

13.2.2 A decision taker will have regard to the definitions of Key, Significant Operational and Administrative decisions set out above and the requirements of the Executive and Decision Making Procedure Rules set out in Part 4 of this Constitution.

13.2.3 Decision Making By The Executive⁵

Subject to Article 13.5 the executive will follow the Executive and Decision Making Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.2.3 Decision Making By Area Committees

The Executive Board shall determine from time to time the executive functions⁶ that may be exercised by Area Committees. These functions will be exercisable concurrently by the Executive Board and, in accordance with the Officer Delegation Scheme (Executive Functions), by Directors.

Area Committees will follow their respective Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.2.4 Decision Making By Officers

Officers will following the Executive and Decision Making Procedure Rules and act in accordance with the Officer Delegation Scheme set out in Part 3 of this Constitution when considering any matter

13.3 **RESPONSIBILITY FOR DECISION MAKING**

13.3.1 A record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions will be maintained by the Director of Resources. This record is set out in Part 3 of this Constitution.

⁵ The executive may be the Executive Board itself or any other committee or officer acting under authority delegated by the Leader or the Executive Board as set out in Part 3 of this Constitution

⁶ Part 3 Sections 3C and 3D of the Constitution provide details of the extent of the delegation determined by the executive.

13.4 PRINCIPLES OF DECISION MAKING

All decisions of the authority, whether made by Council, Executive Board Councillors collectively⁷ or officers, will be made in accordance with the following principles:-

- Proportionality (i.e. the action must be proportionate to the desired outcome)
- Due consultation and the taking of professional advice from officers
- Respect for human rights
- A presumption in favour of openness
- Clarity of aims and desired outcomes
- An explanation of the options considered and details of the reasons for the decision
- Natural justice
- Positive promotion of equality of opportunity

13.5 RECORDING DECISIONS

Council Decisions

13.5.1 All decisions taken by committees of the Council will be recorded in minutes. Officers with delegated authority to take Council decisions will record decisions they take; such records will be available for inspection by the public in accordance with the provisions of the Constitution.

13.5.2 In appropriate circumstances, the officer should provide the Head of Governance Services with a completed Delegated Decision Notification, for inclusion in the Council's record of decisions made.

Executive Decisions

13.5.3 All decisions taken by Executive Board, and all decisions categorised as Key or Significant Operational and taken by an officer will be recorded and be available for inspection by the public in accordance with the provisions of the Constitution. The record will include;

- a. a statement of the reasons for each decision,
- b. details of any alternative options considered and rejected and
- c. a record of any conflict of interest declared by any Member or Officer together with a note of any dispensation granted in respect of that interest by the Standards Committee.

⁷ For example in Committees or Sub-Committees

13.5 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

The Council or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purpose 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.

EXECUTIVE AND DECISION MAKING PROCEDURE RULES

1. HOW DOES THE EXECUTIVE OPERATE?

1.1 Who may make executive decisions

The Leader may discharge any functions which are the responsibility of the Executive⁸; or

He/she may provide for executive functions to be discharged by:

- the Executive Board as a whole;
- an individual Executive Member;
- a committee of the Executive;
- an officer;
- an Area Committee;
- joint arrangements; or
- another local authority.

1.2 Appointments and delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council the names, addresses and wards of the Deputy Leader and the Members appointed to the Executive Board⁹ by the Leader, and the names of any Members appointed as Deputy Executive Members and Support Executive Members.

The Leader may remove the Deputy Leader, an Executive Member or a Deputy Executive Member or Support Executive Member from office. To do so, the Leader must give written notice to the Chief Executive in accordance with Article 7. The Chief Executive will report this to the next ordinary meeting of the Council.

Subject to Article 7.2, the Leader may appoint Executive Members, Deputy Executive Members or Support Executive Members at any time. The Leader must report any such appointment to the Chief Executive as and when it is made. The Chief Executive will report any such appointment to the next ordinary meeting of the Council.

Where a vacancy occurs in the office of Deputy Leader, and the Leader appoints a Deputy Leader in accordance with Article 7.5, the Leader must report any such appointment to the Chief Executive as and when it is made. The Chief Executive will report any such appointment to the next ordinary meeting of the Council.

At the annual meeting, the Leader will also present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

⁸ Subject to any provisions made under Local Government Act 2000 in relation to the discharge of functions by area committees, another local authority or jointly).

⁹ 'Executive Members'

- the extent of authority of the Executive Board;
- the extent of any authority delegated to individual Executive Members, including details of any limitation on their authority;
- the terms of reference and constitution of such executive committees as the Leader appoints and the names of Executive Members appointed to them;
- the nature and extent of any delegation of executive functions to Area Committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

Subject to any statutory provisions about the discharge of functions to area committees, by another local authority, or the joint exercise of functions:

- if the Leader delegates functions to the Executive Board, then unless he/she directs otherwise, the Executive Board may delegate further to a committee of the executive or to an officer;
- if the Leader delegates functions to an Executive Member, then unless the Leader otherwise directs, that Executive Member may delegate further to an officer.
- if the Leader delegates functions to a committee of the executive, then unless he/she directs otherwise, the committee may delegate further to an officer.

Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 (the Executive) and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive Board. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.5 Executive Meetings – when and where

The Executive Board will meet at least 10 times per year at times to be agreed by the Leader. The Executive Board and its committees shall meet at the Council's main offices or another location to be agreed by the Leader.

1.6 Public or private meetings of the executive

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings. Other than the legal requirements, relating to confidential and exempt information, all meetings of the Executive will be in public.

1.7 Quorum

The quorum for a meeting of the Executive Board shall be four. The quorum for a meeting of a committee of the Executive shall be three.

1.9 How decisions are to be taken by the Executive

Executive decisions which are the responsibility of the Executive Board will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.¹⁰

Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive Board.

2. **HOW ARE EXECUTIVE MEETINGS CONDUCTED**

2.1 Who presides

The Leader and in his/her absence, the Deputy Leader will preside at any meeting of the Executive Board or its committees at which he/she is present. In the absence of both, the Leader may appoint another person to do so. If no such appointment is made, those present at the meeting shall decide by majority who should preside.

2.2 Who may attend

As stated above, with the exception of parts of the agenda where the public may be removed due to the likely disclosure of confidential or exempt information, meetings of the Executive will be in public.

2.3 Substitutes

A non-executive Member¹¹ cannot substitute for an Executive Member at a meeting of the Executive Board or any of its committees. The Executive Board may invite

¹⁰ Particular care must be taken to ensure that Key decisions are taken in accordance with the relevant provisions of those rules, particularly where they are not contained within the Forward Plan.

any Member it considers appropriate to attend its meetings and to speak on behalf of an absent member of the Executive Board. However that Member will not be able to take decisions and will not be a co-opted member of the Executive Board.

2.4 What business

At each meeting of the Executive Board the following business will be conducted:

- consideration of the minutes of the last meeting;
- declarations of interest, if any;
- matters referred to the Executive Board (whether by a Scrutiny Board or by the Council) for reconsideration by the Executive Board in accordance with the provisions contained in these or other relevant Procedure Rules set out in Part 4 of this Constitution;
- consideration of reports from Scrutiny Boards; and
- matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions and which are not.

2.5 Consultation

All reports to the Executive Board from any Member of the Executive, or an officer, on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Boards and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.6 Who can put items on the Executive agenda

- (a) The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/ she wishes, whether or not authority has been delegated to the Executive Board, a committee of it or any officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.
- (b) The Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Executive Board where a relevant Scrutiny Board or the full Council have resolved that an item be considered by the Executive.
- (c) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive Board meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances where any two of the head of paid service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive Board needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an

¹¹ For the avoidance of doubt the term 'non executive Member' includes Deputy Executive Members and Support Executive Members, who shall not be eligible to substitute for an Executive Member at a meeting of the Executive Board or any of its Committees.

Executive Board meeting. If there is no meeting of the Executive Board soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

3. **HOW ARE EXECUTIVE DECISIONS TAKEN?**

3.1 Controls Which Apply To Each Category Of Decision

Article 13 of the Constitution sets out the definitions of Key, Significant Operational and Administrative decisions. The following controls (set out in Rules 4.2 to 4.9) apply to Key decisions. In addition Significant Operational Decisions are subject to the requirement to record, as set out in Rule 4.8 below.

4.2 Procedure Before Taking Key Decisions

Subject to Rule 4.5 (general exception) and Rule 4.6 (special urgency), a Key Decision may not be taken unless the matter is included in the Forward Plan published for the period in which it is intended to take the decision; and

- In accordance with Rule 4.4 below, a notice has been published in connection with the matter in question and at least 5 clear days have elapsed since the publication of the notice; or
- where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given to the public in accordance with Rule 3 Access to Information Procedure Rules (notice of meetings)

All Key Decisions which are to be taken by the Executive Board or by a Committee acting on its behalf must be taken in public.

4.3 The Forward Plan

4.3.1 Publication Of Details In Relation To Forward Plan

The Head of Governance Services¹² will publish once a year a notice in at least one newspaper circulating in the area, stating:

- that Key Decisions are to be taken on behalf of the Council;
- that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- that the plan will contain details of the Key Decisions likely to be made for the four month period following its publication;
- that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;

¹² The Head of Governance Services is the Proper Officer for Access to Information under a sub delegation from the Monitoring Officer.

- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan are available;
- that other documents relevant to those matters may be submitted to decision takers;
- the procedure for requesting details of documents (if any) as they become available; and
- the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

4.3.2 Period Of Forward Plan

Forward Plans will be prepared by the Head of Governance Services on behalf of the Leader to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working day of the second month covered in the preceding plan.

Each Forward Plan will contain outstanding matters from the previous Forward Plan, and each shall be taken to supersede each earlier plan.

The Forward Plan must be published at least 14 days before the start of the period covered and made available to the relevant Scrutiny Boards.

4.3.3 Contents of Forward Plan

If it is intended to take a Key Decision in the course of the discharge of an Executive function, the decision taker¹³ will give details of the matter, as set out below, to the Head of Governance Services by the deadline for inclusion in the Forward Plan for the period during which it is intended that the Key Decision will be taken.

The Forward Plan will give the following information in so far as it is available or might reasonably be obtained:

- the matter in respect of which a decision is to be made;
- where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and a list of its Members;
- the date on which, or the period within which, the decision will be taken;
- the identity of the principal groups or organisations whom the decision taker proposes to consult before taking the decision;
- the means by which any such consultation is proposed to be undertaken¹⁴;
- the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

¹³ If the decision is to be taken by a Committee then the officer whose report will be placed before the committee for consideration in relation to the matter is responsible for ensuring that appropriate details are included within the Forward Plan.

¹⁴ Officers are responsible for determining when further consultation and public participation would be appropriate.

- a list of the documents submitted to the decision taker for consideration in relation to the matter.

Particulars of Key Decisions included in the Forward Plan need not include exempt information and may not include confidential information.

4.4 Notification Of Delegated Decisions By Directors

4.4.1 Public access to reports intended to be taken into account

Where a Director receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until the report has been available for public inspection for at least 5 clear days.

The Director will advise the Head of Governance Services of his/her intention to make the decision and provide a copy of the relevant report.

The Head of Governance Services will arrange for the publication of the notice and accompanying report on the Council's internet site.

The Head of Governance Services will also arrange for a copy of the report to be forwarded to the chair of every relevant Scrutiny Board¹⁵ as soon as reasonably practicable.

4.5 General Exception

If a matter which is likely to be a Key Decision has not been included in the Forward Plan and the decision must be taken by such a date that it is impracticable to defer the decision until the start of the first month to which the next Forward Plan, in which the details of the decision could be published, relates, the decision may still be taken if:

- The Head of Governance Services has informed the chair of the relevant Scrutiny Board, by notice in writing, of the matter about which the decision is to be made;
- the Head of Governance Services has made copies of that notice available to the public; and
- at least 5 clear working days have elapsed since the Head of Governance Services complied with these requirements.

4.6 Special Urgency

If by virtue of the date by which a decision must be taken Rule 4.5 (General Exception) cannot be followed, then the decision can only be taken if the relevant Director, obtains the agreement of the chair of a relevant Scrutiny Board¹⁶ that the decision is urgent and that taking the decision cannot be reasonably deferred.

¹⁵ Together with a copy to all Members

¹⁶ If there is no chair of a relevant Scrutiny Board, or if the chair of the relevant Scrutiny Board is unable to act, then the agreement of the Lord Mayor of the Council will suffice.

Any decision taken in accordance with this paragraph (Special Urgency) is to be taken by the Executive Board.

4.7 Scrutiny Of The Making Of Key Decisions

4.7.1 Decisions Which Appear to Have Been Wrongly Treated

Where an executive decision has been made and

- was not treated as a Key Decision, and
- a relevant Scrutiny Board thinks that it should have been treated as a Key Decision

that Scrutiny Board may require the Executive to submit a report to the Council within such reasonable time as the Scrutiny Board specifies.

The requirement may be raised by

- resolution passed at a meeting of the relevant Scrutiny Board, or
- the City Solicitor, to whom the power to require a report is delegated.

The Executive will prepare a report for submission to the next available meeting of the Council following the end of the period specified by the Scrutiny Board. However, if the next meeting of the Council is within 9 days of receipt of the resolution of the Scrutiny Board, then the report may be submitted to the meeting after that.

The report to Council will set out particulars of;

- The decision,
- The reasons for the decision,
- The individual or body making the decision, and
- if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

4.7.2 Quarterly Reports On Special Urgency Decisions

In any event, the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 4.6 (special urgency) in the preceding three months.

The report will include details of

- the number of decisions so taken,
- each decision made, and
- a summary of the matters in respect of which each decision was made.

4.8 Recording Of Decisions

After any meeting of the Executive or any of its committees, the Head of Governance Services or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as

reasonably practicable and make it available for inspection by the public. The record will include;

- a statement of the reasons for each decision,
- details of any alternative options considered and rejected at that meeting and
- a record of any conflict of interest declared by any Member together with a note of any dispensation granted in respect of that interest by the Standards Committee.

As soon as reasonably practicable after a Key or Significant Operational Decision has been taken by an officer, he/she will prepare a record of the decision. The record will include;

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

The provisions of Access to Information Procedure Rules 6 and 7 (inspection of documents after meetings) will apply to the making of Executive Decisions by the Executive Board or any of its committees and to the making of Key Decisions by any officer. This does not require the disclosure of exempt or confidential information, any draft report or document, or advice from a political or mayor's assistant.

4.9 Call-In¹⁷

4.9.1 Decisions Subject to Call In

Subject to the exceptions set out below, the following may be called in to be reviewed and scrutinised by the relevant Scrutiny Board¹⁸:

- all decisions of the Executive Board; and
- Key Decisions taken by Officers.

The power to call in decisions does not extend to¹⁹;

- decisions made by Area Committees;
- decisions made under regulatory arrangements;
- decisions made by Joint Committees; or
- decisions not taken by the authority.

¹⁷ The Local Government Act 2000 requires that Overview and Scrutiny Committees *be given the power to recommend that a decision made but not implemented, be reconsidered*. The Act gives local authorities considerable discretion over the detailed operation of such a "Call In" mechanism.

¹⁸ Where a decision falls within the terms of reference of more than one Scrutiny Board, the Scrutiny Officer will determine the relevant Scrutiny Board, after consultation with Scrutiny Chairs.

¹⁹ A decision which is a direct consequence of implementing a previous key decision cannot be called in – see definition of key decisions, Article 13.

4.9.2 Exemption from Call In

The decision taker may declare a decision as being exempt from Call In if;

- The decision taker considers that the decision is urgent (i.e. that any delay would seriously prejudice the Council's or the public's interests); or
- where the decision has been the subject of a previous Call In.²⁰

Records of decisions taken will indicate where a decision has been declared exempt from Calling In.

Where a decision has been declared exempt on the grounds that any delay would seriously prejudice the Council's or the public's interests, records of the decision will indicate:

- what the implications would be if the decision were to be delayed by the operation of the Calling In mechanism; and
- why the decision could not have been taken earlier so as to have been eligible for Calling In.

Where a decision has been declared exempt on the grounds that it has previously been the subject of a Call In records of the decision will indicate:

- the date on which the original decision was taken; and
- the outcome of the Calling In.

There will be no appeal mechanism against a decision to exempt a decision from Calling In. However, where it considers appropriate, a Scrutiny Board may submit reports and recommendations arising from the exemption from Calling In of individual decisions.

In addition, Scrutiny Board (Resources and Council Services) may request periodic audits of the exemption arrangements.

4.9.3 Operation of Call In

When a decision is made which is subject to Call-In, the Head of Governance Services will arrange to:

- publish notice of the decision;
- make the notice available on the Council database; and
- send each elected Member of the relevant Scrutiny Board²¹ an electronic copy of the record of the decision

within two days of the decision being made.

²⁰ This includes a decision which has been modified by the decision making body following a recommendation by a Scrutiny Board after call in of the earlier decision

²¹ Together with a copy to all Members

The notice will

- state the date on which it is published;
- specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called in²²

4.9.3.1 Initiation of Call In

To initiate a Call In, a request must be submitted to the Scrutiny Officer²³ by 5 p.m. of the fifth working day after a decision has been published.

The request must be made on the approved pro forma and contain the original signatures of those calling in the decision²⁴.

The decision may be called in by either;

- two non executive elected Members (who are not from the same political group); or
- five non executive elected Members

one of whom shall be the nominated signatory.

Prior to submitting a Call In, the nominated signatory must contact the relevant officer or Executive Member to discuss their concerns and their reasons for wanting to call in the decision. The nominated signatory must also ascertain the financial consequences to the authority of having the decision Called In. The outcome of this contact must be detailed on the Call In request proforma.

All requests must detail on the pro forma why in the opinion of the signatories the decision was not taken in accordance with the principles set out in Article 13 - Decision Making, Paragraph 13.4 - Principles of Decision Making, or where relevant issues do not appear to have been taken into consideration.

4.9.3.2 Convening a Meeting

Upon receipt of a request for a Call In, the Scrutiny Officer will ensure that procedures in accordance with Rule 4.9.3.1 above have been followed. If the criteria are met the Scrutiny Officer will immediately notify the decision taker and, for officer decisions, arrange for the Corporate Information System to indicate that the decision is the subject of a Call In.

The Scrutiny Officer will, by noon on the sixth day following publication of the decision, deliver to the decision taker, written confirmation which will be receipted

²² Steps should not be taken to implement any decision subject to Call In until after 12 noon on the sixth working day after publication, to ensure that the Scrutiny Officer has had opportunity to advise them of any request for call in received before the expiry of the call in period (See Rule 4.9.3.2 below).

²³ This Officer is the Head of Scrutiny and Member Development.

²⁴ An Elected Member who is not a member of a political group may be a signatory but co-opted members may not sign a Call In request.

by an authorised contact within the Department. Any decisions which have not been the subject of a Call In may then be implemented.

Also upon receipt of the request, the Scrutiny Officer will, in consultation with the Chair of the relevant Scrutiny Board, convene a special meeting of the relevant Scrutiny Board, to take place within seven clear working days of the Call In request being received.

If a Member withdraws their signature from the Call In request prior to the expiry of the Call In period, the decision may still be called in provided sufficient Members add their signatures to the call in request.

4.9.3.3 Adjourning a Call In Meeting

In exceptional circumstances, the Scrutiny Board may resolve to adjourn the meeting to consider information regarded as essential for the Board to come to a conclusion. The maximum time allowed for an adjournment is 5 working days.

4.9.3.4 Outcome of a Call In Meeting

At the meeting the Scrutiny Board will consider the notification and review the background papers. The Scrutiny Board will invite signatories to the notification²⁵ to explain the reasons for the Call-In²⁶. The relevant member of the Executive Board, Area Committee Chair or officer (as appropriate) shall be required to attend the Meeting and shall be given the opportunity to respond to the reasons given for the Call-In. The Scrutiny Board shall make such further enquiries as it considers necessary and appropriate. The Scrutiny Board may also extend the invitation to other relevant witnesses, as considered appropriate, in order to specifically assist the Board in its deliberations over the called in decision.

The Scrutiny Board shall then either;

- release the decision for implementation; or
- recommend to the decision-maker that the decision should be reconsidered.

If the Scrutiny Board resolves that a decision is to be referred back for consideration, the Scrutiny Officer will prepare a report²⁷ within three working days of the Scrutiny Board meeting. Where the decision was taken by the Executive Board or an Area Committee the report will be submitted to the next meeting of the Executive Board. Where the decision was taken by an officer the report will be submitted to the relevant Director.

²⁵ or their nominees

²⁶ The signatories should specify which of the principles of decision making (set out in Article 13.4 of the constitution) has not been followed. The signatories may also provide further written evidence provided this supports the stated reasons for calling in the decision.

²⁷ the provisions relating to a minority report do not apply to any decision of the Committee in relation to a matter which has been called in.

4.9.4 Reconsideration of Decisions

4.9.4.1 Confirmation of Decisions

If the Decision Taker wishes to confirm the original decision, that decision shall be submitted to the next Executive Board meeting.

If the original decision was taken by an officer, and the relevant Director is of the view that the original decision should be confirmed, but that urgency prevents them from submitting the decision to Executive Board;

- The Director shall obtain the approval of the relevant Executive Board Member before implementation;
- Details of the Executive Member approval, together with reasons of urgency will be included in the new delegated decision form; and
- The Director and relevant Executive Board Member will also be required to attend and give their reasoning to the relevant Scrutiny Board

4.9.4.2 Variation of Decisions

If it is intended to vary the decision in line with the recommendations of the Scrutiny Board then the decision is no longer defined as a Key decision, regardless of the financial or impact thresholds. It will not therefore be necessary to include the proposed variation of decision in the Forward Plan or to give notice of the proposed decision.

If the original decision was taken by the Executive Board the Executive Board may vary the decision²⁸.

Where the Director agrees with the views of Scrutiny a new delegated decision form will be submitted for recording in accordance with Rule 4.8 above.

4.9.4.3 Record of Revised decision

In all instances a revised record of the decision, indicating the outcome of decision taker's further deliberations, will be published on the Corporate Information System.

4.9.5 Annual Reports To Council

Scrutiny Boards are required to submit an Annual Report to Council. These reports will include details of the operation of the Call In arrangements.

5. THE BUDGET AND POLICY FRAMEWORK

The Budget and Policy Framework Procedure Rules contained within part 4 of this constitution set out the procedure to be followed to adopt or amend the Budget and Policy Framework.

²⁸ The decision will be marked exempt from Call In in accordance with rule 4.9.2 above

Subject to paragraphs 5.1 to 5.2 below, all decisions in relation to Executive Functions must be taken in line with the Budget and Policy Framework²⁹.

5.1 Decisions Which May Be Outside The Budget Or Policy Framework

5.1.1 Taking Advice

If it is intended to make an Executive Decision, which might be considered to fall outside the Budget or Policy Framework the decision taker shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the budget and policy framework.

Where a Scrutiny Board is of the opinion that an Executive Decision is, or if made would be, contrary to the budget and policy framework, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

In the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision would not be a departure from the budget and policy framework they shall prepare a report to the relevant Scrutiny Board, with a copy to the Executive Board.

5.1.2 Referral to Council

If a decision has yet to be made, or has been made but not yet implemented, and the Monitoring Officer and/or the Chief Finance Officer are of the view that the proposed decision would be contrary to the budget and policy framework, and the decision taker still intends to make or to implement the decision;

- the Monitoring Officer and/or the Chief Finance Officer shall report to the Executive Board, with a copy to the relevant Scrutiny Board and to every Member of the Council;
- the Executive Board shall meet to consider the report of the Monitoring Officer and/or the Chief Finance Officer and shall prepare a report to Council; and
- the decision taker shall refer the decision to the Council for decision or ratification as appropriate,

In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

The Council shall meet within 28 days of the referral by the decision taker. At the meeting it will receive the Executive Board's report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

If Council decides that the decision is not contrary to the budget and policy framework it shall endorse the decision as falling within the existing Budget and Policy Framework.

²⁹ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 4

If Council decides that the decision is contrary to the budget and policy framework it may either:

- approve or ratify the decision outside the budget and policy framework;
- amend the Council's budget and policy framework as necessary to encompass the decision and approve or ratify the decision with immediate effect; or
- require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

5.2 Urgent Decisions Outside The Budget Or Policy Framework³⁰

Any decision which is contrary to the policy framework³¹, or not wholly in accordance with the budget³² approved by full Council, may only be taken by the Council, unless:

- the decision is urgent and it is not practical to convene a quorate meeting of the full Council;
- the decision taker has briefed the chair of a relevant Scrutiny Board³³ about why it is not practical to convene a quorate meeting of full Council, and
- the chair agrees that the decision is urgent.

The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the chair of the relevant Scrutiny Board³⁴ to the decision being taken as a matter of urgency must be noted on the record of the decision, together with the reasons for the Chair's consent.

The decision taker will provide a full report to the next available Council meeting after the decision is taken explaining:

- the decision,
- the reasons for it; and
- why the decision was treated as a matter of urgency.



³⁰ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 5(2)

³¹ Or amendments which may be made to the policy framework in accordance with the provisions for in year changes to policy framework set out in the Budget and Policy procedure Rules.

³² Or virements made in accordance with the Budget and Policy Procedure Rules.

³³ or in the absence of the chair of the relevant Scrutiny Board the consent of the Lord Mayor, and in the absence of both, the Deputy Lord Mayor

³⁴ Or Lord Mayor or Deputy Lord Mayor as appropriate

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Report authors: P Marrington/E Davenport
 Tel: 39 51151 / 24 78408

Report of Scrutiny Officer

Report to General Purposes Committee

Date: 9 May 2012

Subject: Constitutional amendments – Scrutiny arrangements

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

- 1 This report contains proposals to amend the constitution, following the annual review of scrutiny arrangements by the Scrutiny Officer.
- 2 The Scrutiny Officer proposes amendments to existing arrangements, including Scrutiny Boards' terms of reference, to facilitate scrutiny of key partnerships.
- 3 Other proposed amendments follow legislative changes, or result from the review of executive decision-making procedures carried out by the Director of Resources and the City Solicitor.
- 4 The Scrutiny Officer proposes a number of unrelated minor amendments, including those resulting from a proposal to remove three Scrutiny Board guidance notes from the constitution.

Recommendations

- 5 General Purposes Committee is asked to consider the proposals contained in this report and recommend full Council to:
 - endorse the proposal to remove guidance notes from the constitution (relating to inquiry selection criteria; minority reports; and equality and diversity / cohesion and integration issues); and
 - approve

- revised terms of reference for Scrutiny Boards, as set out in appendices 1-6 of this report;
- revised Scrutiny Board Procedure Rules, as set out in appendix 7 of this report;
- revised Article 6 as set out in appendix 8 of this report.

1 Purpose of this report

- 1.1 This report proposes amendments to the authority's scrutiny arrangements, following an annual review by the Scrutiny Officer.

2 Background information

- 2.1 Each year, the Scrutiny Officer conducts a review of scrutiny arrangements to ensure that they are fit for purpose. This year, the focus of the review has been to facilitate **scrutiny of key partnerships** in which the Council is involved. As a result, the Scrutiny Officer proposes amendments to the Scrutiny Boards' terms of reference, and a number of other minor amendments to the arrangements, for clarification.
- 2.2 The **Localism Act 2011** has amended statutory provisions relating to scrutiny arrangements within the Local Government Act 2000. Scrutiny arrangements therefore need to be updated to reflect these legislative changes, and to reflect regulations issued in relation to flood risk management scrutiny arrangements.
- 2.3 As detailed elsewhere on this agenda, the Director of Resources and the City Solicitor have recently reviewed the authority's executive decision making framework, to clarify accountability and simplify procedures. The resulting proposal to consolidate decision making procedures into one set of rules impacts on the current Scrutiny Board Procedure Rules.

3 Main issues

3.1 Terms of Reference

- 3.1.1 Following the annual review last year, Scrutiny Boards' terms of reference were amended to align with key partnerships. The terms of reference also identified key topics for each Scrutiny Board to consider.
- 3.1.2 To facilitate the focus on partnership scrutiny, it is proposed that terms of reference do not include specific topics this year. Rather, it is proposed that all Scrutiny Boards act as a "critical friend" to relevant key partnerships, and are asked to question three main areas:
1. What contribution the Partnership Board is making to tackle poverty and inequality, and the progress being made against this?
 2. How successfully the Board's partnership arrangements are working?
 3. To what extent are significant benefits being seen from partnership working? How has partnership working ensured increased pace of change to address the issue in hand?
- 3.1.3 It is therefore proposed that the terms of reference are amended to specifically identify the key partnership for each Scrutiny Board to keep under review. This approach will provide the Council with an annual assessment from Scrutiny on all of the key partnerships. The Scrutiny Officer will work with the Head of Leeds

Initiative to draw up a review methodology to ensure consistency across all Scrutiny Boards.

- 3.1.4 It is also proposed to amend the terms of reference to identify the specific “Best city for ...” priorities within the City Priority Plan which each Scrutiny Board should review.
- 3.1.5 As well as this focus on partnership scrutiny, Scrutiny Boards have and will continue to challenge service directorates. For this purpose, Scrutiny Boards’ terms of reference are determined by reference to Directors’ delegations. The Scrutiny Officer has identified anomalies within the current terms of reference relating to these delegations, in terms of how they relate to the specific priorities for each Scrutiny Board to review, within the City Priority Plan. The Scrutiny Officer therefore proposes amendments to the terms of reference of the Scrutiny Boards for Sustainable Economy and Culture, Safer and Stronger Communities, and Resources and Council Services, and the replacement of the Scrutiny Board (Regeneration) with a Scrutiny Board (Housing and Regeneration). The proposals are to align the terms of reference for each Scrutiny Board as determined by the functions of each Director, with the priorities which it will review.
- 3.1.6 Proposed amendments to the terms of reference are set out in the attached appendices 1 – 6.

3.2 Scrutiny Board Procedure Rules

- 3.2.1 It is proposed to reflect the **focus on partnerships** within the Scrutiny Board Procedure Rules, by including a new requirement for the three questions set out above to form part of evidence gathering when undertaking relevant Inquiries. The questions may not always be applicable, but the process of asking the questions would be a good discipline. Appendix 7 to this report sets out proposed amendments to the Rules, with this new provision set out in Rule 10.
- 3.2.2 One change effected by the **Localism Act** relates to referral to a Scrutiny Board of matters by a Member who is not a member of that Board; “councillor calls to action”. Previously, the authority had to make arrangements to enable a Member to refer a “local government matter” relevant to the committee; now arrangements must enable Members to refer “any matter which is relevant to the functions of the committee and is not an excluded matter”. The provision is therefore wider, and reflected in proposed amendment to Rules 11.3,13.6 and 14.5.
- 3.2.3 The other principle change following the Localism Act relates to the authority’s powers to require a “partnership authority” to have regard to Scrutiny Board reports and recommendations. Previously, this could be required only if a report or recommendation related to a local improvement target. Now, this may be required when the report or recommendation relates to functions of a partner authority “so far as exercisable in relation to the authority’s area or the inhabitants of that area”. The provision is therefore wider, and this is reflected in proposed amendment to Rules 14.3 and 16.15.

- 3.2.4 In June 2011, a review of the Scrutiny Board Procedure **guidance notes** resulted in a number being removed from the constitution. The Scrutiny Officer has carried out a further review, and now identified that a further three lengthy separate guidance notes could be removed, provided that adequate referencing is made in the Rules to relevant issues.
- 3.2.5 The Scrutiny Officer therefore proposes that the guidance note for inquiry selection criteria; minority reports; and equality and diversity/cohesion and integration issues are removed from the constitution. Consequential amendments are proposed to Rules 12.2, 12.3, 13.5 and footnote 27.
- 3.2.6 New Rules 14.10, 14.11, 16.17 and 16.18 reflect legislation related to the scrutiny of flood risk management.
- 3.2.7 If full Council approve the **new Executive and Decision Making Procedure Rules** proposed elsewhere on this agenda, consequential amendments to the Scrutiny Board Procedure Rules will be needed. The proposed new Rules incorporate current Scrutiny Board Procedure Rules 18, 19 and 20 (executive decisions outside the budget and policy framework, key decisions not contained within the forward plan and call-in). These would, therefore, need to be deleted from the Scrutiny Board Procedure Rules.

3.3 Article 6

- 3.3.1 Proposed amendments to Article 6 (Scrutiny Boards) are set out in appendix 8 to this report. These reflect the amendments outlined above, including updates following legislative changes.

4 **Corporate Considerations**

4.1 **Consultation and Engagement**

- 4.1.1 The proposal to amend scrutiny arrangements to focus on partnerships is endorsed by the Head of Leeds Initiative.

4.2 **Equality and Diversity / Cohesion and Integration**

- 4.2.1 The suggested amendments will not have an impact on equality and diversity/cohesion and integration matters. Scrutiny Boards will continue to ensure, through service review that such issues are considered in decision making and policy formulation.

4.3 **Council policies and City Priorities**

- 4.3.1 The Council's Scrutiny arrangements are one of the key parts of the Council's governance arrangements. This review seeks to ensure that the arrangements continue to be efficient and relevant to the work of the Council and will contribute to the delivery of the Council's policies and City priorities.

4.4 **Resources and value for money**

- 4.4.1 This report has no specific resource and value for money implications.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The amendments proposed ensure that the authority's scrutiny arrangements reflect current legislation.

4.6 Risk Management

4.6.1 This report has no risk management implications.

5 Conclusions

5.1 This report proposes amendments to the authority's scrutiny arrangements, following an annual review by the Scrutiny Officer. The focus of the review this year has been on ensuring that the arrangements are fit for purposes in terms of reviewing and scrutinising key partnerships and progress made towards the authority's priorities, as set out in the City Priority Plan.

5.2 Revised Scrutiny Board terms of reference and procedure rules are proposed to ensure that all Scrutiny Boards act as a "critical friend" to the city's key partnerships, as well as reflect legislative changes. Scrutiny Boards will remain authorised to challenge service directorates.

6 Recommendations

6.1 General Purposes Committee is asked to consider the proposals contained in this report, and recommend full Council to:

- endorse the proposal to remove guidance notes from the constitution (relating to inquiry selection criteria; minority reports; and equality and diversity/ cohesion and integration issues) and
- approve
 - revised terms of reference for Scrutiny Boards, as set out in appendices 1-6 of this report;
 - revised Scrutiny Board Procedure Rules, as set out in appendix 7 of this report;
 - revised Article 6 as set out in appendix 8 of this report.

7 Background documents¹

7.1 The Localism Act 2011

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

Scrutiny Board (Children and Families)

The Scrutiny Board (Children and Families) is authorised to discharge the following overview and scrutiny functions¹:

1. to review or scrutinise decisions made or other action taken in connection with any council or executive function or any matter which affects the authority's area or the inhabitants of that area;²
2. to review or scrutinise the performance of the Children's Trust Board;³
3. to carry out such other reviews or policy development tasks as it may be requested to do by either the Executive Board or the Council;
4. to act as the appropriate Scrutiny Board in relation to the Executive's initial proposals for a relevant plan or strategy⁴ within the Budget and Policy Framework;⁵
5. to review or scrutinise executive decisions that have been Called In;
6. to review outcomes, targets and priorities within the Council Business Plan and the Best city... for children and young people priorities within the City Priority Plan;
7. to receive requests for scrutiny and councillor calls for action, and undertake any subsequent work;and
8. to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made.

Deleted: the exercise of any council or executive function or any other related matter including :-¶
 ¶
 a) . reducing the numbers of looked after children¶
 b) . improving attendance¶
 c) . increasing the number of young people in employment, education and training¶
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¹ In relation to functions delegated to the Director of Children's Services under the Officer Delegation Scheme whether or not those functions are concurrently delegated to any other committee or officer.

² Including matters pertaining to outside bodies and partnerships to which the authority has made appointments.

³ The Scrutiny Board has a duty to do this each municipal year - Scrutiny Board Procedure Rule 10.3

⁴ Namely the Youth Justice Plan and the Children and Young Peoples Plan

⁵ In accordance with Budget and Policy Framework Procedure Rules.

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Scrutiny Board (Health and Well-being and Adult Social Care)

The Scrutiny Board (Health and Well-being and Adult Social Care) is authorised to discharge the following overview and scrutiny functions¹:

1. to review or scrutinise decisions made or other action taken in connection with any council or executive function or any matter which affects the authority's area or the inhabitants of that area.²
2. to review or scrutinise the performance of the Health and Wellbeing Board;³
3. to carry out such other reviews or policy development tasks as it may be requested to do by either the Executive Board or the Council;
4. to act as the appropriate Scrutiny Board in relation to the Executive's initial proposals for a relevant plan or strategy⁴ within the Budget and Policy Framework;⁵
5. to review or scrutinise executive decisions made that have been Called In;⁶
6. to consider such proposals as are referred to it by local NHS bodies and the authority and to report back the result of its considerations to the referring body and others as appropriate;
7. in relation to matters in respect of which a local NHS body consults more than one scrutiny committee within its area, or in relation to matters which a number of Yorkshire and Humber Councils elect to jointly scrutinise a function or service provided by the NHS body⁷, to
 - (a) nominate Members to a joint committee, such nominations to reflect the political balance of the Board;
 - (b) delegate its scrutiny functions to another local authority.
8. to review outcomes, targets and priorities within the Council Business Plan and the Best city for...health and wellbeing priorities in the City Priority Plan;
9. to receive requests for scrutiny and councillor calls for action, and undertake any subsequent work; and

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- a) . Reducing smoking in the over 18s¶
- b) . Service Change and Commissioning in Adult Social Care¶
- c) . Reducing avoidable admissions to hospital and care homes¶
- d) . The transformation of health and Social Care Services

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¹ In relation to functions delegated to the Director of Adult Social Services under the Officer Delegation Scheme whether or not those functions are concurrently delegated to any other committee or officer.

² Including matters pertaining to outside bodies or partnerships to which the authority has made appointments

³ The Scrutiny Board has a duty to do this each municipal year – Scrutiny Board Procedure Rule 10.3

⁴ Namely the Health and Wellbeing City Priority Plan

⁵ In accordance with Budget and Policy Framework Procedure Rules.

⁷ Or in relation to matters which a number of councils are required to carry out joint scrutiny by virtue of a direction of the Secretary of State.

10. to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made by the Board.

Scrutiny Board (Housing and Regeneration)

The Scrutiny Board (Housing and Regeneration) is authorised to discharge the following overview and scrutiny functions¹.

1. to review or scrutinise decisions made or other action taken in connection with any council or executive function or any matter which affects the authority's area or the inhabitants of that area;²
2. to review or scrutinise the performance of the Housing and Regeneration Partnership Board;³
3. to carry out such other reviews or policy development tasks as it may be requested to do by either the Executive Board or the Council;
4. to act as the appropriate Scrutiny Board in relation to the Executive's initial proposals for a relevant plan or strategy⁴ within the Budget and Policy Framework;⁵
5. to review or scrutinise executive decisions that have been Called In;
6. to review outcomes, targets and priorities within the Council Business Plan and the Best city ..to live priorities within the City Priority Plan;
7. to receive requests for scrutiny and councillor calls for action, and undertake any subsequent work; and
8. to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made.

¹ In relation to functions delegated to the Director of Environment and Neighbourhoods under the Officer Delegation Scheme (Executive Functions) paragraphs 2(a), (b), (c) and (d), whether or not those functions are concurrently delegated to any other committee or officer.

² Including matters pertaining to outside bodies and partnerships to which the authority has made appointments.

³ relating to housing led regeneration. The Scrutiny Board has a duty to do this each municipal year – Scrutiny Board Procedure Rule 10.3

⁴ Namely the Regeneration City Priority Plan.

⁵ In accordance with Budget and Policy Framework Procedure Rules.

Part 3 Section 2B(3)

Page 1 of 1

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¶
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b) . Housing growth challenge both in terms of brownfield and Greenfield development, private and affordable¶
c) Condition of private sector housing¶
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<#>the Director of City Development under ¶
<#>the Officer Delegation Scheme (Council Functions) at paragraphs (b) to (i), (k) to (p), (w), (ff) to (gg), (kk) to (ll), (rr) and (tt), and¶
<#>the Officer Delegation Scheme (Executive Functions) at paragraphs 1(a) to (c) and 2(a) to (g) and (i) to (l); and ¶
<#>the Chief Planning Officer under ¶
<#>the Officer Delegation Scheme (Council Functions) at Section 2, and¶
<#>the Officer Delegation Scheme (Executive Functions) at paragraph (a) ¶

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Scrutiny Board (Resources and Council Services)

The Scrutiny Board (Resources and Council Services) is authorised to discharge the following overview and scrutiny functions¹:

1. to review or scrutinise decisions made or other action taken in connection with any council or executive function or any matter which affects the authority's area or the inhabitants of that area;²
2. to review or scrutinise the performance of the Leeds Initiative Board;³
3. to carry out such other reviews or policy development tasks as it may be requested to do by either the Executive Board or the Council;
4. to act as the appropriate Scrutiny Board⁴ in relation to the Executive's initial proposals for a plan or strategy⁵ within the Budget and Policy Framework;⁶
5. to review or scrutinise executive decisions⁷ made that have been Called In;
6. to review outcomes, targets and priorities within the Council Business Plan;
7. to receive requests for scrutiny and councillor calls for action and undertake any subsequent work; and
8. to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made by the Board.

Deleted: the exercise of any council or executive function or any other related matter

Deleted: to make reports or recommendations to Council or the Executive in connection with the exercise of any functions of the Council or the Executive, including proposals for changes to policies and practices;¶
¶

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Deleted: 4. to receive and review external audit and inspection reports;¶
¶
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Deleted: <#> and City Priority Plans and to make such reports and recommendations as it considers appropriate; ¶
¶
<#> to review or scrutinise executive decisions⁸ made that have been Called In; and¶
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¹ In relation to functions delegated under the Officer Delegation Schemes for the Chief Executive, the Deputy Chief Executive, the Assistant Chief Executive (Customer Access and Performance (except in relation to function (k)), The Director of Resources and the City Solicitor; and any other function not within the terms of reference of any other Scrutiny Board.

² Including matters pertaining to outside bodies and partnerships to which the authority has made appointments

³ The Scrutiny Board has a duty to do this each municipal year – Scrutiny Board Procedure Rule 10.3

⁴ Under the Budget and Policy Framework Procedure Rules

⁵ Namely the Licensing Authority Policy Statement, the Vision for Leeds, the Council Business Plan and the Budget, and any other plan or policy which shall be added to the Policy Framework and is not included within the Terms of Reference of any other Scrutiny Board.

⁶ Including in relation to the Budget

⁷ Other than those within the Terms of Reference of any other Scrutiny Board

Part 3 Section 2B(6)

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Scrutiny Board (Safer and Stronger Communities)

The Scrutiny Board (Safer and Stronger Communities) is authorised to discharge the following overview and scrutiny functions¹.

1. to review or scrutinise decisions made or other action taken in connection with any council or executive function of any matter which affects the authority's area or the inhabitants of that area;²
2. to review or scrutinise the performance of the Safer and Stronger Communities Board³;
3. to carry out such other reviews or policy development tasks as it may be requested to do by either the Executive Board or the Council;
4. to act as the appropriate Scrutiny Board in relation to the Executive's initial proposals for a relevant plan or strategy⁴ within the Budget and Policy Framework;⁵
5. to review or scrutinise executive decisions that have been Called In;
6. to exercise the functions of a crime and disorder committee⁷, including the following:
 - a. to review or scrutinise the exercise of crime and disorder functions⁸ by responsible authorities;⁹
 - b. to review or scrutinise any local crime or disorder matter raised by a Member;¹⁰

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- ¶
- a) Reducing burglary¶
- b) The management and reduction of anti-social behaviour¶
- c) The effectiveness of streetscene services¶
- d) The relationship and respective roles of the city council and third sector organisations in mitigating the negative effects of the recession on the communities they serve

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¹ In relation to the functions delegated to the Director of Environment and Neighbourhoods under the Officer Delegation Scheme (Council Functions) and the Officer Delegation Scheme (Executive Functions) at paragraphs 1 (a) to (e) and 2 (e),(f) and (h) to (k), and the Assistant Chief Executive (Customer Access and Performance) under the Officer Delegation Scheme (Executive Functions) at paragraph (k) whether or not those functions are concurrently delegated to any other committee or officer.

² Including matters pertaining to outside bodies and partnerships to which the authority has made appointments

³ The Scrutiny Board has a duty to do this each municipal year – Scrutiny Board Procedure Rule 10.3

⁴ Namely the Safer and Stronger Communities Plan

⁵ In accordance with Budget and Policy Framework Procedure Rules.

⁷ In accordance with Section 19 Police and Justice Act 2006

⁸ As defined by Section 6 Crime and Disorder Act 1998 (formulating and implementing crime and disorder strategies).

⁹ These are the authorities responsible for crime and disorder strategies set out in Section 5 of the Crime and Disorder Act 1998

¹⁰ This is any matter concerning –

- a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
- b) the misuse of drugs, alcohol and other substances in that area.

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7. to review outcomes, targets and priorities within the Council Business Plan and Best city... for communities priorities within the City Priority Plan.
8. to receive requests for scrutiny and councillor calls for action, and undertake any subsequent work, and
9. to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made by the Board.

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which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.

Scrutiny Board (Sustainable Economy and Culture)

The Scrutiny Board (Sustainable Economy and Culture) is authorised to discharge the following overview and scrutiny functions¹:

1. to review or scrutinise decisions made or other action taken in connection with any council or executive function, or any matter which affects the authority's area or the inhabitants of that area;²
2. to review or scrutinise the performance of the Sustainable Economy and Culture Partnership Board;³
3. to carry out such other reviews or policy development tasks as it may be requested to do by either the Executive Board or the Council.
4. to act as the appropriate Scrutiny Board in relation to the Executive's initial proposals for a relevant plan or strategy⁴ within the Budget and Policy Framework;⁵
5. to review or scrutinise executive decisions made that have been Called In;
6. to review and scrutinise the exercise by risk management authorities⁶ of flood risk management functions⁷ which may affect the Leeds City Council area;⁸
7. to review outcomes, targets and priorities within the Council Business Plan and the Best City..for business priorities within the City Priority Plan;
8. to receive requests for scrutiny and councillor calls for action, and undertake any subsequent work; and
9. to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made by the Board.

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¶
a) City Centre Development/Promoting economic growth in the City¶
b) Reducing CO2 emissions in the Local Authority Estate¶
c) the impact of existing major sources of travel movements within the City, and the plans being made to address the impact of known future developments on the City's transport infrastructure.¶
d) The City's cultural development

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Deleted: <#> to make such reports and recommendations as it considers appropriate and to receive and monitor formal responses to any reports or recommendations made by the Board;¶
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the Officer Delegation Scheme (Council Functions) at paragraphs (a), (j), (q) to (v), (x) to (ee), (hh) to (jj), (mm) to (qq), (ss), and (uu) to (xx); and ¶
the

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¹ In relation to functions delegated under the Officer Delegation Schemes for the Director of City Development, the Director of Environment and Neighbourhoods under the Officer Delegation Scheme (Executive functions) paragraph 2(g), and the Chief Planning Officer under the Officer Delegation Scheme (Council functions) at Section 2, and the Officer Delegation Scheme (Executive Functions) at paragraph (a), whether or not those functions are concurrently delegated to any other committee or officer.

² Including matters pertaining to outside bodies and partnerships to which the authority has made appointments.

³ relating to economic led regeneration. The Scrutiny Board has a duty to do this each municipal year – Scrutiny Board Procedure Rule 10.3

⁴ Namely the Development Plan Documents, Plans and alterations which together comprise the Development Plan, the Sustainable Economy and Culture City Priority Plan and the Local Flood Risk Management Strategy.

⁵ In accordance with Budget and Policy Framework Procedure Rules.

⁶ As defined by Section 6 Flood and Water Management Act 2010

⁷ As defined by Section 4 Flood and Water Management Act 2010

⁸ In accordance with Section 9FH Local Government Act 2000

Part 3 Section 2B(5)

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SCRUTINY BOARD PROCEDURE RULES

1.0 GENERAL ARRANGEMENTS

1.1 The Council will have the Scrutiny Boards set out in Article 6 of its Constitution. It will appoint to them as it considers appropriate from time to time.

1.2 No Scrutiny Board may include an Executive Board Member.

1.3 Working Groups

A Scrutiny Board may appoint a Working Group as it feels appropriate and necessary to assist in ensuring the effectiveness and efficiency of its work.

1.4 Co-opted Members

Each Scrutiny Board shall be entitled to select non-voting co-opted members to assist in the discharge of the Board's role, in accordance with Article 6 of the Constitution.

Except as set out in Article 6, co-opted members may participate in the debate in the same way as Elected Members, but have no voting rights.

1.5 Education Representatives

The Scrutiny Board (Children and Families) shall confirm the appointment of education representatives in accordance with Article 6 of the Constitution.

Any education representative appointed in accordance with Article 6 of the Constitution, shall serve as an education representative on all relevant Scrutiny Boards.¹

1.6 Matters within the terms of reference of more than one Scrutiny Board

The Scrutiny Officer², after consultation with Scrutiny Chairs, shall arrange for any matter to be dealt with, where it falls within the terms of reference of more than one Scrutiny Board.

2.0 DECLARATIONS OF INTEREST

2.1 Elected Members and voting co-opted members of Scrutiny Boards must observe the authority's Code of Conduct.

2.2 Where any non-voting co-opted member of a Scrutiny Board has an interest in an item, he/she must declare the interest and may be required by the Chair of the

¹ A Scrutiny Board is a relevant Scrutiny Board where the Board's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive.

² Designated in accordance with Section 9FB Local Government Act 2000 (the 2000 Act). See further Article 6

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Scrutiny Board Procedure Rules

Scrutiny Board to withdraw from the meeting at which that issue is under discussion.

- 2.3 The Scrutiny Board (Health and Well-being and Adult Social Care) may include Members who are involved in the executive of a local NHS body³, as a member or an employee. Where such a Member has a personal or prejudicial⁴ interest in a matter, they must declare the interest. If the interest is prejudicial they must not participate in any Inquiry or consultation process which concerns that NHS body. In addition Scrutiny Board (Health and Well-being and Adult Social Care) Members may not be involved in any scrutiny exercise that may advantage the NHS body where they have a prejudicial interest.

3.0 FREQUENCY AND PLACE OF MEETINGS OF THE SCRUTINY BOARDS

3.1 Extraordinary meetings may be called from time to time as and when appropriate.

3.2 A Scrutiny Board meeting may be called by

- the Chair of the relevant Scrutiny Board; or
- any three Members of the Board; or
- the Scrutiny Officer if he/she considers it necessary or appropriate.

3.3 A Scrutiny Board may sit at such place and at such time as it considers necessary and appropriate.

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Crime and disorder functions

3.4 The Scrutiny Board (Safer and Stronger Communities) must meet as the Scrutiny Board considers appropriate to review or scrutinise the exercise of crime and disorder functions⁵ by responsible authorities⁶, but no less than once in every twelve month period⁷.

4.0 QUORUM / SUBSTITUTE MEMBERS

4.1 The quorum for a Scrutiny Board shall be as set out for committees in the Council Procedures Rules in Part 4 of this Constitution.

4.2 The Council shall appoint substitute members, comprising all other members of the other Scrutiny Boards.

4.3 A substitute Member shall be entitled to attend a meeting of a Scrutiny Board in place of a regular Member.

5.0 NOTICES OF MEETINGS

³ In Leeds this means NHS Leeds, the Leeds Community Healthcare NHS Trust the Leeds Teaching Hospitals NHS Trust, Leeds Partnerships NHS Foundation Trust, the NHS Yorkshire and Humber, and the Yorkshire and Humber Specialised Commissioning Group

⁴ See the Members Code of Conduct paragraphs 8 to 12 on Interests

⁵ As defined by Section 6 Crime and Disorder Act 1998 (the 1998 Act) (formulating and implementing crime and disorder strategies) - Section 19(11) Police and Justice Act 2006 (the 2006 Act)

⁶ These are the bodies and persons responsible for crime and disorder strategies – Section 1(6) 2006 Act

⁷ Regulation 4 Crime and Disorder (Overview and Scrutiny) Regulations 2009

Part 4 (c)

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5.1 Notices for all meetings of a Scrutiny Board shall be issued from the office of the Chief Executive. No matter shall be considered at such meeting without the prior agreement of the Chief Executive who shall first have been provided with any written report or with full details of any intended verbal report.

6.0 ADMISSION TO MEETINGS

6.1 Subject to any statutory prohibitions and to Rule 6.2 below, all meetings of a Scrutiny Board shall be open to the public in accordance with the Access to Information Procedure Rules⁸. This shall be without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

6.2 A Scrutiny Board may resolve to exclude the press and public from a meeting (whether the whole or part only of the proceedings) by passing a resolution under the Access to Information Procedure Rules.

7.0 MINUTES

7.1 All meetings of each Scrutiny Board shall be minuted. All oral evidence given to a Scrutiny Board may be recorded in full as shall appear to the Scrutiny Board to be appropriate, and shall be retained for an appropriate period of time to be determined in each case.

8.0 RIGHTS OF SCRUTINY BOARD MEMBERS TO DOCUMENTS

8.1 In addition to their rights as Councillors, Members on a Scrutiny Board have additional rights to documents as set out in the Access to Information Procedure Rules.

8.2 When a Scrutiny Board conducts a review, every member of the Scrutiny Board⁹ shall have a right of access to any documents which are relevant to the subject matter of the review.

8.3 Nothing in the above paragraph prevents more detailed liaison between the Executive and a Scrutiny Board as appropriate depending on the particular matter under consideration.

9.0 AGENDA ITEMS

9.1 A Scrutiny Board shall as a minimum consider the following business at an Ordinary Meeting:

- appeals against refusal of inspection of documents;

⁸ These are in Part 4 of the Constitution

⁹ Information received as a member of a Scrutiny Board should be used only in this capacity. Such information should not for example be used by an elected Member to further their ward work.

Scrutiny Board Procedure Rules

- exclusion of public;
- late items;
- declarations of interest;
- apologies for absence;
- minutes of the last meeting;
- the Scrutiny Board's work programme; and
- the business otherwise set out on the agenda for the meeting.

10.0 WORK PROGRAMMING

10.1 No Scrutiny Board may undertake a review into:

- any decision of a Plans Panel, the Licensing Committee or a Licensing sub-committee;¹¹
- any decisions which may be appealed against under the terms of reference of the Licensing Sub-Committees;
- any decision taken by an officer under delegated authority which falls within the terms of reference of a Plans Panel, the Licensing Committee or a Licensing Sub-Committee;¹²
- any decision taken prior to 24 May 1999¹³, except where such a decision has influenced to a significant degree any action or decision taken subsequently to 24 May 1999 which is the subject of a review; or
- except in exceptional circumstances, any decision in respect of which there are:
 - ongoing judicial proceedings, Ombudsman or audit inquiry or complaint under the Council's formal complaints procedure; or
 - individual personnel issues.

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10.2 The role of the Scrutiny Boards in the development of the Council's Budget and Policy Framework is set out in the Budget and Policy Framework Procedure Rules.

10.3 At a time in the municipal year¹⁴, all Scrutiny Boards will act as "critical friend" to the relevant partnership and consider and report on the following areas:

¹¹ In respect of a licence or permission granted to an individual or in respect of an individual premises

¹² In respect of a licence or permission granted to an individual or in respect of an individual premises

¹³ This was the date of the commencement of scrutiny arrangements in Leeds.

¹⁴ The appropriate time for this review will be established by the Scrutiny officer in conjunction with Scrutiny Chairs and the Head of the Leeds Initiative.

1. What contribution the Partnership Board is making to tackle poverty and inequality, and the progress being made against this?
2. How successfully the Board's partnership arrangements are working?
3. To what extent are significant benefits being seen from partnership working? How has partnership working ensured increased pace of change to address the issue in hand?

11.0 REQUESTS FOR SCRUTINY

Reviews requested by the Executive Board or Council

- 11.1 Where the Executive Board or Council resolves to recommend that a review should be undertaken into a particular matter, the Scrutiny Officer shall add this recommendation to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.

Reviews requested by a member of a Scrutiny Board

- 11.2 Any member of a Scrutiny Board may propose that a review be undertaken by that Scrutiny Board into a particular matter. The Scrutiny Board will then consider whether to undertake the review. In doing so, it shall take into account the wishes of all members of that Board including those who are not Members of the political group(s) forming the administration.

Councillor calls for action

- 11.3 Any Member may refer any matter, which is relevant to the functions of a Scrutiny Board¹⁶, but is not an excluded matter¹⁷, to that Scrutiny Board – a “councillor call for action”. In considering whether to refer a matter, the Member must have regard to any guidance issued by the Secretary of State.¹⁸

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- 11.4 All such referrals must be submitted in writing to the Scrutiny Officer. The Scrutiny Officer shall add this to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.

- 11.5 The Scrutiny Officer shall acknowledge all such referrals.

- 11.6 At the next Ordinary Meeting, the Scrutiny Board shall consider any referral which the Scrutiny Officer has added to the agenda.

- 11.7 The Member making the referral will be invited to attend the Scrutiny Board's meeting to make representations as to why it would be appropriate for the Board to

¹⁶ In accordance with Section 9FC Local Government Act 2000

¹⁷ An excluded matter means any matter which is a local crime and disorder matter under Section 19 Police and Justice Act 2006 (see below), or a matter of any description specified in an order made by the Secretary of State (SI 2012/1022).

¹⁸ See further SBPR Guidance Notes

Scrutiny Board Procedure Rules

exercise its functions in relation to the matter. The Scrutiny Board Chair will decide how much time will be given to the Member for addressing the Scrutiny Board.

11.8 In deciding whether to carry out a review, the Scrutiny Board may have regard to:

- any powers which the Member may exercise in relation to the matter¹⁹; and
- any representations made by the Member.

11.9 If the Scrutiny Board decides not to carry out a review into the matter, the Scrutiny Officer will inform the referring Member about the decision of the Scrutiny Board, and the reasons for it.

Local crime and disorder matters

11.10 Any Member may refer any local crime and disorder matter²⁰ to the Scrutiny Board (Safer and Stronger Communities) as the Council's designated Crime and Disorder Committee..

11.11 All such referrals must be submitted in writing to the Scrutiny Officer. The Scrutiny Officer shall add this to the agenda for the next Ordinary Meeting of the Scrutiny Board.

11.12 The Scrutiny Officer shall acknowledge all such referrals.

11.13 At the next Ordinary Meeting, the Scrutiny Board shall consider any such referrals which the Scrutiny Officer has added to the agenda.

11.14 The Member making the referral will be invited to attend the Scrutiny Board's meeting to make representations as to why it would be appropriate for the Board to exercise its functions in relation to the matter. The Scrutiny Board Chair will decide how much time will be given to the Member for addressing the Scrutiny Board.

Health and social care matters

11.15 The Local Involvement Network may refer any matter relating to:

- the planning, provision and operation of health services; or
 - social care services²¹
- to the relevant Scrutiny Board.

11.16 The Scrutiny Officer shall add any such referral to the agenda for the next Ordinary Meeting of the relevant Scrutiny Board.

11.17 The Scrutiny Officer shall acknowledge receipt of all such referrals on behalf of the Scrutiny Board, within 20 working days of its receipt.

¹⁹ Under Section 236 of the 2007 Act

²⁰ This means a matter concerning:

- crime and disorder (including in particular forms of crime and disorder that involve antisocial behaviour or other behaviour adversely affecting the local environment); or

- the misuse of drugs alcohol and other substances

which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area -Section 19(11) 2006 Act

²¹ These are services provided as part of the Council's social services functions (Section 226 Local Government and Involvement in Health Act 2007 – the 2007 Act)

Part 4 (c)

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- 11.18 At the next Ordinary Meeting, the Scrutiny Board shall consider any such referral which the Scrutiny Officer has added to the agenda.
- 11.19 In deciding whether to exercise any functions in relation to any health or social care matter, the relevant Scrutiny Board must take into account any relevant information provided by the Local Involvement Network.
- 11.20 The Scrutiny Officer will inform the Local Involvement Network about any action taken in relation to the matter.

Requests for reviews from other sources

11.21 The appropriate Scrutiny Board shall consider a request from any other source²² to conduct a review²³, including any petition requesting Scrutiny²⁴.

12.0 UNDERTAKING SCRUTINY INQUIRIES -

12.1 Where a Scrutiny Board undertakes an Inquiry the Scrutiny Board shall consult with any relevant Director²⁵ and Executive Member on the terms of reference.

~~12.2 Where any Scrutiny Board decides that there shall be an Inquiry, the Scrutiny Board shall~~

- consult with any relevant Director and Executive Member.
- agree the Terms of Reference of the Inquiry;
- agree the period within which the Inquiry's Report is to be completed;
- compile a preliminary list of witnesses from whom the Scrutiny Board require evidence²⁶; and
- compile a preliminary list of documents which the Scrutiny Board require to be produced.

12.3 Where appropriate, all terms of reference for work undertaken by Scrutiny Boards will include:

“To review how and to what effect consideration has been given to the impact of a service or policy on all equality areas, as set out in the Council's equality and Diversity scheme”.

13.0 REPORTS AND RECOMMENDATIONS

²² including Scrutiny Chairs.

²³ See further Scrutiny Board Procedure Rules Guidance Notes

²⁴ Where a Scrutiny Board Chair receives a petition in their capacity as a Scrutiny Chair, the Chair will respond to the petition organiser only. Thereafter, the Scrutiny Officer will be responsible for notifying the petition organiser of the date on which the petition will be considered, and of the outcome of that meeting. The Scrutiny Officer will ensure that the appropriate Executive Board Member receives a copy of the petition.

²⁵ Any reference to a Director within these Rules should be deemed to include reference to all officers listed in Article 12 of the constitution. In relation to health matters it also includes the Director of Public Health

²⁶ As an Inquiry proceeds it may become apparent that further witnesses are required

Deleted: 12.2 Before deciding to undertake a scrutiny Inquiry, a Scrutiny Board must¶¶
<#>consider how the proposed Inquiry meets criteria approved from time to time; and¶¶
<#>consider the current workload of the Scrutiny Board and the available resources required to carry out the work.¶¶
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Scrutiny Board Procedure Rules

- 13.1 At the conclusion of a review a Scrutiny Board shall, where it considers it to be appropriate, produce a written report summarising the evidence that it has taken and set out its recommendations.
- 13.2 Where a Scrutiny Board is considering making specific recommendations it shall invite advice from the appropriate Director(s) prior to it finalising its recommendations. The Director shall consult with the appropriate Executive Member before providing any such advice. The detail of that advice shall be reported to the Scrutiny Board and considered before the report is finalised.
- 13.3 The review report shall include:
- an explanation of the matter reviewed or scrutinised;
 - a list of the participants involved in the Inquiry (save where the Board considers that a name of a witness should be withheld for reasons of confidentiality)²⁷ ;
 - a list of all documentation that has been considered by the Board; and
 - any conclusions and recommendations on the matter reviewed or scrutinised.
- 13.4 Where a Scrutiny Board is to publish or copy a report, it must comply with relevant statutory provisions relating to exempt or confidential information.
- 13.5 Where any voting member of the Scrutiny Board does not agree with the content of the Board's Report, they may produce a Minority Report setting out their findings and recommendations. The intention to submit a minority report should be declared within the Board meeting at the time the majority report is agreed and be both formally minuted and referred to in the final report as part of the Board's resolutions. The Chair can give this notice on behalf of a Member who cannot be present when the majority report is agreed. Where a Scrutiny Board has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted. Where the intention to produce a minority report has been minuted, the Scrutiny Support Unit will contact the appropriate Member or Members to confirm submission dates. The minority report should be delivered to the Scrutiny Support Unit within 5 working days after the Scrutiny Board meeting. The Minority Report will be an appendix to the Scrutiny Board's Report.²⁸

Councillor calls for action

- 13.6 Where a Scrutiny Board is considering making a report or recommendations in relation to a matter referred as a councillor call for action, it may have regard to:
- any powers which the Member may exercise in relation to the matter²⁹; and
 - any representations made by the Member.

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²⁷ Where it is necessary to preserve the confidentiality of a witness, their name need not be disclosed nor where the evidence which they gave amounted to exempt information, need this be disclosed if it would breach the witness's confidentiality.

²⁸ The Scrutiny Board Procedure Rules Guidance Note provides guidance on Minority Reports.

²⁹ Under Section 236 of the 2007 Act

- 13.7 If the Scrutiny Board decides not to make a report or recommendations into the matter, the Scrutiny Officer will inform the referring Member about the decision of the Scrutiny Board, and the reasons for its decision.
- 13.8 Where a Scrutiny Board has made a report or recommendations in relation to a local government matter, the Scrutiny Board must also send a copy of the report and recommendations to the Member who referred the matter..

Health scrutiny functions

- 13.9 The Scrutiny Board (Health and Well-being and Adult Social Care) may make reports and recommendations to local NHS bodies, or the Executive or Council. Such reports and recommendations shall include:
- an explanation of the matter reviewed or scrutinised;
 - a summary of the evidence considered;
 - a list of the participants involved; and
 - any recommendations on the matter reviewed or scrutinised.
- 13.10 Where the Scrutiny Board (Health and Well-being and Adult Social Care)) has completed its review and made reports and recommendations to local NHS bodies scrutinised, the Scrutiny Officer will copy the report to:
- Local MPs and MEPs;
 - NHS Yorkshire and Humber;
 - PCT and other NHS Trusts;
 - Leeds Voice;
 - Local Involvement Network; and
 - Other bodies or organisations that have expressed an interest in the Inquiry.
- 13.11 The Scrutiny Officer will place a copy of the report on the Council's web-site.

Crime and disorder functions

- 13.12 Where the Scrutiny Board (Safer and Stronger Communities) makes a report or recommendations to the Council or Executive about the exercise of crime and disorder functions by responsible authorities³⁰, the Scrutiny Officer will provide a copy to
- each of the responsible authorities; and
 - each of the co-operating persons and bodies.
- 13.13 Whenever the Scrutiny Board provides a copy of a report or recommendation the Scrutiny Officer will also notify any authority, person or body to whom it provides the copy, of the steps they must take³¹.

Local crime and disorder matters

³⁰ See footnote 7

³¹ In accordance with Section 19 (8B) 2006 Act.

Deleted: See further the Protocol between Scrutiny and the Community Safety Partnership, detailing these arrangements.

Scrutiny Board Procedure Rules

13.14 In deciding whether to make a report or recommendations in relation to a local crime and disorder matter, the Scrutiny Board will have regard to:

- any powers which the Member may exercise in relation to the matter; and
- representations made by the Member about why it should make a report or recommendations.

13.15 The Scrutiny Officer will inform the Member who submitted the referral about any decision of the Scrutiny Board not to make a report or recommendation, and the reasons for its decision.

13.16 Where the Scrutiny Board makes a report or recommendations to the Council or the Executive about any matter which is a local crime and disorder matter³², the Scrutiny Officer will copy the report to:

- the Member who referred the matter to the Scrutiny Board; and
- to such of
 - (i) the responsible authorities; and
 - (ii) the co-operating persons and bodiesas it thinks appropriate.

13.17 Whenever the Scrutiny Board:

- makes a report or recommendation to the Council or to the Executive; or
- provides a copy of a report or recommendation, the Scrutiny Officer will notify the Council or the Executive, authority, body or person receiving the report and recommendations, or a copy of it, of the steps they must take.

14.0 RESPONSES TO REPORTS AND RECOMMENDATIONS

14.1 Except as provided below, the Council, the Executive Board, Area Committees or officers shall consider any report and recommendations of a Scrutiny Board within two months of it being received³³. The Council or Executive is under a duty to respond to the Scrutiny Board, indicating what action (if any) it proposes to take and to publish its response.³⁴

14.2 The Scrutiny Officer will place a copy of the response on the Council's web-site³⁵.

Partner authorities³⁶

14.3 Where a Scrutiny Board makes a report or recommendations to the Council or the Executive, and the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to the authority's area, or the inhabitants of that area, the Scrutiny Board may by notice³⁷ in writing require the relevant partner authority to have regard to the report or recommendation in

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³² See footnote 19

³³ Or (if later) the notice – Section 9FE of the 2000 Act

³⁴ Section 9FE of the 2000 Act

³⁵ Confidential information must be excluded, and relevant exempt information may be excluded, in accordance with SI 2012/1021

³⁶ This means any person who is a partner authority for the purposes of Chapter 1 of Part 5 of the 2007 Act, other than a chief officer of police. This provision will not apply if the partner authority is a health service body and the report was provided to the body under Rule 13.9.

³⁷ Subject to provisions relating to confidential and exempt information in Section 9FG of the 2000 Act Part 4 (c)

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question in exercising their functions. The notice must be accompanied by a copy of the report or recommendations³⁸.

Councillor calls for action

- 14.5 Where a Scrutiny Board has made a Report in relation to a councillor call for action, any response must also be sent to the Member who referred the matter.

Deleted: local government matter

Crime and disorder functions

- 14.5 Where a relevant authority, or co-operating person or body has been notified by the Scrutiny Officer, it must:
- consider the report or recommendations;
 - respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations³⁹, indicating what (if any) action it proposes to take; and
 - have regard to the report or recommendations in exercising its functions.

Local crime and disorder matters

- 14.6 Where the Council or the Executive other relevant authority, person or body has been notified by the Scrutiny Officer, it must:
- consider the report or recommendations;
 - respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations⁴⁰, indicating what (if any) action it proposes to take; and
 - have regard to the report or recommendations in exercising its functions.

Health scrutiny functions

- 14.7 Where the Scrutiny Board requests a response from a local NHS body to whom it has made a report or recommendation, that body shall respond in writing to the Scrutiny Board within 28 days⁴¹.
- 14.8 The response should also be copied to:
- Local MPs and MEPs;
 - NHS Yorkshire and Humber;
 - PCT and other NHS Trusts;
 - Leeds Voice;
 - Local Involvement Network; and
 - Other bodies or organisations that have expressed an interest in the Inquiry

- 14.9 The Scrutiny Officer will also place a copy of the response on the Council's web-site

Flood risk management

³⁸ Subject to provisions relating to confidential and exempt information in Section 9FG of the 2000 Act
³⁹ or if this is not reasonably possible, as soon as reasonably possible thereafter
⁴⁰ or if this is not reasonably possible, as soon as reasonably possible thereafter
⁴¹ Regulation 3(3) Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002

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14.10 A risk management authority must have regard to reports and recommendations of the relevant Scrutiny Board exercising statutory functions in relation to the scrutiny of flood risk management.

14.11 Where that Scrutiny Board requests a response to a report from a risk management authority, the risk management authority must:

- respond to the Board within 28 days or a longer period as agreed between the risk management authority and the Scrutiny Board, and
- indicate what (if any) action the risk management authority proposes to take, if a response to a report is requested.

15.0 WITNESSES – GENERAL PRINCIPLES

15.1 Where a Scrutiny Board wishes to take evidence from a witness, the Scrutiny Officer shall notify the witness of:-

- the date upon which their evidence is to be taken;
- the matters upon which evidence is sought;
- any documents that the Scrutiny Board wishes to have produced; and
- the date upon which the Board requires any written evidence from the witness.

15.2 Those assisting the Scrutiny Board by giving evidence shall be treated with respect and courtesy⁴².

16.0 MEMBERS AND OFFICERS GIVING ACCOUNT/ INFORMATION

16.1 A Scrutiny Board may require any Executive Member, or Member in relation to a matter where the Member has exercised functions⁴³, the Chief Executive and/or any senior officer to attend before it to answer questions and provide information about any matter within its terms of reference;

16.2 It is the duty of those officers and Members to attend and to answer questions⁴⁴.

16.3 The Chair of a Scrutiny Board will inform the Scrutiny Officer if the Scrutiny Board requires any Member (including an Executive Member) or officer to attend a Scrutiny Board under this provision. The Scrutiny Officer shall inform the Member or officer of this, giving at least 7 working days notice of the meeting at which he/she is required to attend.

16.4 The notice will state:

- the nature of the item on which he/she is required to attend to give account; and
- whether the Scrutiny Board requires him/her to produce any documents or reports.

16.5 Where the Scrutiny Board requires the person to produce a report, then the Scrutiny Officer will give the Member or officer concerned sufficient notice to prepare it.

⁴² see Member/Officer Protocol in Part 5 of the Constitution.

⁴³ under Section 236 of the 2007 Act

⁴⁴ A Member or officer is not obliged to answer any question which he would be entitled to answer in or for the purposes of proceedings in a Court Section 9FA of the 2000 Act.

- 16.6 The Chair of the Scrutiny Board will inform the Scrutiny Officer where a Scrutiny Board requires a Director to attend a Scrutiny Board in person.
- 16.7 Directors may be accompanied by any other officer the Director feels appropriate.
- 16.8 Where the Scrutiny Board does not require a Director to attend in person, he/she will be responsible for ensuring that an officer of sufficient knowledge and requisite seniority attends. Any such witness may be accompanied by such adviser(s) as he/she considers necessary.
- 16.9 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Scrutiny Officer shall, in consultation with the Chair of the Scrutiny Board and the Member or officer, arrange an alternative date for attendance, or agree an appropriate substitute.

Health scrutiny functions

- 16.10 Subject to giving reasonable notice of the intended date of attendance, the Scrutiny Board (Health and Well-being and Adult Social Care)) may require an officer of a local NHS body to attend and answer such questions as appear to the Scrutiny Board to be necessary for discharging its functions.⁴⁵
- 16.11 Scrutiny Board (Health and Well-being and Adult Social Care)) in carrying out the review and scrutiny of a particular matter shall:
- invite interested parties to comment on the matter; and
 - take account of relevant information available to it and, in particular relevant information provided to it by the Local Involvement Network.
- 16.12 An NHS body must provide the Scrutiny Board with such information about the planning, provision and operation of health services in the area as the Board shall reasonably require in order to discharge its functions.⁴⁶

Crime and Disorder Committee

- 16.13 Subject to giving reasonable notice of the intended date of attendance, the Scrutiny Board (Safer and Stronger Communities)⁴⁷ may require an officer or employee of a responsible authority⁴⁸ or of a co-operating person or body⁴⁹ in order to answer questions.

⁴⁵ The duty of the officer to comply with any requirement to attend and answer questions is subject to Regulations 6 and 10 Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended. Officer includes a Chief Executive.

⁴⁶ Regulation 5 Local Authorities (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended.

⁴⁷ In its capacity as crime and disorder committee

⁴⁸ See footnote 7

⁴⁹ See footnote 7

Scrutiny Board Procedure Rules

16.14 The Scrutiny Board (Safer and Stronger Communities) may in writing request responsible authorities and co-operating persons and bodies to provide it with information.

Partner authorities

16.15 Scrutiny Board may in writing request a partner authority to provide such information, as the Scrutiny Board may reasonably require in order to discharge its functions, being information which relates to the functions of the relevant partner authority so far as exercisable in relation to the authority's area, or the inhabitants of that area.

16.16 A partner authority must comply with any such request.⁵¹

Flood risk management

16.17 The Scrutiny Board exercising the authority's statutory functions in relation to the scrutiny of flood risk management may request information from any risk management authority. This may be a request to attend to give information orally to the Board.

16.18 The risk management authority must comply with any such request made in writing within 28 days, or longer period as agreed between the risk management authority and the Board.

16.17 Where confidential information must be disclosed by a risk management authority, the Scrutiny Board must hold that meeting in private, and not disclose the information except as provided for in regulations.⁵²

17.0 ATTENDANCE BY OTHERS

17.1 A Scrutiny Board may invite members of the public or other persons to attend meetings, address it, discuss issues of local concern and/or answer questions on matters within its Terms of Reference⁵³.

18.0 NHS BODIES - CONSULTATION WITH THE SCRUTINY BOARD (HEALTH AND WELL-BEING AND ADULT SOCIAL CARE)

⁵¹ Subject to Regulations [5](#) and [6](#) Local Authorities (Overview and Scrutiny Committees) (England) Regulations [2012 \(SI 2012/1021\)](#).

⁵² [See further Flood Risk Management Overview and Scrutiny Committee \(England\) Regulations 2011/697](#)

⁵³ It may for example wish to hear from residents, stakeholders, Members or officers in other parts of the public sector.

⁶⁰ Under the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended.

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Deleted: 18.0 EXECUTIVE DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK¶

¶
18.1 The relevant Director shall seek the agreement of the Chair of the relevant Scrutiny Board that a decision can be taken as a matter of urgency where:¶

¶
<#>a proposed decision is contrary to the Council's policy framework, or is not wholly in accordance with the budget approved by full Council; and¶
<#>the decision is a matter of urgency; and¶

<#>it is not practical to convene a quorate meeting of the full Council.¶

¶
18.2 The Director shall give detailed reasons to the Chair about why it is not practical to convene a quorate meeting of full Council when seeking his/her agreement.¶

¶
18.3 In the absence of the Chair of the relevant Scrutiny Board, the Director may obtain agreement from the Lord Mayor or in the absence of both, the Deputy Lord Mayor.¶

¶
18.4 The Director must note on the record of the decision:¶
<#>the consent of the Chair of the relevant Scrutiny Board to the decision being taken as a matter of urgency; and¶
<#>the Chair's reasons for giving consent. ¶

¶
18.5 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining:¶
<#>the decision;¶
<#>the reasons for it; and¶
<#>the reason why taking the decision was treated as a matter of urgency.¶

¶
¶
19.0 KEY DECISIONS NOT CONTAINED WITHIN THE FORWARD PLAN¶

¶
General exception¶

¶
19.1 Where it is proposed to take a Key Decision which has not been included in the Forward Plan, the relevant Director will give the Chair of the relevant Scrutiny Board ... [1]

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Scrutiny Board Procedure Rules

- 18.1 A local NHS body must consult the Scrutiny Board (Health and well-being and Adult Social Care) where it has under consideration any substantial development of the health service in the authority's area, or for a substantial variation in the provision of a service⁶⁰. Deleted: 21
- 18.2 The Scrutiny Board may make comments on the proposal consulted on by such date as may be specified by the NHS body. Deleted: 21
- 18.3 Where the NHS body is satisfied that a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff, the NHS body shall notify the Scrutiny Board immediately of:
- the decision taken; and
 - the reason why no consultation has taken place.
- Deleted: 21
- 18.4 Where the Scrutiny Board (Health and well-being and Adult Social Care) is not satisfied that:
- consultation on any proposal has been adequate in relation to content or time allowed; or
 - , the reasons given by the NHS body are adequate;
- it may report this to the Secretary of State in writing. The Secretary of State may require the local NHS body concerned to carry out such consultation, or such further consultation, with the Scrutiny Board as he/she considers appropriate.
- Deleted: 21
- 18.5 Where further consultation has been required, the local NHS body shall, having regard to the outcome of such further consultation, reconsider any decision it has taken in relation to the proposal in question. Deleted: 21
- 18.6 In any case where the Scrutiny Board (Health and well-being and Adult Social Care) considers that the proposal would not be in the interests of the health service in the authority's area, it may report this to the Secretary of State in writing. The Secretary of State may make a final decision on the proposal and require the local NHS body to take such action, or desist from taking such action, as he/she may direct. Deleted: 21

18.0 EXECUTIVE DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 18.1 The relevant Director shall seek the agreement of the Chair of the relevant Scrutiny Board that a decision can be taken as a matter of urgency where:
- a proposed decision is contrary to the Council's policy framework, or is not wholly in accordance with the budget approved by full Council;
 - and
 - the decision is a matter of urgency; and
 - it is not practical to convene a quorate meeting of the full Council.
- 18.2 The Director shall give detailed reasons to the Chair about why it is not practical to convene a quorate meeting of full Council when seeking his/her agreement.
- 18.3 In the absence of the Chair of the relevant Scrutiny Board, the Director may obtain agreement from the Lord Mayor or in the absence of both, the Deputy Lord Mayor.
- 18.4 The Director must note on the record of the decision:
- the consent of the Chair of the relevant Scrutiny Board to the decision being taken as a matter of urgency; and
 - the Chair's reasons for giving consent.
- 18.5 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining:
- the decision;
 - the reasons for it; and
 - the reason why taking the decision was treated as a matter of urgency.

19.0 KEY DECISIONS NOT CONTAINED WITHIN THE FORWARD PLAN

General exception

- 19.1 Where it is proposed to take a Key Decision which has not been included in the Forward Plan, the relevant Director will give the Chair of the relevant Scrutiny Board not less than 5 clear days written notice of the matter on which the decision is to be made.

Special urgency

- 19.2 If by virtue of the date by which a decision must be taken, it is not possible to give 5 clear days written notice of the matter, the decision taker (if an officer) or the Chair of the body making the decision shall seek the agreement of the Chair of the relevant Scrutiny Board that the decision cannot reasonably be deferred.

- 19.3 In the absence of the Chair of the relevant Scrutiny Board, the Director may obtain agreement from the Lord Mayor or in the absence of both, the Deputy Lord Mayor.

Report to Council

- 19.4 A Scrutiny Board can require the Executive to submit a report to Council where it considers that a Key Decision has been taken which was not in the Forward Plan or which has not been the subject of the general exception or special urgency provisions¹.

20.0 CALL-IN

- 20.1 Subject to the exceptions set out below, the following may be called in to be reviewed and scrutinised by the relevant Scrutiny Board²:
all decisions of the Executive Board;
executive decisions taken by Area Committees; and
Key and Major Decisions taken by Officers.

- 20.2 The power to call in decisions does not extend to³:
decisions made under regulatory arrangements;
decisions made by Joint Committees; or
decisions not taken by the authority.
Budget and Policy framework documents reserved for full council

The decision taker may declare a decision as being exempt from Calling In if they consider that any delay would seriously prejudice the Council's or the public's interests; or where the decision has been the subject of a previous Call In. This includes a decision which has been modified by the decision making body following a recommendation by a Scrutiny Board after call in of the earlier decision. There is no appeal mechanism against a decision to exempt a decision from Calling In

- 20.4 When a decision is made which is subject to Call-In, the Head of Governance Services shall publish the decision, and make it available on the Council database within two days of the decision being made.
- 20.5 He/she will also send each elected Member of the relevant Scrutiny Board an electronic copy of the record of the decision within two days of it being made.

¹ See Access to Information Procedure Rules

² Where a decision falls within the terms of reference of more than one Scrutiny Board, the Scrutiny Officer will determine the relevant Scrutiny Board, after consultation with Scrutiny Chairs.

³ A decision which is a direct consequence of implementing a previous key or major decision, cannot be called in – see definition of key and major decisions, guidance notes on delegated decision-making.

20.6 The notice will bear the date on which it is published. It will specify that the decision

will come into force, and may then be implemented, on the expiry of five working days⁴ after the publication of the decision, unless the decision is called in.

20.7 During that period, the Scrutiny Officer shall Call-In a decision for scrutiny by the

relevant Scrutiny Board if:

two non executive elected Members (who are not from the same political group) or
any five non executive elected Members

request him/her to do so⁵. The Scrutiny Officer will call a meeting of the relevant Scrutiny Board to review or scrutinise the decision, unless a Member withdraws their signature, and no further signatures are obtained within the call-in period or a Member withdraws their signature after the Call In period resulting in insufficient signatures to meet the requirements for Call In

20.8 A request for Scrutiny must be made on the approved pro forma and contain the

original signatures of those Calling In the decision.

20.9 Prior to submitting a Call In, a nominated signatory first must contact the relevant officer or Executive Member to discuss their concerns and their reasons for wanting to call in the decision. The nominated signatory must also ascertain the financial consequences to the authority of having the decision Called In. The outcome of this contact including any financial implications must be detailed on the Call In request pro-forma.

20.10 All requests must detail on the pro forma why in the opinion of the signatories the decision was not taken in accordance with the principles set out in Article 13 (Decision Making) (Principles of Decision Making) or where relevant issues do not appear to have been taken into consideration.

20.11 At the meeting the Scrutiny Board will invite signatories to the notification⁶ to explain the reasons for the Call-In. The relevant member of the Executive Board, Area Committee Chair or officer (as appropriate) shall be required to attend the Meeting and shall be given the opportunity to respond to the reasons given for the Call-In. The Scrutiny Board shall make such further enquiries as it considers necessary and appropriate. The Scrutiny Board may also extend the

⁴ Which shall be taken to expire at 5.00 p.m. on the fifth working day.

⁵ Those Scrutiny Board Members not in a political group (excluding co-optees) would be eligible to sign a Call In request. A Member cannot be a signatory to call-in a decision of the Area Committee of which they are a member.

⁶ or their nominees

invitation to other relevant witnesses, as considered appropriate, in order to specifically assist the Board in its deliberations over the called in decision.

- 20.12 The Scrutiny Board shall then either;
release the decision for implementation; or
recommend to the decision-maker that the decision should be reconsidered; or
where the decision is considered to fall outside the agreed budget or policy framework, recommend to the decision-maker that the decision should be reconsidered, and notify the decision-maker that if it is not, the Scrutiny Board will refer the matter to full Council.
- 20.13 If any decisions are to be referred back for consideration, then a report will be prepared to the relevant decision making body within three days of the Scrutiny Board meeting.

Executive Board Decisions

- 20.14 The Scrutiny Board report will be submitted to the next appropriate Executive Board meeting.
- 20.15 Executive Board will either confirm the original decision or vary the original decision. The decision will be implemented without further recourse to Call In.

Delegated Decisions

- 20.16 The Scrutiny Board report will be submitted to the relevant Director³.
- 20.17 Where the Director believes that the original decision should be confirmed, they will refer the matter to the next Executive Board for a decision.
- 20.18 In cases where the Director believes that the original decision should be confirmed, and in their view urgency prevents them from submitting the decision to Executive Board, the approval from the relevant Executive Board Member will be required before implementation. This Executive Member approval together for reasons of urgency will be included in the new delegated decision form. The Director and relevant Executive Board Member may also be required to attend and give their reasoning to the relevant Scrutiny Board
- 20.19 Where the Director agrees with the views of Scrutiny a new delegated decision form will be submitted indicating ineligible for Call In.

Area Committee Decisions

³ This also refers to the Chief Executive, Deputy Chief Executive and Assistant Chief Executive where they have delegated authority to take decisions

- 20.20 The Scrutiny Board report will be submitted to the next appropriate Executive Board meeting.
- 20.21 Executive Board will either confirm the original decision or vary the original decision. The decision will be implemented without further recourse to Call In.
- 20.22 In all instances a revised record of the decision, indicating the outcome of decision taker's further deliberations, will be published on the Corporate Information System.
- 20.23. In exceptional circumstances, the Scrutiny Board may resolve to adjourn the meeting to consider information regarded as essential for the Board to come to a conclusion. The maximum time allowed for an adjournment is 5 clear working days.



Report authors: E Davenport /K Tomkinson
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Report of City Solicitor

Report to General Purposes Committee

Date: 9 May 2012

Subject: Constitutional amendments - miscellaneous

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. This report contains recommendations about miscellaneous amendments to the constitution, following the annual review.
2. Firstly, amendments are proposed to Area Committee Rule 5 to clarify the process for the nomination of Area Committee Chairs.
3. Secondly, it is proposed to remove the summary of delegated functions and appendix to Section 2A of Part 3 of the constitution.

Recommendations

4. General Purposes Committee are asked to recommend full Council to:
 - approve the amendments to Area Committee Procedure Rule 5 as set out in the attached appendix to this report; and
 - remove the summary of delegated council functions and appendix from Section 2A of Part 3 from the constitution.

1. Purpose of this report

- 1.1 To ask the General Purposes Committee to recommend amendments to the constitution to full Council, following the annual review of the constitution.

2 Background information

- 2.2 General Purposes Committee is authorised to consider proposals to amend the constitution and make recommendations to full Council.
- 2.3 The constitution is updated throughout the year. However, the Head of Governance Services, also reviews the constitution before the annual meeting, on behalf of the Monitoring Officer. This report proposes a number of amendments to the constitution following the annual review, in addition to those proposed in other reports on this agenda.

3 Main issues

3.1 Area Committee Procedure Rules

- 3.1.1 The proposed amendments to the Area Committee Procedure Rules are minor adjustments that relate to the deadline for the submission of nominations and the scheduling of the meeting to agree the election of the Chair for the forthcoming Municipal Year.

- 3.1.2 It is proposed that Area Committee Procedure Rule 5.3 should be amended to further clarify the time for the submission of nominations for the position of Area Committee Chair.

- 3.1.3 It is further proposed that Area Committee Procedure Rule 5.4 should be amended in order that meetings of the Area Committees (for the purpose of electing the Chair) should not take place on the day of the Annual Meeting.

- 3.1.4 The proposed amendments are set out in the appendix to this report.

3.2 Section 2A or Part 3 Council functions - summary

- 3.2.1 This section sets out those functions which must be carried out by full Council. It also contains a summary of functions delegated by full Council to committees and officers - information set out in detail elsewhere in Part 3 of the constitution. The appendix sets out (for completeness) those functions identified by regulations as not being the responsibility of the executive, but which are not discharged by Leeds City Council. Many of these provisions have been repealed.

- 3.2.2 The City Solicitor considers that the benefits of including the summary and appendix in the constitution as a "signpost", are outweighed by the administrative burden in ensuring they are up to date.

- 3.2.3 For this reason, the City Solicitor proposes that the summary and appendix are now removed from Section 2A.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.4 No additional consultation was considered necessary on this report, since the matter is being considered by this committee, before being considered by full Council.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no equality issues arising from this report.

4.3 Council policies and City Priorities

4.3.2 The Council's Code of Corporate Governance commits the authority to having clear responsibilities and arrangements for accountability. The proposed amendments clarify arrangements.

4.4 Resources and value for money

4.4.1 This report has no specific resource or value for money implications other than minor savings arising in administrative costs.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The summary in Section 2A derives from guidance issued by the Secretary of State dating back to 2000, when the constitution was introduced. However, the guidance clarifies that it "simply provides an example of a framework that might be used". There is no legal requirement to provide the summary.

4.5.2 No part of this report is confidential or exempt. As the report relates to Council functions, the decision is not open to call-in.

4.6 Risk Management

4.6.1 This report has no risk management implications.

5 Conclusions

5.1 The proposed amendments to the Area Committee Procedure Rules clarify and facilitate the existing process for the appointment of chairs to Area Committees.

5.2 The proposed minor amendments to Section 2A Part 3 of the constitution will assist the efficient administration of the constitution.

6 Recommendations

6.1 General Purposes Committee are asked to recommend full Council to:

- approve the amendments to Area Committee Procedure Rule 5 as set out in the attached appendix to this report; and

- remove the summary of delegated council functions and appendix from Section 2A of Part 3 from the constitution.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

Appendix 1 - Extract from Area Committee Procedure Rules

- 5.3 All nominations must be notified to the Head of Governance Services by no later than 5pm 1 clear working day prior to the issue of the Summons for the Annual Council Meeting. The Head Of Governance Services will give appropriate notice to whips and Independent Members of this deadline.
- 5.4 Area Committees will meet to agree the election of Chair for the forthcoming Municipal Year during the period that is the first working day after the nomination process closes and the last working day before the day of the Annual Council Meeting.

Deleted: Following the closure of nominations, and before the Annual Council Meeting,

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