
GENERAL PURPOSES COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Wednesday, 15th May, 2019 at 12.00 pm

MEMBERSHIP

Councillors

- D Blackburn - Farnley and Wortley;
- J Blake (Chair) - Middleton Park;
- Amanda Carter - Calverley and Farsley;
- R Charlwood - Moortown;
- D Cohen - Alwoodley;
- D Coupar - Temple Newsam;
- M Dobson - Garforth and Swillington;
- J Dowson - Chapel Allerton;
- S Golton - Rothwell;
- M Harland - Kippax and Methley;
- H Hayden - Temple Newsam;
- W Kidger - Morley South;
- J Lewis - Kippax and Methley;
- J Pryor - Headingley and Hyde Park;
- A Smart - Armley;

**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 15.2 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 15.2, 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 DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2000 and paragraphs 13-18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19-20 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 LAST MEETING</p> <p>To receive and approve the minutes of the meeting held on 13th February 2019.</p>	1 - 2
7			<p>REVIEW OF THRESHOLDS IN GOVERNANCE OF DECISION MAKING</p> <p>To consider the report of the City Solicitor and the Chief Officer Financial Services detailing a review of the governance thresholds in place across decision making, procurement and financial management and sets out a number of recommendations to amend those thresholds and the way in which they are applied to better align the council's governance arrangements and to promote clarity and consistency.</p>	3 - 28

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>INDEPENDENT MEMBER APPOINTMENT TO AUDIT COMMITTEES</p> <p>To consider the report of the City Solicitor seeking Members views on the appointment of an Independent Member to the Corporate Governance and Audit Committee.</p>	29 - 36
9			<p>ANNUAL REVIEW OF CONSTITUTION</p> <p>To consider the report of the City Solicitor setting out amendments to the Constitution which are proposed to ensure that the Constitution remains up to date and fit for purpose.</p>	37 - 100
10			<p>REVISED CRITERIA FOR THE APPOINTMENT OF HONORARY ALDERMEN/WOMEN</p> <p>To consider the report of the City Solicitor seeking approval for the creation of a “protocol for the nomination of Honorary Aldermen/women” to be added to part 5 of the Constitution, which would include a revised criteria to consider nominations for the role of Honorary Aldermen/women.</p>	101 - 106

Item No	Ward/Equal Opportunities	Item Not Open		Page No
			<p>THIRD PARTY RECORDING</p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <p>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</p> <p>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</p>	
2				
a)				
b)				

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GENERAL PURPOSES COMMITTEE

WEDNESDAY, 13TH FEBRUARY, 2019

PRESENT: Councillor J Blake in the Chair

Councillors D Blackburn, Amanda Carter,
R Charlwood, D Cohen, D Coupar,
J Dowson, S Golton, H Hayden, J Lewis,
A Lowe, J Pryor and A Smart

17 Appeals against refusal of inspection of documents

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

18 Exempt Information - possible exclusion of the press and public

There were no resolutions to exclude the public.

19 Late items

There were no late items.

20 Declaration of Disclosable Pecuniary and Other Interests

There were no declarations of pecuniary or other interests.

21 Apologies for absence

Apologies for absence were received from Councillors W Kidger and M Dobson, with no substitute Members present.

22 Minutes of the last meeting

RESOLVED – That the minutes of the meeting held on the 12th December 2018 be approved as a correct record.

23 Review of Polling Districts, Polling Places and Polling Stations

The Chief Officer for Elections and Regulatory Services submitted a report which asked Members to consider initial proposals for the polling district review and to agree the final proposals to be published on 14th February 2019.

The Electoral Services Manager introduced the report, informing Members that the initial proposals had not received any further representation following the previous meeting. However, Members heard that following publication of the report, discussions with representatives of Lawnswood High School had

taken place, and the school was no longer considered to be a suitable site for a polling station in the Weetwood ward.

RESOLVED – That the final proposals set out at Appendix B be approved, subject to the removal of proposal ‘WE1’.

24 Approval of the 2019/20 Pay Policy Statement

The Chief Officer Human Resources submitted a report seeking Members’ views on the revised Pay Policy Statement and for the Committee to make recommendations to Full Council to approve the changes before the start of the 2019/20 financial year.

The Head of Human Resources introduced the report, outlining some of the key messages from the report.

RESOLVED – That the following be recommended to Full Council:

- a) Consideration and approval of the Pay Policy Statement for the 2019/20 financial year as attached in Appendix A.
- b) That any in year requirement to amend the Annual Pay Policy Statement as a consequence of changes to Council Policies is reported to the General Purposes Committee to consider recommending to Full Council for approval.
- c) Delegation to the Chief Officer (HR) of any necessary adjustments to the Council’s pay scales arising from nationally agreed pay awards.

25 Date and Time of Next Meeting

RESOLVED – That the next meeting be held 15th May 2019 at 12pm.

Councillor Alison Lowe informed the Committee that it was her last meeting as a Member, as she would not be seeking re-election for the next municipal year. The Chair took the opportunity to thank Councillor Alison Lowe for her contribution to the Committee during her time as an Elected Member, and wished her well for her future endeavours.



Report author: Kate Sadler

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Report of the City Solicitor and the Chief Officer Financial Services

Report to General Purposes Committee

Date: 15th May 2019

Subject: Review of Thresholds in Governance of Decision Making

Are specific electoral wards affected? If yes, 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 City Solicitor and Chief Officer Financial Services (in their roles as Monitoring Officer and S151 Officer) have undertaken a review of the financial thresholds in place that support the Council's governance arrangements.
2. There are currently 12 separate thresholds; some based in legislation in relation to which the Council has no discretion; others based in legislation giving discretion to the Council as to where to fix them; others purely local. All require that certain practice and procedure is followed. The number and alignment of these thresholds across decision making, procurement and finance add unnecessary complexity to those governance arrangements.
3. This report sets out proposed amendments to the decision making thresholds in place, and the way in which they are applied, and provides a clear and consistent approach to the governance of decision making to align with arrangements for procurement and finance. The proposals set out comply with legislative requirements; support and strengthen the democratic oversight of decisions; provide appropriate check and challenge around the use of public money and ensure openness and engagement whilst remaining agile and responsive.

Recommendations

3. For the reasons set out in this report General Purposes Committee is requested to :-
 - Recommend that Full Council
 - Amend Article 13 of the Council's Constitution to include the definitions of decision categories as set out at Annex 5; and
 - Approve amendments to the delegations and limits for virements as set out at Annex 6 attached; and
 - Note the contingent intention of the Chief Officer Financial Services to review and amend the capital finance thresholds set out in the Financial Regulations to align them with procurement and decision making practice and procedure.

1. Purpose of this report

- 1.1 This report follows a review of the governance thresholds in place across decision making, procurement and financial management and sets out a number of recommendations to amend those thresholds and the way in which they are applied to better align the council's governance arrangements and to promote clarity and consistency.

2. Background information

2.1 Source and Impact of Thresholds

Decision Making

- 2.2 Regulations¹ require each local authority to determine the thresholds above which a decision will be a key decision and therefore subject to the controls set out in those regulations. Thresholds must identify decisions which are likely
- a) To result in the authority incurring expenditure or making savings which are significant having regard to the authority's budget for the service or function to which the decision relates; or
 - b) To be significant in terms of their effects on communities living or working in an area comprising two or more wards
- 2.3 In Leeds additional local categories of decision have been added and removed over time, and the specified thresholds amended as set out at in the table attached at Annex 1 to this report.
- 2.4 The current thresholds were last reviewed in May 2012 and so it is timely for the arrangements to be reviewed. The current arrangements are set out in Article 13 of the Constitution and are attached at Annex 2 to this report. In brief a decision will be considered key if the financial implications of the decision exceed £250,000 per annum or the decision will have a significant impact on communities living and working in an area the size of one ward or more.

Procurement

- 2.4.1 The Public Contracts Regulations 2015 impose a number of thresholds requiring certain procedures when undertaking significant public procurements. These thresholds are set out in the Table A of Annex 3 below. These thresholds are fixed in legislation and there are therefore no recommendations to amend them.
- 2.4.2 Other procurement thresholds are set locally in the Contracts Procedure Rules. These relate to procedures which are required in relation to low (below £10,000), intermediate (between £10,000 and £100,000) and high (over £100,000) value procurements which are lower than those set in the Public Contracts Regulations. The relevant thresholds are set out in Table B of

¹ The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089

Annex 3 below. While these thresholds are fixed by local arrangement they have been the subject of recent review and are not therefore subject to recommendations to amend.

Finance

- 2.4.3 Financial thresholds are imposed in relation to both revenue and capital accounting.
- 2.4.4 The Council's revenue budget is approved in February each year. In accordance with the Budget and Policy Framework Procedure Rules officers are authorised to spend within the budget set, and "to vire across budget headings subject to value limits set out". Relevant limits and authorities are reported to Council alongside the budget each year.
- 2.4.5 Capital accounting thresholds are determined by the Chief Officer Financial Services and set out in the Capital tables which sit beneath the Financial Regulations. In order to differentiate between types of scheme they are categorised depending on the nature of the capital investment:-
- Category A – new assets or significant enhancement of existing assets
 - Category B – maintenance of existing assets
 - Category C – externally funded schemes
 - Category D - ICT
- 2.4.6 Under the existing arrangements formal approvals are required at a number of steps through a capital scheme:-
- injection into the capital programme;
 - funding approval;
 - authority to spend; and
 - variations
- 2.4.7 The value and category of scheme or variation, and whether it is to be funded externally or by Leeds City Council monies, determines whether the approval should be given by Executive Board, the Chief Officer Financial Services or the relevant director. The table set out at Annex 4 below summarises these thresholds.
- 2.4.8 It is the intention of the Chief Officer Financial Services to review the limits and authorities applicable to capital budgets to align them with the thresholds in place for decision making, procurement and revenue finance contingent upon the outcome of this report.

3. Main issues – Decision Making Governance

- 3.1 In undertaking this review the City Solicitor and Chief Officer Financial Services have been mindful of the following priorities:-

The democratic mandate.

- 3.1.1 It is recognised that the vast majority of the authority's functions are conferred on Members by statute and are therefore the responsibility of Members; whether those functions are then carried out by or on behalf of the Council (of 99 Members) or the executive (as selected by the Leader). Members delegate many functions to officers to exercise on their behalf. The arrangements which govern the exercise of these functions must enable Members to have oversight and be satisfied that decisions are proportionate, provide value for money and are in the public interest.

The appropriate use of public money

- 3.1.2 Thresholds that are set in relation to incurring expenditure or making savings relate to the public money available to the Council in carrying out its functions. Full account should therefore be taken of the relevant cost or savings to the Council, however that cost or saving is to be funded. However any cost or saving to be incurred or accrued by the Council's partners through any joint activity is not part of the assessment of the impact of that decision on the authority's budget.

Openness and engagement with the public.

- 3.1.3 Members have been clear throughout the operation of Executive Arrangements that decision making thresholds should be set with a view to ensuring that the Council's processes and procedures are open, honest and transparent. Care is required to ensure decision making processes remain agile and responsive whilst meeting this need for openness so that procedures do not become unwieldy or burdensome and do not inhibit the Council's ability to act in the public interest.

Decision Making Thresholds

Key Decisions

- 3.2 Legislation requires that the authority sets thresholds above which an executive decision will be treated as Key. The regulations go on to provide that before taking a Key decision the authority must first ensure that notice is given of the intention to take that decision not less than 28 clear calendar days before the decision is taken. In addition there is a local requirement (not set out in legislation) that the report supporting that decision is published not less than 5 clear working days in advance of the decision being taken. Key decisions are then open to Call In (as are all decisions taken by Executive Board.)

Significant Operational Decisions

- 3.3 Local arrangements also provide for a category of significant operational decisions. These are not subject to a requirement for prior publicity, or open to Call In, but they are required to be recorded. This supports the Council's value of being open, honest and trusted and opens these decisions up to public scrutiny.

Administrative Decisions

- 3.4 In accordance with legislation all other decisions are administrative decisions. These are not subject to any requirements in terms of decision making governance. However the Contracts Procedure Rules and Financial Regulations must be observed where relevant and a written record of all decisions should be maintained for audit purposes.

Effect on Communities

- 3.5 Members will have noted that the legislation requires that the threshold is set to capture decisions which are likely to be significant in terms of their effects on communities living or working in an area comprising two or more wards.
- 3.6 A desktop benchmarking exercise was undertaken to review thresholds adopted by Councils for the core cities and across West Yorkshire. Of the seven core cities six (Birmingham City Council, Liverpool City Council, Manchester City Council, Newcastle upon Tyne City Council, Nottingham City Council, and Sheffield City Council) have fixed the community impact threshold at two or more wards as have the four other West Yorkshire Authorities (Bradford, Calderdale, Kirklees and Wakefield Councils). Bristol City Council is the only local authority in the benchmarking sample to have fixed this threshold at just one ward as is currently the case in Leeds.
- 3.7 From the introduction of executive arrangements via the Localism Act 2000 until May 2012 Leeds City Council set the threshold over a two ward area. However in 2012 a decision was taken to set this threshold at one ward with the intention that Members were made aware of and consulted on all significant decisions at ward level. Article 13 currently provides that a key decision is one which is likely “to have a significant effect on communities living or working in an area (including one ward)”.
- 3.8 A review of key decisions taken in the period from April 2017 to March 2018 has shown that of 145 decisions taken by officers, just 3 were categorised as key purely because of their impact on communities. Two of these three decisions had city wide implications² the third was more localised in impact³. During the same period of 75 decisions taken by Executive Board 28 were categorised as key because of their impact on communities.
- 3.9 It is recommended that this aspect of the key decision threshold remains the same and that decisions that have a significant impact on the people living and working in an area the size of one ward or more should continue to be treated as key.**

Financial Impact

- 3.10 Article 13 currently provides that a key decision is one which is likely “to result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000 pa”

² School holidays and tenancy review

³ PSPO

3.11 The results of the benchmarking exercise for key decision thresholds is set out in the table below:-

Financial Key Decision Thresholds		
Threshold	West Yorkshire Authorities	Core Cities
£200,000	Calderdale	
£250,000	Leeds Bradford Kirklees Wakefield	Leeds Newcastle (revenue only)
£500,000		Birmingham (revenue only) Bristol Liverpool Manchester (or 10% operating budget if lower) Sheffield
£1,000,000		Birmingham (capital only) Newcastle (capital only) Nottingham

3.12 It can be seen that the threshold currently set in Leeds is in line with the West Yorkshire authorities but considerably lower than the majority of core cities which are more comparable in terms of size and influence.

3.13 In addition to the benchmarking exercise the City Solicitor has undertaken an analysis of key decisions taken in the 17/18 financial year.

3.14 Of 220 decisions taken between 1st April 2017 and 31st March 2018, 145 were taken by officers and 75 by Executive Board. 31 of these were categorised as key because of their community impact; 189 were categorised as Key because of their financial value. The table below sets out more information in relation to the decisions recorded during this period.

Value of Key Decisions Published By Leeds City Council April 2017 – March 2018						
Value	Officer Decisions		Executive Board Decisions		Total Decisions	
	No	%	No	%	No	%
Community Impact	3	2	28	37	31	14
Over £1M	58	40	32	43	90	41
£500K - £1M	33	23	9	12	42	19
£250K - £500K	36	35	3	4	39	18
Value not recorded	15	10	3	4	18	8

- 3.15 From this analysis, an increase in the financial threshold for a key decision to £500K per annum would exclude 18%, or 39 decisions currently categorised as key.
- 3.16 However, it should be noted that the values given above reflect the per annum spend or save relating to the decision taken as required by the current definitions set out in Article 13. This contrasts with the approach to valuation set out in the Public Contracts Regulations 2015 and the Contracts Procedure Rules which use the total value of the contract to assess the applicability of financial thresholds.
- 3.17 Further analysis has been undertaken to consider the position if, in addition to raising the threshold to £500K, the basis for evaluation is changed to reflect the procurement requirement that total spend is considered.
- 3.18 Taken together these changes would have seen a reduction in key decisions of just 26 of the total number recorded in the sample period. This is because of the 36 decisions taken by officers with an annual value between £250K and £500K, 13 related to contracts with a total value in excess of £500K. Of the remaining 23 decisions 12 were valued between £250K and £300K, 8 up to £400K and the remaining 3 up to £500K.
- 3.19 Furthermore, the City Solicitor has undertaken an evaluation of the 913 contracts included in the Council's contracts register. This indicates that if categorised on the basis of the current definition (£250K annual spend) 204 of the Council's contracts would be categorised as key when the decision to procure is taken; but that under the proposed definition (£500K total spend) 259 would be treated as key.
- 3.20 Similarly the proposed assessment based on total contract value would increase the number of contracts to be recorded as significant operational decisions. Under existing provisions (£100K - £250K annual spend) 124 contracts are valued as significant operational decisions. This brings a total of 328 decisions under a requirement to record whether as key or significant operational. Under the proposed evaluation criteria (£100K - £500K total spend) 256 would be categorised as significant operational, bringing the total number of procurements subject to a formal published report under the council's governance arrangements to 515. (It should be noted that all but the 99 contracts valued at less than £10,000 total value would be published on the Council's procurement portal YORtender in any event.)
- 3.21 Taken together these amendments would ensure that long term commitments with lower annual values are subject to the checks and balances in place for key decisions and therefore open to Member challenge, or are recorded as significant operational decisions and are therefore open to public scrutiny.
- 3.22 The City Solicitor is therefore of the view that the proposed changes increase the governance control in relation to the council's procurement decision making and provides greater Member oversight.
- 3.23 On balance the City Solicitor and Chief Officer Financial Services recommend that the threshold for a key decision should be raised to £500,000. This would reflect the threshold established by other core cities and be more reflective of the size of the council's budget. It is not**

however recommended that there should be any change to the current threshold of £100,000 for significant operational decisions.

- 3.24 **In addition it is recommended that the value of any decision is calculated in accordance with overall financial commitment of the project or contract rather than in relation to per annum spend.**

Linked Decisions

- 3.25 The definition of a Key Decision currently includes provision to ensure that only one decision forming part of a chain of decisions leading to the same outcome is classed as key. Decisions which will be followed by a further more detailed report before the authority is committed to proceed⁴; or which flow as a direct consequence of a previous key decision⁵ are instead categorised as significant operational decisions which are subject only to a requirement to publish those decisions once taken. This ensures that the proposed outcome of the chain of decisions is open to appropriate transparency and scrutiny but that the relevant decision making within the council remains agile.
- 3.26 The arrangements in place at Sheffield, Bradford, Calderdale, Kirklees and Wakefield Councils include similar provisions permitting direct consequence decisions not to be taken as key. However, Sheffield and Calderdale both provide that any such decision to be taken as a direct consequence should be in the contemplation of the decision maker when the original decision is made.
- 3.27 Through guidance and training officers are encouraged to ensure that reports and recommendations are clear in respect of links between related decisions, and that the Key decision in a project is signposted. Similarly the report supporting the Key decision should provide a clear indication of the anticipated consequences which will flow from that report.
- 3.28 **In order to strengthen the linkage between such decisions it is recommended that the Article 13 is amended to show that direct consequence decisions should be “in the contemplation of the decision maker” at the time the Key decision is taken.**

Contract Extensions

- 3.29 The Contract Procedure Rules make provision for the exercise of a contract extension put in place before the expiry of the existing contract. In order to exercise a contract extension the decision maker must be satisfied that the extension represents best value.
- 3.30 Current practice, based on the recommendation of Scrutiny Board (Resources and Council Services)⁶ and set out in Contract Procedure Rule 21, is that any contract extension should be evaluated for governance purposes and taken

⁴ For example an injection into the capital programme would not be categorised as Key as there would be a later Authority to Spend decision containing more detailed information.

⁵ For example the decision to award a contract following receipt of tenders would be a direct consequence of a decision made earlier giving authority to spend and to procure.

⁶ 29th July 2013

accordingly. (For example, an extension valued at £333K for one year would currently be treated as key.)

- 3.31 If the definition of a key decision is amended to require that the total value of the contract is used as the basis for assessing whether the decision to procure is a key decision the value of any extension will have been incorporated into this valuation. As such the report supporting the original authority to procure should include details of any opportunity to extend incorporated into the contract.
- 3.32 It is recommended that any future decision to take up such contract extensions is treated as a direct consequence of the decision to procure in those terms and treated as a significant operational decision.**
- 3.33 It should be noted that this recommendation does not change the approach to any new procurement even where that procurement is of an identical service if it is not as a result of the terms of the existing contract. Where the contract has expired, or is due to expire with no option to extend, the re-procurement will require a new authority to procure, the category of which will be based on the total value of that new procurement.
- 3.34 The requirement that the decision maker extending the contract be satisfied that it represents best value will continue. This should be considered and addressed through the management of the contractual relationship, and there is an opportunity for independent assurances to be provided by Internal Audit through the annual programme of contract management audits.

Key Decisions following Call In

- 3.35 Article 13 currently allows that a key decision which is amended in line with the recommendations of a Scrutiny Board following call in will not be categorised as Key. Such a decision is treated as a significant operational decision and available for immediate implementation although it would require publication.
- 3.36** A decision taker, having regard to the recommendations of the Scrutiny Board, may choose not to confirm the original decision (which would require the approval of Executive Board) or amend the decision in line with the Scrutiny Board's recommendations, but rather to amend the decision in some other way. Under current arrangements and interpretation this latter option would effectively be a new Key decision and therefore require publication on the List of Forthcoming Key Decisions although in accordance with the Executive and Decision Making Procedure Rules it would not be open to call in (having already been the subject of consideration at a call in meeting.) This delays decision making and add unnecessary complexity to key decision governance.
- 3.37 In view of the fact that the relevant options and information will already have been tested through the full process of key decision governance it is recommended that Article 13.4 is amended simply to exclude any decision which is the result of varying a previous Key decision following a Call In of that decision.**

- 3.38 This will ensure that a decision in relation to a matter which has already been substantively included in the List of Forthcoming Key Decisions for the required 28 day period is not further delayed.

Exempted Decisions

- 3.39 Article 13 includes a number of categories (treasury management; energy purchasing; high value care plans; and settlement of proceedings) which are exempted from the definition of a key decision because it is impracticable to undertake the processes set out in legislation and local arrangements in respect of these matters.

High Value Care Plans

- 3.40 There is a need to update the statutory references under which the authority may be required to provide care.

Emergency Decision Making

- 3.41 The Council's Emergency Management Plan provides for the designation of the Council's senior officers as Gold⁷ or Silver⁸ leads in relation to an emergency. Whether acting alone in an inward facing Council emergency, or acting as part of the Strategic Co-ordinating Group at gold level or Tactical Co-ordinating Group at silver level it may be necessary for the relevant officer to take a decision which would be categorised as Key given the financial implications of that decision, or the likely impact of the decision on communities living and/or working in the Leeds area.
- 3.42 In situations where the Council's Emergency Management Plan applies however it is likely that such decisions will be so urgent as to preclude the meaningful fulfilment of the required governance process giving advance notice and allowing for call in of a key decision. In extreme situations, particularly where emergencies occur outside of office hours it may not be possible to obtain the consent of the Scrutiny Chair or Lord Mayor to the use of the special urgency provision.
- 3.43 It is therefore recommended that an amendment is made to Article 13 of the Constitution amending the list of statutory provisions underpinning care plans; and adding such emergency decisions, taken by the designated lead officer out of office hours in response to an emergency, to the limited circumstances in which a decision is exempt from the category of Key.**
- 3.44 This exemption will not extend to decisions taken as the emergency enters the recovery phase when the decision making will return to the usual controls and statutory exemptions.

⁷ Corporate Leadership Team level officers

⁸ Chief Officer or Head of Service level officers

Article 13

- 3.45 In order to effect the recommendations set out in part 3 of this report it is proposed that Article 13 of the Constitution should be amended to the form set out at Annex 5 below.**

Revenue Approvals and Limits

- 3.46 The Council's revenue budget is approved in February each year. In accordance with the Budget and Policy Framework Procedure Rules officers are authorised to spend within the budget set, and "to vire across budget headings subject to value limits set out". Relevant limits and authorities are set by Full Council alongside the budget each year. It is therefore Full Council which is able to amend these limits and authorities.
- 3.47 The City Solicitor and Chief Officer Financial Services have considered the delegations and limits which form part of the Council's budget and financial control environment together with the other financial thresholds in place across the governance framework.
- 3.48 In order to simplify, and therefore strengthen, the Council's governance control environment the Chief Officer Financial Services recommends that the existing virements limits and authorities are amended to:-**
- **Remove the thresholds within which Directors can approve Leeds City Council funded virements between budget heads within the directorate or between directorates subject to the upper threshold of £5 million above which virements must be considered by Full Council.**
 - **Remove the distinction between externally funded virements which are within or which amend existing Council policy so that all can be approved by Directors.**
- 3.49 Decisions in relation to virements will, where necessary and appropriate be taken by the relevant Director as part of the substantive decision in relation to their service. The report supporting these decisions will include confirmation that the Chief Officer Financial Services has been consulted in relation to any virements and that they support the proposal. As with all decisions taken by officers in accordance with their executive delegations the relevant Portfolio Holder may require, or the director may determine that the matter should be referred to Executive Board for the decision to be taken.
- 3.50 General Purposes Committee are invited to recommend that Full Council approves the amended virements delegations and limits as set out in the table attached at Annex 6 to this report.**

Corporate Governance

- 3.51 Best practice requires that the Council ensures that its governance arrangements are up to date and fit for purpose; effectively communicated; routinely complied with and monitored. The proposals set out above will comply with the requirement that the Council's arrangements are up to date and fit for purpose.

- 3.52 The City Solicitor and Chief Officer Financial Services will make arrangements to communicate the changes in decision making, procurement and financial governance systems and processes.
- 3.53 Briefings will be offered to Executive Members and Scrutiny Chairs in order to ensure that they are familiar with the checks and balances in place in relation to officer decision making. Further briefings will then be offered to all Members to explain the modified arrangements and show clearly how Members are able to engage with decision making.
- 3.54 Written information will be supported and enhanced by the provision of training to ensure that officers are aware of and routinely comply with the checks and balances that apply. The City Solicitor has worked with Directors to identify those members of staff who are key to the delivery of functions within each directorate and to enable as many as possible to attend a face to face briefing in June should the proposals be approved.
- 3.55 Corporate Governance and Audit Committee will continue to receive an annual report on the Council's decision making arrangements which will enable them to keep under review the number of key and significant operational decisions taken, and to ensure that they are compliant with the decision making framework. In addition the Head of Audit has been briefed on the proposed changes and will keep relevant systems and processes under review to monitor compliance.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Deputy Leader and Executive Member for Strategy and Resources is content with the proposals as set out.
- 4.1.2 The Chair of Corporate Governance and Audit Committee supports the proposed amendments to the decision making thresholds which strengthen the governance of decision making in relation to procurement in opening controls to contracts of lower annual values where those contracts commit the authority to a larger spend over time. In addition the Chair is pleased to note the proposals of the Chief Officer Financial Services which simplify and strengthen the financial control arrangements in relation to both revenue and capital budgets.
- 4.1.3 The Chair of the Scrutiny Board (Strategy and Resources) agrees with the proposals set out in this report.
- 4.1.4 The proposals have been shared with each of the opposition groups.
- 4.1.5 The Leader of Opposition is supportive of the proposals to amend the thresholds in relation to the governance of decision making and financial controls. He notes in particular that the move to assessing the financial impact of a decision over the lifetime of the decision will enhance Member oversight in relation to contracts with significant lifetime values.

- 4.1.6 The Council's Corporate Leadership Team have considered and are supportive of the proposals set out in this report.
- 4.1.7 The proposals have been shared with a workshop of officers representing each of the Council's directorates. Officers are broadly supportive of the proposals and welcome the proposed increase in threshold for a key decision, although it has been noted that the shift to categorising decisions on the basis of the total financial commitment will increase the number of contracts subject to the controls around taking key decisions, and at lower values requiring publication as significant operational decisions. Assurance has been given that ongoing monitoring of the publication of decisions will offer opportunity to gauge whether this creates undue administrative burden. Officers are also welcoming of the shift in emphasis towards ensuring that finance and procurement matters are considered as part of the substantive operational decisions with authority for directors to give all necessary approvals with the appropriate oversight of executive portfolio holders.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 There are no implications for this report.

4.3 Council policies and best council plan

- 4.3.1 The proposals set out in this report are mindful of the Council's values. In particular they support open and honest governance and through the appropriate delegation of authority in respect of financial governance underpin the value of spending money wisely.
- 4.3.2 The proposals are in line with the seven principals underpinning the Council's Code of Corporate Governance which are:-
- To behave lawfully, with integrity and in the public interest;
 - To be open and engage with local communities, service users and our other stakeholders;
 - To focus resources on outcomes and ensure ...excellent value for money;
 - To have clear responsibilities and arrangements for transparent and effective accountability;
 - To take informed and transparent decisions;
 - To have robust and effective audit, scrutiny, information governance, risk and financial management arrangements; and
 - To develop capacity and capability to be effective.

4.4 Resources and value for money

- 4.4.1 The necessary steps to implement the changes set out in this report can be met within existing resources.

4.5 Legal implications, access to information, and call-in

4.5.1 The proposals set out within this report seek to ensure that the Council continues to meet statutory requirements in relation to decision making and procurement.

4.6 Risk management

4.6.1 By reducing the number of separate thresholds from twelve to eight, and aligning requirements across disciplines the proposals set out in this report simplify the councils governance arrangements in respect of decision making, procurement and finance and therefore reduce the risk of confusion.

4.6.2 In addition the changes will provide an opportunity to promote the Councils governance framework, with awareness raising and training work which will further reduce the risk of non-compliance.

4.6.3 Although it may have been anticipated that to raise the threshold for key decisions would reduce Member oversight of decision making the analysis of decisions taken and the Council's contracts register have shown that the changes taken as a whole will include more decisions committing the council to significant spend, whilst streamlining and simplifying procedures and reducing repeat consideration of some matters.

5. Conclusions

5.1 The proposed amendments set out in this report will ensure that the thresholds in place, and the way in which they are applied, will provide a clear and consistent approach to the governance of decision making, procurement and finance which meets legislative requirements; supports the democratic mandate; provides appropriate check and challenge around the use of public money; and secures openness and engagement with Members and the public whilst remaining agile and responsive.

5.2 Taken together it is recommended that:-

5.2.1 the definition of a key decision be amended to include:-

- decisions that have a significant impact on the people living and working in an area the size of one ward or more;
- decisions with a total value greater than £500,000;
- clarification that any decision following the call-in of a previous key decision is not key;
- the addition of emergency decision making to the categories of decisions exempt from the definition

5.2.2 the definition of a significant operational decision be amended to include:-

- decisions with a total value greater than £100,000.

- 5.2.3 Decisions to be taken as a direct consequence of a previous key decision should be in the contemplation of the decision maker at the time the Key decision is taken.
- 5.2.4 Decisions to take up contract extensions be treated as a direct consequence of the decision to procure in those terms and treated as a significant operational decision.
- 5.2.5 Existing virements limits and authorities are amended to:-
- Remove the thresholds within which Directors can approve Leeds City Council funded virements between budget heads within the directorate or between directorates subject to the upper threshold of £5 million above which virements must be considered by Full Council.
 - Remove the distinction between externally funded virements which are within or which amend existing Council policy so that all can be approved by Directors

6. Recommendations

- 6.1 For the reasons set out in this report General Purposes Committee is requested to :-
- Recommend that Full Council
 - Amend Article 13 of the Council's Constitution to include the definitions of decision categories as set out at Annex 5; and
 - Approve amendments to the delegations and limits for virements as set out at Annex 6 attached; and
 - Note the contingent intention of the Chief Officer Financial Services to review and amend the capital finance thresholds set out in the Financial Regulations to align them with procurement and decision making practice and procedure.

7. Background documents⁹

- 7.1 None

⁹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Annex 1 – Decision Making Thresholds From 2001

Date	Category	Financial Threshold	Effect on communities
December 2001	Key	£500K pa	2 or more wards
	Major	£100K pa	1 ward
	Significant Operational	NA	Specific Circumstances as listed
	Administrative	Under £100K	Within budget and policy framework
May 2008	Key	£250K pa	2 or more wards
	Major	£100K pa	1 ward
	Significant Operational	NA	Specific Circumstances as listed
	Administrative	Under £100K	Within budget and policy framework
May 2012	Key	£250K pa	1 ward
	Significant Operational	£100K pa	Necessary for transparency / accountability
	Administrative	Under £100K	Within budget and policy framework
Proposed	Key	£500K total commitment	1 ward
	Significant Operational	£100K total commitment	Necessary for transparency / accountability
	Administrative	Under £100K	Within budget and policy framework

Annex 2

Decision Making Thresholds as set out in Article 13

CATEGORIES OF DECISION

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

- a. to result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000 pa¹⁰; or

to have a significant effect on communities living or working in an area (including one ward), and
- b. which is not a decision which is a direct consequence of implementing a previous Key Decision¹¹, or in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed¹²; 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.

13.2. **Significant Operational Decision:-** A decision in relation to a Council¹³ or Executive Function which is not a Key decision and which;

- a. Does not fall within the definition of an Administrative decision; or

¹⁰ 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
- d) the settlement of proceedings to which Leeds City Council is a party.

¹¹ 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.

¹² 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.

¹³ In accordance with the Openness of Local Government Bodies Regulations 2014, these shall include where appropriate Council decisions taken:-

- a) under a specific express authorisation from Council or one of its committees; or
- b) In accordance with the Officer Delegation Scheme (Council (non-executive) Functions)¹³, where the effect of the decision is to-
 - a. Grant a permission or licence;
 - b. Affect the rights of an individual;
 - c. Or award a contract or incur expenditure which, in either case, materially affects the financial position of the Council

- b. Would have been a Key decision but for footnote 1 to Article 13.4a or Article 13.4b above; or
- c. Results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000 each year; or
- d. Is, in the opinion of the Director, Chief Officer or Head of Service¹⁴, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority.

13.3. **Administrative Decision:-** A decision in relation to a Council or Executive function which is not a Key, or Significant Operational decision and which;

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

¹⁴ Having taken into account the provisions of the Constitution together with other policy, procedure and guidance available

Annex 3 – Thresholds in Procurement

Table A

Threshold set out in Public Contracts Regulations		
Amount	Threshold set out in Regulations	Procurement Procedure
>£4,551,413	Contracts for works subject to Public Contracts Regulations	<ul style="list-style-type: none"> • COFS advice required • OJEU notice required
>£615,278	Contracts for social and other specified services subject to Public Contracts Regulations	<ul style="list-style-type: none"> • COFS advice required • OJEU notice required
>£181,302	Contracts for Goods or Services subject to Public Contracts Regulations	<ul style="list-style-type: none"> • COFS advice required • OJEU notice required <p>Standard Selection questionnaire required Suitability selection questions allowed under this threshold but must be proportionate and relevant to subject matter of the contract</p>

Table B

Amount	Threshold set out CPRs	Procurement Procedure
All Contracts below £100,000		<ul style="list-style-type: none"> • Use ISP, existing provider or third party framework where possible. If not use competition. • Direct award where formal evidence of no genuine competition
>£100,000	High Value Procurement	<ul style="list-style-type: none"> • 4 written tenders required for competition • Completed contracts registered on YORtender • Contracts to be executed in accordance with Art 14.5 (sealed or two signatures) • Contract termination to be reported to Chief Officer Financial Services for monitoring
		COFS and City Solicitor to be kept informed of contractual claims (by or against Council)
<= £100,00 and >=£10,000	Intermediate Value Procurement	<ul style="list-style-type: none"> • 3 written tenders required for competition • All completed contracts to be registered on YORtender. • Contracts executed by single signature
<£10,000	Low Value Procurement	<ul style="list-style-type: none"> • 3 written tenders required for competition • Direct award where best value for Council (up to £25K on Chief Officer discretion) • Written record of decision to be kept. • Completed direct award contracts to be registered on YORtender • Contracts executed by single signature

Annex 4 – Thresholds in Financial Regulations

	Executive Board	Chief Officer Financial Services	Director of Resources and Housing	Relevant Director
Injection into Capital Programme	<ul style="list-style-type: none"> LCC funded schemes over £250K 	<ul style="list-style-type: none"> LCC funded schemes up to £250K 		<ul style="list-style-type: none"> All externally funded schemes
Funding Approval ¹⁵		<ul style="list-style-type: none"> Cat A schemes over £500,000 		
Authority To Spend	<ul style="list-style-type: none"> Cat A schemes over £500,000 		<ul style="list-style-type: none"> Cat D schemes 	<ul style="list-style-type: none"> Cat A schemes up to £500,000; and All Cat B & C schemes
Variations at tender stage	<ul style="list-style-type: none"> Over £100,000 	<ul style="list-style-type: none"> Over £50,000 and up to £100,000 		<ul style="list-style-type: none"> Up to £50,000
Prior approval of variations during life of contract within approved amount		<ul style="list-style-type: none"> Up to the value of any additional external funding; or Over 1% of approved amount or £5,000 up to limit of approved amount 		<ul style="list-style-type: none"> Up to 1% of approved amount or £5,000 Schemes relating to Community Committee Functions in consultation with Community Committee.
Prior approval of variations during life of contract exceeding approved amount	<ul style="list-style-type: none"> Over £100,000 	<ul style="list-style-type: none"> Up to £100,000 		
Retrospective approval of variations		<ul style="list-style-type: none"> Essential variations exceeding approved amount. 		<ul style="list-style-type: none"> Schemes relating to Community Committee Functions in consultation with Community Committee.

¹⁵ No funding approval is required for Category B,C, or D schemes or for Category A schemes valued at less than £500,000.

Annex 5 – AMENDED CATEGORIES OF DECISION

13.4. Key Decision:-

13.4.1. Subject to 13.4.2 below a Key decision is a decision relating to an executive function which is likely;

- a. to result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £500,000¹⁶; or
- b. to have a significant effect on communities living or working in an area the size of one ward or more.

13.4.2. The following shall be exempt from the definition of a key decision¹⁷:-

- a. any decision where the expenditure, saving or income will result from:-
 - a Treasury Management decision in relation to the making, payment or borrowing of a loan; or
 - a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or
 - a decision to approve a care plan which the Council has a duty or power to provide as defined by s25 of Care Act 2014, s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970; or ss17 and 20 Children Act 1989; or
 - the settlement of proceedings to which Leeds City Council is a party; or
 - an urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time; and
- b. any decision in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed; and
- c. any decision which is a direct consequence of implementing a previous Key Decision¹⁸ and was in the contemplation of the decision maker at the time the decision was taken; and
- d. any decision which is the result of varying a previous Key decision following a Call In of that decision.

¹⁶ Assessed over the full commitment of the decision (e.g. total potential contract value including extensions or full cost of capital project) Where the decision commits the Council to an ongoing commitment (e.g. the staffing costs related to creation of a permanent post) the value should be assessed on an annual basis.

¹⁷ Decisions falling within these exemptions shall be treated as Significant Operational Decisions in accordance with 13.5.1 b.

¹⁸ 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.

13.5. Significant Operational Decision:-

- 13.5.1. A Significant Operational decision in relation to a Council¹⁹ or Executive Function is a decision which is not a Key decision and which;
- a. does not fall within the definition of an Administrative decision; or
 - b. would have been a Key decision but for the exemptions set out at 13.4.2 above; or
 - c. results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000²⁰; or
 - d. is, in the opinion of the decision taker²¹, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority.

13.6. Administrative Decision:-

- 13.6.1. A decision in relation to a Council or Executive function which is not a Key, or Significant Operational decision and which;
- a. is within an approved budget; and
 - b. is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
 - c. does not raise new issues of policy.

¹⁹ In accordance with the Openness of Local Government Bodies Regulations 2014, these shall include where appropriate Council decisions taken:-

- c) under a specific express authorisation from Council or one of its committees; or
- d) In accordance with the Officer Delegation Scheme (Council (non-executive) Functions)¹⁹, where the effect of the decision is to-
 - a. Grant a permission or licence;
 - b. Affect the rights of an individual;
 - c. Or award a contract or incur expenditure which, in either case, materially affects the financial position of the Council

²⁰ Assessed over the full commitment of the decision (e.g. total potential contract value or full cost of capital project) unless the decision commits the Council to an ongoing commitment in which case the value should be assessed on an annual basis.

²¹ Having taken into account the provisions of the Constitution together with other policy, procedure and guidance available

ANNEX 6 - MAXIMUM DELEGATED LIMITS FOR REVENUE VIREMENTS

Approval Type	Supplementary Votes (release of general fund reserve)	Virements out of net managed budget into or out of budget book service headings		Self-financing virements of the net managed budget (from external funding)
Amount		Within directorate	Between directorates	
Up to £100,000 ²²	Chief Finance Officer	Director	Director(s)	Director
Up to £500,000 ²³	Executive Board	Director	Director(s)	Director
Up to £5,000,000 ²⁴	Executive Board	Director	Director(s)	Director
Over £5,000,000	Full Council	Full Council	Full Council	Director

²² Although the substantive decision would be categorised as administrative it should be treated as a significant operational decision as it is not within an existing budget

²³ These will be significant operational decisions unless they have a significant impact in an area the size of one ward or more in which case they should be treated as key decisions

²⁴ These will be key decisions unless subject to an exemption as defined by Article 13 in which case they should be treated as significant operational decisions.

Understanding the Virements Table

Executive Decision Making

- All decisions taken in relation to virements will be executive decisions and should be taken in accordance with the Executive and Decision Making Procedure Rules and Officer Delegation Scheme (Executive Functions) which requires that where the Leader or the relevant Portfolio Holder has directed or the Director considers that the matter should be referred to Executive Board for consideration.
- As by definition decisions which require virements do not fall within an existing budget they should be treated as significant operational decisions unless they are part of a wider decision which is categorised as key.
- Decisions makers should consider the categories of executive decisions set out in Article 13 of the Constitution.

Directors

- In this table delegations to “Directors” should be understood as to all those officers listed as Chief Officers at Article 12.1
- As with all executive delegations these delegations are made save where the Leader or the relevant Portfolio Holder has directed or the Director considers that the matter should be referred to Executive Board for consideration, it is therefore important that the relevant Executive member is briefed in relation to capital projects.
- These delegated decisions should be taken in accordance with the decision making procedures set out in the Executive and Decision Making Procedure Rules.
- All decisions should be taken in consultation with the Chief Finance Officer whose comments should be recorded on the relevant decision report.

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Report of City Solicitor

Report to General Purposes Committee

Date: 15th May 2019

Subject: Independent Member appointment to Audit Committees

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

1 Purpose of this report

- 1.1 The purpose of this report is to seek Members views on the appointment of an Independent Member to the Corporate Governance and Audit Committee.

2 Background information

- 2.1 At the meeting of Corporate Governance and Audit Committee in January 2019 consideration was given to a self-assessment exercise which highlighted a variance in Leeds' practice against the Chartered Institute for Public Finance and Accountancy guidance for Audit Committee in Local Government, specifically the appointment of Independent Members to the Committee.
- 2.2 Officers were requested to provide a further assessment of the role of Independent Co-optees on Local Government Audit Committees and provide a further report to committee. That report was presented to Corporate Governance and Audit Committee in March 2019 and Members views from that meeting are incorporated into this report.
- 2.3 The guidance requirement and the summary presented to Members in January is reproduced at Table 1 on the following page.

Table 1 Extract from CIPFA Audit Committee Guidance and Leeds City Council Position

CIPFA Audit Committee Position Statement	Leeds City Council Position
The committee should:	Officer Commentary
<p>in local authorities, be independent of both the executive and the scrutiny functions and include an independent member where not already required to do so by legislation</p>	<ul style="list-style-type: none"> ▪ The committee is established by full council. ▪ The committee is not a Scrutiny Committee. ▪ Article 9.2.1 precludes the following from being members of the Corporate Governance and Audit Committee: <ul style="list-style-type: none"> ○ Members of the Executive; ○ Political Group Leaders from the three largest groups; and ○ Whips from the three largest groups. ▪ The committee does not include an independent member this is because it is appointed by the Council under S102(1)(a) LGA 1972 to discharge functions of the Council. As such, the Council fixes the number of members and their terms of office - S102(2) LGA 1972. With one of the functions of the committee being to regulate and control of the Council's finance, under S102(3) as co-opted members are not permitted on this committee the arrangements at Leeds City Council are at variance with the CIPFA position statement.

3 Main issues

- 3.1 In January Members of Corporate Governance and Audit Committee resolved to look again in detail at the question of an Independent Member appointment with the benefit of further background information.
- 3.2 Members are asked to note that one of the functions of the Corporate Governance and Audit Committee is to regulate and control of the Council's finance, under S102(3) of the Local Government Act 1972. Co-opted members are not permitted to be members on committees that perform these functions and this is the basis for Leeds City Council's current practice being at variance with the CIPFA position statement.
- 3.3 CIPFA do acknowledge these limitations recommending that Local authorities should have regard to Section 13 of the Local Government and Housing Act 1989 which relates to the voting rights of non-elected committee members.

- 3.4 Their view is that where an audit committee is operating as an advisory committee under the Local Government Act 1972, making recommendations rather than policy, then all members of the committee (including any co-opted members) should be able to vote on those recommendations. However where a council has delegated decisions to the committee, for example the adoption of the financial statements, then independent members will not be able to vote on those matters for decision.
- 3.5 CIPFA also acknowledge that there are no statutory requirements that determine that local authorities such as Leeds City Council must appoint Independent co-opted Members – CIPFA do though highlight that such appointments are a requirement for police audit committees, English combined authorities and for local authorities in Wales, and it is usual practice for non-executives to be committee members in health and central government audit committees.
- 3.6 CIPFA's view is that the injection of an external perspective can often bring a new approach to committee discussions. Authorities that have chosen to recruit independent members have done so for a number of reasons:
- to bring additional knowledge and expertise to the committee;
 - to reinforce the political neutrality and independence of the committee;
 - to maintain continuity of committee membership where membership is affected by the electoral cycle.
- 3.7 CIPFA do also acknowledge that there are potential pitfalls to the use of independent members which should also be borne in mind:
- over-reliance on the independent members by other committee members can lead to a lack of engagement across the full committee;
 - lack of organisational knowledge or 'context' among the independent members when considering risk registers or audit reports;
 - effort is required from both independent members and officers/staff to establish an effective working relationship and establish appropriate protocols for briefings and access to information.
- 3.8 The National Audit Office (NAO) recent publication: Local authority governance reported that their focus groups of internal and external auditors had stressed the benefits to audit committee effectiveness of having independent committee members. The same report identified (from the NAO's review of local authority websites) that 33% of local authority audit committees have an independent member.
- 3.9 The NAO has recommended that government work with local authorities and stakeholders to assess the implications of, and possible responses to the effectiveness of audit committees and how to increase the use of Independent Members.
- 3.10 A review of Core City and West Yorkshire authorities has identified that a number of authorities have made arrangements for Independent Member appointments. Five out of the ten core city authorities have Independent Members appointed as co-optees. In two of these 5 authorities an Independent Members is appointed as Chair.

3.11 Approaches to payment of allowances to those co-opted Independent Members varies with one authority paying a daily rate (variable between the Chair and other co-opted Members), whilst others paid a fixed annual allowance (between £577 & £900 per annum).

3.12 By way of comparison, at Leeds City Council payments are made to statutory co-optees of Scrutiny Boards – these payments (to 5 co-optees) are £601 per annum each. Should there be a wish to pursue the appointment of a Co-opted Member the rate of any allowance would need to be considered by a specially convened meeting of the Independent Remuneration Panel and be approved by full Council.

3.13 Only one West Yorkshire authority (Wakefield) has appointed an Independent Member and in this case no allowance payment is made.

Table 2 Summary of Audit Committee Appointment of Independent Members

Authority		number		Co-opted Member Allowance	
		Members	Co-opted/ Members*	Per Member	Total Cost Per Annum
Core City Group	Birmingham	8	0	n/a	n/a
	Bristol	10	2	£577	£1,144
	Cardiff	11	3	£250 per day Chair £198 per day Co-opted member	£4,170
	Glasgow	15	0	n/a	n/a
	Leeds	10	0	n/a	n/a
	Liverpool	14	0	n/a	n/a
	Manchester	8	2	£901	£1,802
	Newcastle	9	4	Chair £4,388, Co-opted member £878	£7,022
	Nottingham	9	0	n/a	n/a
	Sheffield	10	3	£730	£2190
West Yorkshire	Bradford	9	0	n/a	n/a
	Calderdale	6	0	n/a	n/a
	Kirklees	9	0	n/a	n/a
	Wakefield	9	1	no allowances paid	0

***Bold** number indicates where Chair is drawn from Independent Co-opted Members

3.14 Should Members of General Purposes be supportive of seeking an Independent Member for the Committee, it is proposed that this be progressed as follows:

- An amendment be recommended for approval by full Council to Article 9 as set out at Appendix 1 to provide for a non-voting Independent Member to be appointed on a term not exceeding 4 years (renewable once);
- That the Independent Remuneration Panel be invited to advise the Authority of an appropriate rate of remuneration for the role;
- That a Member panel be established with cross party membership drawn from the Corporate Governance and Audit Committee to undertake the search and selection process advised by the City Solicitor and the Chief Officer Financial Management (or their nominees);

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Leader of Council, Deputy Leader/Executive Member for Resources and Sustainability and the Leader of the Opposition have been consulted on this matter and are broadly in favour of an Independent Member appointment to the Committee.
- 4.1.2 They requested that, with the benefit of the further evaluation of this matter by Corporate Governance and Audit Committee, the merits for progressing such an appointment be considered by the General Purposes Committee in advance of the Annual Council meeting.
- 4.1.3 The Corporate Governance and Audit Committee noted the views of the Leader of Council, Deputy Leader and the Leader of the Opposition and the intention for this matter to be considered by the General Purposes Committee.
- 4.1.4 Corporate Governance and Audit Committee recognised the wide range of skills already evident on the committee and the independent minded approach Members bring to the business considered. On the basis of this the committee would not unilaterally be seeking to supplement committee membership with an independent member. However, the committee noted the Best Practice requirements set out by CIPFA and the legal requirements in other public sector bodies, particularly the audit arrangements for combined Authorities that require that an Independent Member be appointed.
- 4.1.5 Corporate Governance and Audit Committee have asked that should any Independent Member appointments be supported by General Purposes Committee, that the recruitment process be Member led with cross party involvement in any search and selection exercise, including representation from the Audit Committee membership.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no equality and diversity or cohesion and integration issues arising from this report.

4.3 Council Policies and best council plan

- 4.3.1 The work programme provides a balanced number of reports and assurances upon which the committee can assess the adequacy of the council's corporate governance arrangements.

4.4 Resources and Value for Money

- 4.4.1 There are no specific issues arising from this report.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This report is not an executive function and is not subject to call in.

4.6 Risk Management

4.6.1 There are no specific risk management issues arising from this report.

5 Conclusions

5.1 At present there are no statutory requirements on the authority to appoint an Independent Person to an audit committee. The National Audit Office has recommended that further work be done by government with local authorities and other stakeholders examine how the use of Independent Members on audit committees can be increased.

5.2 Guidance from the CIPFA notes both positive and cautionary reasons for such appointments and decisions of this nature need to take account of each local authority's own circumstances.

6 Recommendations

6.1 Members are requested to;

6.1.1 consider the background information provided and views expressed in paragraph 4.1 and;

6.1.2 determine whether or not to recommend appointment of an Independent member to the Corporate Governance and Audit Committee (in accordance with steps outlined in paragraph 3.14)

ARTICLE 9 – GOVERNANCE COMMITTEES**9.1 APPOINTMENT**

The Council will appoint Governance Committees as set out below to exercise the functions conferred on them in accordance with their terms of reference.

9.2 STANDARDS AND CONDUCT COMMITTEE

A pool of non-voting co-opted Parish or Town Councillors shall be established who may attend at meetings of a relevant sub-committee in accordance with the Procedure for Considering Complaints at part 4k of the Constitution.

9.3 GENERAL PURPOSES COMMITTEE

In accordance with Article 15 the General Purposes Committee has authority to consider proposals for amending the constitution and making recommendations to full Council.

9.4 CORPORATE GOVERNANCE AND AUDIT COMMITTEE

[A non-voting Independent Member may be appointed to Corporate Governance and Audit Committee for a term not exceeding 4 years \(renewable once\).](#)

The following are precluded from being members of the Corporate Governance and Audit Committee:

- Members of the Executive;
- Political Group Leaders from the three largest groups; and
- Whips from the three largest groups.

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Report author: Kate Sadler

Tel: 0113 37 88663

Report of City Solicitor

Report to General Purposes Committee

Date: 15th May 2019

Subject: Annual Review of Constitution

Are specific electoral wards affected? If yes, 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 City Solicitor, in their role as Monitoring Officer, has undertaken a review of the Constitution.
2. This report sets out recommendations proposed to ensure that the Constitution remains up to date and fit for purpose.
3. Amendments are proposed in relation to the following documents
 - Article 6 (Appendix C)
 - Officer Delegation Scheme (Council (Non-executive) Functions):-
 - City Solicitor (Appendix Ai)
 - Director of Communities and Environment (Appendix Aii)
 - Scrutiny Board Procedure Rules (Appendix B)
 - Appointments to Outside Bodies Procedure Rules (Appendix G)
 - Procedure For Considering Complaints Alleging A Failure To Comply With A Members' Code Of Conduct Within The Area Of Leeds Metropolitan District Council (Appendix E)
 - Members Code of Conduct (Appendix D)
 - Protocol for the Co-ordination of External Inspection Reports (Appendix F)

Recommendations

4. General Purposes Committee are requested to consider the proposed amendments and to make a recommendation to the annual meeting of Council on 22nd May that the proposals be approved.

1. Purpose of this report

- 1.1 This report sets out amendments to the Constitution which are proposed to ensure that the Constitution remains up to date and fit for purpose.

2. Background information

- 2.1 Article 1 provides that the purpose of the constitution is to:-

- enable the Council to provide visible, accountable and effective leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help Councillors represent their constituents more effectively; enable decisions to be taken efficiently and effectively; create a powerful and effective means of holding decision-makers to public account;
- ensure that no-one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

- 2.2 Article 15 requires that the Monitoring Officer monitors and reviews the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. In particular the Monitoring Officer is required to make recommendations as to how the constitution may be amended in order better to achieve the purposes set out in Article 1.

3. Main issues

Officer Delegation Scheme (Council (Non-executive) Functions)

- 3.1 The City Solicitor's delegations from Council include authority to appoint Members to council committees in the period between the election and the annual council meeting in order that such meetings as are necessary in that period can proceed with adequate and appropriate membership.
- 3.2 For a number of years the Order Paper for the Annual Council Meeting has included a similar provision to enable the City Solicitor to appoint Members to council committees to give effect to Whips' nominations or where a group whip wishes to replace a committee Member with another Member of the same group. It is proposed that for consistency and transparency this provision is now included within the City Solicitor's delegation scheme.
- 3.3 The amended scheme is attached as Appendix Ai to this report.
- 3.4 The proposals reflect practice and procedure which has been agreed by Whips in advance of the Annual Council Meeting for a number of years. The City Solicitor has been consulted and is content with the proposals set out in this report.
- 3.5 Amendments are proposed, as set out at Appendix Aii attached, to the Director of Communities and Environment delegations to reflect changes in legislation. The proposals have been shared with the Director who is content with the amendments.

Article 6 and Scrutiny Board Procedure Rules

- 3.6 It has been sometime since the Scrutiny Board Procedure Rules (the Rules) have been reviewed to ensure that they remain up-to-date and fit for purpose. A review of the Rules has been undertaken with the following aims:-
- to ensure the rules reflect the current legislative framework for Scrutiny;
 - to remove any ambiguities; and
 - to clarify links and relationships with other documents within the Constitution.
- 3.7 It was hoped that the rules could also be reviewed with the benefit of up to date scrutiny guidance from the Ministry of Housing, Communities and Local Government. Unfortunately the anticipated guidance has not been released however the Monitoring Officer has been advised that, when issued, the guidance is unlikely to introduce anything new; rather the intention is to reflect and consolidate best practice guidance into one document.
- 3.8 The amended Rules are attached as Appendix B to this report. The key issues that have been identified and remedied in the revised rules are:
- Removal of ambiguities by introducing a more intuitive presentation;
 - Removal of duplication between Article 6 and the Rules to ensure consistency;
 - Improved signposting to other relevant provisions in the Council's constitution (e.g. Council Procedure Rules, Access to Information Procedure Rules.)
 - Clarification of referral routes for requests for Scrutiny in line with legislative provisions;
 - Provision of greater flexibility for calling witnesses (by removing timescales for giving 7 days-notice);
 - Enhancement of references to the Vision for Scrutiny.
- 3.9 Amendments are proposed to Article 6, attached as Appendix C to this report, to carry through the intention to ensure consistency between the Rules and the Article.
- 3.10 The proposed amendments have been shared with Scrutiny Board Chairs.

Outside Bodies Procedure Rules

- 3.11 The Chair of the Member Management Committee has proposed a change to the Outside Body Procedure Rules for consideration by General Purposes Committee.
- 3.12 The proposal is to amend the Procedure Rules to make it clear that where a political group has been allocated a position to fill then that position should be filled by an Elected Member from that political group, if the group proposes to fill that position with someone other than a Member from that political group then such appointments must be made by either the Member Management Committee, or if delegated, by the Community Committee with that authority.
- 3.13 The amended Rules are attached as Appendix G to this report.

Framework for Standards

- 3.14 The Members Code of Conduct together with the Procedure For Considering Complaints Alleging A Failure To Comply With A Members' Code Of Conduct Within

The Area Of Leeds Metropolitan District Council (the Complaints Procedure) form the framework for Standards for Members Leeds City Council.

- 3.15 At its meeting on Friday 8th March 2019, the Standards and Conduct Committee considered the report of the Head of Governance and Scrutiny Support providing commentary and the recent Committee on Standards in Public Life (CSPL) report into Ethical Standards in Local Government. In particular the Committee considered the Best Practice recommendations made by CSPL against current practice and procedure at Leeds City Council.
- 3.16 As a result the committee resolved to recommend to General Purposes Committee that the Members' Code of Conduct should be amended to reflect:-
- Best Practice 1:- "Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition"; and
- Best Practice 2:- "Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors."
- 3.17 Amendments are therefore proposed to the Code of Conduct, attached as Appendix D to this report.
- 3.18 In addition the committee resolved to recommend to General Purposes Committee that the Complaints Procedure should be amended to reflect:-
- Best Practice 8:- "An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial."; and
- Best Practice 11:- "Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances."
- 3.19 Amendments are therefore proposed to the Complaints Procedure, attached as Appendix E to this report.
- 3.20 Taken together the amendments will ensure that the framework for standards at Leeds City Council meets the Best Practice recommendations of CSPL against which local authorities will be benchmarked in 2020.
- 3.21 The Chair of Standards and Conduct Committee has been consulted in relation to the proposed amendments and has confirmed that they cover the Best Practice requirements well and that she is very happy with them.

Protocol for Co-ordination of External Inspection Reports

- 3.22 The City Solicitor has reviewed the existing Protocol for the Co-ordination of External Audit and Inspection Reports and proposes that the document be replaced with the draft Protocol attached as Appendix F to this report.
- 3.23 The redrafted protocol is designed to ensure that relevant Directors are able to oversee the process for formal inspections but that the resulting report is shared appropriately on a cross party basis. The revised protocol also recognises that any such report should be shared with the most appropriate body, whether that be the

Executive Board or one of the city's partnership boards, as well as being open to consideration by Scrutiny or Corporate Governance and Audit Committee.

- 3.24 The proposed draft no longer includes external audits as the way the Council reports and responds to these is bound by legislation.
- 3.25 The draft protocol has been shared with the Deputy Leader and Executive Member for Resources and Sustainability and with the chair of the Corporate Governance and Audit Committee. Both are content with the draft.
- 3.26 The draft protocol has also been shared with the Leaders of each of the opposition groups.
- 3.27 A suggestion has been made that at paragraph 3 the protocol should require that opposition leaders should be made aware of pending inspections. Similarly it is suggested that at paragraph 7 opposition leaders may, where appropriate, receive the draft inspection report. The City Solicitor is guided by the 'Need to Know' provisions set out in the Access to Information Procedure Rules contained in the Council's constitution. These provide that "draft reports will not usually be disclosed". Whilst it is acknowledged that this will be a matter for the relevant Director in relation to any given inspection the City Solicitor does not therefore consider that the draft rules should be amended as suggested.
- 3.28 A further suggestion was been received that paragraph 10, which deals with circulation of the final report, should include each group Leader who does not have a seat on Executive Board. The City Solicitor has incorporated this proposal in the attached draft.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Consultation arrangements in respect of each document are set out in the main body of this report.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 There are no implications for this report.

4.3 Council policies and best council plan

- 4.3.1 Continuous monitoring and updating of the Constitution is in line with the Council's value of being open, honest and trusted.

4.4 Resources and value for money

- 4.4.1 There are no implications for this report.

4.5 Legal implications, access to information, and call-in

- 4.5.1 Proposed amendments ensure that the Constitution remains in line with current legislative requirements.

4.6 Risk management

4.6.1 There are no implications for this report.

5. Conclusions

5.1 The amendments proposed in relation to the following documents will ensure that the Constitution remains up to date and fit for purpose.

- Article 6 (Appendix C)
- Officer Delegation Scheme (Council (Non-executive) Functions):-
 - City Solicitor (Appendix Ai)
 - Director of Communities and Environment (Appendix Aii)
- Scrutiny Board Procedure Rules (Appendix B)
- Appointments to Outside Bodies Procedure Rules (Appendix G)
- Procedure For Considering Complaints Alleging A Failure To Comply With A Members' Code Of Conduct Within The Area Of Leeds Metropolitan District Council (Appendix E)
- Members Code of Conduct (Appendix D)
- Protocol for Co-ordination of External Inspection Reports (Appendix F)

6. Recommendations

6.1 General Purposes Committee are requested to consider the proposed amendments and to make a recommendation to the annual meeting of Council on 22nd May that the proposals be approved.

7. Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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City Solicitor

- 1. The City Solicitor is the Monitoring Officer for the Council.
- 2. The City Solicitor ¹ is authorised to discharge the following Local Choice Functions which have been assigned to full Council (see Part 3 Section 1 of the Constitution):

(a)	To appoint review boards under the Social Security Act 1998 ²
-----	--

- 3. The City Solicitor is authorised to discharge the following Council (non-executive) functions:

To make standing orders in relation to Access to Information	Section 106 of, and paragraph 42 of Schedule 12 to the Local Government Act 1972
--	--

- 4. Appointments to Committees Boards and Panels³
 - a. The City Solicitor is authorised to appoint members to vacancies during the period between the local elections and the Annual Council meeting, in consultation with appropriate whips, in order to secure that meetings necessary to be held during that period can proceed with adequate and appropriate membership levels.
 - b. The City Solicitor is authorised to make or amend Member appointments to committees during the period between the Annual Council Meeting and the first ordinary meeting of Council:
 - i. Where an appointment has been agreed as a Whips nominee and the Whip for that group subsequently submits a nomination; and/or
 - ii. Where a group whip wishes to replace a committee Member with another Member of the same group.

5. Provision of Legal Services

The City Solicitor is authorised to take any action intended to give effect to a decision of the Council (including decisions taken by a Council committee in accordance with its terms of reference or by a Director in accordance with this scheme of delegation.)

¹ The fact that a function has been delegated to the City Solicitor does not require the City Solicitor to give the matter his/her personal attention and the City Solicitor may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However the City Solicitor remains responsible for any decision taken pursuant to such arrangements.

² s34 (4) Social Security Act 1998

³ Decisions taken by the City Solicitor in accordance with this authority will be reported to the first ordinary meeting of Full Council.

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Director of Communities and Environment

Subject to the exceptions listed below, the Director of Communities and Environment¹ is authorised to discharge the following Council (non-executive) functions:

1. Regulatory Functions

(a)	To approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 ² Marriages (Approved Premises) Regulations 1995 (SI 1995/510)
(b)	To license premises for acupuncture, tattooing, ear-piercing and electrolysis	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982
(c)	To license premises for the breeding of dogs	Section 1 of the Breeding of Dogs Act 1973 and Section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999
(d)	To license pet shops and other establishment where animals are bred or kept for the purposes of carrying on a business	Section 1 of the Pet Animals Act 1951, section 1 of the Animal Boarding Establishments Act 1963, the Riding Establishments Act 1964 and 1970, section 1 of the Breeding of Dogs Act 1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999
(e)	To register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulation) Act 1925

¹ The fact that a function has been delegated to the Director does not require the Director to give the matter his/her personal attention and the Director may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However, the Director remains responsible for any decision taken pursuant to such arrangements.

² [These Regulations replaced 1995/510 which is cited in the Functions and Responsibilities Regulations](#)

Officer Delegation Scheme (Council (non-executive) functions)

(f)	To license zoos	Section 1 of the Zoo Licensing Act 1981
(g)	To license dangerous wild animals	Section 1 of the Dangerous Wild Animals Act 1976
(h)	To grant consent for the operation of a loudspeaker	Schedule 2 to the Noise and Statutory Nuisance Act 1993
(i)	To issue licences for the movement of pigs	<u>The Pigs (Records, Identification and Movement) Order 2011³</u> Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (SI 1996/11)
(j)	To license the sale of pigs	<u>The Pigs (Records, Identification and Movement) Order 2011⁴</u> Article 13 of the Pigs (Records, Identification and Movement) Order 1995
(k)	To license collecting centres for the movement of pigs	<u>The Pigs (Records, Identification and Movement) Order 2011⁵</u> Article 14 of the Pigs (Records, Identification and Movement) Order 1995
(l)	To issue a licence to move cattle from a market	<u>The Cattle Identification Regulations 2007⁶</u> Article 5(2) of the Cattle Identification Regulations 1998 (SI 1998/871)

³ This Order replaced 1996/11 which is cited in the Functions and Responsibilities Regulations

⁴ This Order replaced 1996/11 which is cited in the Functions and Responsibilities Regulations

⁵ This Order replaced 1996/11 which is cited in the Functions and Responsibilities Regulations

⁶ These Regulations replaced 1998/871 which are cited in the Functions and Responsibilities Regulations

Officer Delegation Scheme (Council (non-executive) functions)

(m)	To sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph Film Act 1922
(n)	Duty to enforce Chapter 1 and regulations made under it	Section 10(3) of the Health Act 2006
(o)	Power to authorise officers	Section 10(5) of, and paragraph 1 of Schedule 2 to, the Health Act 2006
(p)	Functions related to fixed penalty notices	Paragraphs 13,15 and 16 of Schedule 1 to the Health Act 2006. Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (SI 2006/760)
(q)	Power to transfer enforcement functions to another enforcement authority	Smoke-free(Premises and Enforcement) Regulations 2006 (SI 2006/3368)
(r)	To license pleasure boats and pleasure vessels	Section 94 of the Public Health Acts Amendment Act 1907
(s)	To authorise erection of stiles etc on footpaths or bridleways ⁷	Section 147 of the Highways Act 1980
(t)	To create footpath bridleway or restricted byway by agreement	Section 25 of the Highways Act 1980
(u)	To create footpaths bridleways and restricted byways	Section 26 of the Highways Act 1980
(v)	Duty to keep register of information with respect to maps, statements and declarations	Section 31A of the Highways Act 1980
(w)	To stop up footpaths bridleways and restricted byways	Section 118 of the Highways Act 1980
(x)	To determine application for public path extinguishment order	Sections 118ZA and 118C(2) of the Highways Act 1980
(y)	To make a rail crossing extinguishment order	Section 118A of the Highways Act 1980
(z)	To divert footpaths bridleways and restricted byways	Section 119 of the Highways Act 1980
(aa)	To make a public path diversion order	Sections 119ZA and 119C(4) of the Highways Act 1980

⁷ Functions (v) – (xx) are limited to areas contained within the Definitive Map of Public Rights of Way. Functions (u), (jj), (kk) and (ss) are also delegated to the Director of City Development whose powers are not limited to areas contained within the Definitive Map of Public Rights of Way.

Officer Delegation Scheme (Council (non-executive) functions)

(bb)	To make a rail crossing diversion order	Section 119A of the Highways Act 1980
(cc)	To make a special diversion order	Section 119B of the Highways Act 1980
(dd)	To require applicant for order to enter into agreement	Section 119C(3) of the Highways Act 1980
(ee)	To make an SSSI diversion order	Section 42B -119D of the Highways Act 1980
(ff)	To keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980	Section 121B of the Highways Act 1980
(gg)	To decline to determine certain applications	Section 121C of the Highways Act 1980
(hh)	To assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980
(ii)	To apply for variation of order under section 130B of the Highway s Act 1980	Section 130B(7) of the Highways Act 1980
(jj)	To authorise temporary disturbance of surface of footpath bridleway or restricted byway	Section 135 Highways Act 1980
(kk)	To divert footpath bridleway or restricted byway temporarily	Section 135A of the Highways Act 1980
(ll)	To extinguish certain public rights of way	Section 32 of the Acquisition of Land Act 1981
(mm)	To keep definitive map and statement under review	Section 53 of the Wildlife and Countryside Act 1981
(nn)	To include modifications in other orders	Section 53A of the Wildlife and Countryside Act 1981
(oo)	To keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981	Section 53B of the Wildlife and Countryside Act 1981
(pp)	To prepare map and statement by way of consolidation of definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981

(qq)	To designate footpath as cycle track	Section 3 of the Cycle Tracks Act 1984
(rr)	To extinguish public right of way over land acquired for clearance	Section 294 of the Housing Act 1985 ⁴
(ss)	To authorise stopping up or diversion of footpath bridleway or restricted byway	Section 257 of the Town and Country Planning Act 1990
(tt)	To extinguish public rights of way over land held for planning purposes	Section 258 of the Town and Country Planning Act 1990
(uu)	To enter into agreements with respect to means of access	Section 35 of the Countryside and Rights of Way Act 2000
(vv)	To provide access in absence of agreement	Section 37 of the Countryside and Rights of Way Act 2000

Exceptions⁸

The Director of Communities and Environment is not authorised to discharge the function above where objections have been received.

2. Functions of the Licensing Authority delegated by Full Council

Subject to the exception set out below, the Director of Communities and Environment is authorised to discharge the functions of the licensing authority as set out below:-

(a)	Any function of a Licensing Authority ⁹	Licensing Act 2003 and any regulations or orders made under that Act ¹⁰ .
(b)	Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter.

Exceptions:

- any function of the Licensing Authority reserved to full Council¹¹;

⁸ Under this delegation scheme (Council functions). The General Purposes Committee may however arrange for the discharge of any of its functions by the Director of Communities and Environment - Section 101(2) Local Government Act 1972.

⁹ These functions will be carried out to support those matters which cannot be delegated by the Licensing Authority.

¹⁰ Including functions which, by virtue of the Gambling Act 2005 Act are delegated to the Licensing Committee.

3. Functions of the Licensing Authority delegated by Licensing Committee

Subject to the exceptions listed below, the Director of Communities and Environment is authorised to discharge the licensing functions¹² of the licensing authority as set out below:-

(a)	Any function of a Licensing Authority	Licensing Act 2003 and any regulations or orders made under that Act ¹³ .
(b)	Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that chapter
(c)	Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005
(d)	Functions relating to the exchange of information	Section 30 of the Gambling Act 2005
(e)	Functions relating to occasional use notices	Section 39 of the Gambling Act 2005
(f)	Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises	Section 304 of the Gambling Act 2005
(g)	Power to institute criminal proceedings	Section 346 of the Gambling Act 2005
(h)	Power to exchange information	Section 350 of the Gambling Act 2005
(i)	Functions relating to the registration and regulation of small society lotteries	Part 5 of Schedule 11 to the Gambling Act 2005

Exceptions:

- any function of the Licensing Authority¹⁴ reserved to full Council¹⁵;
- any function of the Licensing Authority where full Council has referred a matter to a committee other than the Licensing Committee¹⁶;
- any function of the Licensing Authority reserved to the Licensing Committee;

¹¹ Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2011 Act.

¹² "Licensing functions" means functions under the Licensing Act 2003 Act, the Gambling Act 2005 2005 and the Police Reform and Social Responsibility Act 2011.

¹³ Including functions which, by virtue of the 2005 Act are delegated to the Licensing Committee.

¹⁴ "Licensing functions" - see footnote 6 above

¹⁵ Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act.

¹⁶ Under the provisions of Section 7(5)(a) of the 2003 Act.

- any function of the Licensing Authority within the terms of reference of the Licensing Sub-committees¹⁷; and
- to object when the Authority is consultee and not the relevant authority considering an application under the 2003 Act

4. Functions related to the Licensing Functions delegated by Licensing Committee¹⁸

Subject to the exceptions listed below, the Director of Communities and Environment is authorised to discharge the functions set out in the following table which are delegated to the Director by Licensing Committee¹⁹

(a)	To license hackney carriages and private hire vehicles	(a) As to hackney carriages, the Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (b) As to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(b)	To license drivers of hackney carriages and private hire vehicles	Section 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(c)	To license operators of hackney carriages and private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(d)	** To license sex shops and sex cinemas and sexual entertainment venues.	The Local Government (Miscellaneous Provisions) Act 1982, Section 2, Schedule 3, the Policing and Crime Act 2009, Section 27.
(e)	To license performances of hypnotism.	The Hypnotism Act 1952

¹⁷ Except where a Licensing sub-committee has arranged for the discharge of any of their functions by an Officer.

¹⁸ These functions were delegated to the Licensing Committee by full Council on 14 July 2010.

¹⁹ These delegations include functions where these have been delegated to Leeds City Council by any other Council.

(f)	*** To license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
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Exceptions

The Director of Communities and Environment is not authorised to discharge those functions marked ** above where the application is for the grant, renewal or transfer of a sexual entertainment venue licence irrespective of whether objections have been received, or the grant of a sex shop or sex cinema licence irrespective of whether objections have been made, or renewal or transfer of a sex shop or cinema licence where objections have been received

The Director of Communities and Environment is not authorised to discharge those functions marked *** above where objections have been received.

SCRUTINY BOARD PROCEDURE RULES**A - GENERAL**

1. The Council will have the Scrutiny Boards as set out in Article 6 of its Constitution.

B - MEMBERSHIP, ATTENDANCE AND QUORUM

2. Subject to the provisions of this Part the Council will appoint Members to each Scrutiny Board as it considers appropriate from time to time.
3. No Scrutiny Board may include an Executive Member¹.

Crime and Disorder Representatives²

4. The Scrutiny Board with responsibility for crime and disorder may co-opt additional members to serve on the Board and may withdraw that appointment at any time.
5. Crime and Disorder Representatives shall be appointed subject to such terms of appointment as the Scrutiny Board may impose. In particular these shall determine:-
 - 5.1. Any limit on the matter or type of matter in relation to which the co-optee may participate;
 - 5.2. Whether the co-optee shall be entitled to vote;
 - 5.3. The term of the co-optee's appointment.

Education Representatives³

6. Each relevant Scrutiny Board dealing with educational matters⁴ shall appoint the following voting representatives:
 - 6.1. For a term of office which does not go beyond the next Annual Meeting of the Council:
 - i one Church of England diocese representative
 - ii one Roman Catholic diocese representative
 - 6.2. For a four year term of office:
 - i three parent governor representatives

¹ S9FA(3) Local Government Act 2000

² Police and Justice Act 2006 S20; Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

³ Local Government Act 2000 Schedule A1, paragraph 6-8; Parent Governor Representatives (England) Regulations 2001/478

⁴ 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.

Scrutiny Board Procedure Rules

7. Any education representative appointed shall serve as an education representative on all relevant Scrutiny Boards.

Additional non-voting co-opted members

8. A Scrutiny Board may appoint additional non-voting Co-opted Members as follows:-
 - 8.1. For a term of office which does not go beyond the next Annual Meeting each Board may appoint up to five non-voting co-opted members
 - 8.2. For a term of office which relates to a particular Scrutiny Inquiry each Board may appoint up to two non-voting co-opted members
9. A substitute member, appointed in accordance with the Council Procedure Rules shall be entitled to attend a Scrutiny Board meeting in place of a regular Member.
10. The quorum for any Scrutiny Board shall be as set out in the Council Procedure Rules.

C - MEETINGS

11. Scrutiny Board meetings shall be held at such frequency, time and place as the relevant Chair considers appropriate, having taken advice from the Scrutiny Officer.
12. The Scrutiny Board designated special responsibility for crime and disorder must meet as the Scrutiny Board considers appropriate to review or scrutinise the exercise of Crime and Disorder Functions by Responsible Authorities, but shall consider the exercise of those functions no less than once in every twelve month period⁵.
13. An extraordinary meeting of a Scrutiny Board may be called by the Scrutiny Officer where necessary and appropriate or by Scrutiny Board Members in accordance with the Council Procedure Rules.
14. Notice of Scrutiny Board meetings shall be given in accordance with the Access to Information Procedure Rules.
15. Subject to any statutory prohibitions and to the provisions of this Part, all formal meetings of a Scrutiny Board shall be open to the public in accordance with the Access to Information Procedure Rules. This shall be without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.
16. 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.

⁵ Reg 4 Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

Scrutiny Board Procedure Rules

17. Minutes of Scrutiny Board meetings will be published in accordance with the Access to Information Procedure Rules.

D - PARTICIPATION AND VOTING OF BOARD MEMBERS

18. Subject to the provisions of this Part voting shall be in accordance with the Council Procedure Rules.

19. Co-optees appointed in accordance with Part B above shall be entitled to participate and vote as follows:-

19.1. Crime and Disorder Representatives shall be entitled to participate in accordance with the terms of their appointment by the relevant Scrutiny Board.

19.2. Education Representatives shall be entitled to vote in relation to education matters. If the relevant Scrutiny Board deals with other matters, these representatives shall not vote on those other matters. They may stay in the meeting and speak.

19.3. Additional non-voting co-opted Members shall be entitled to participate in the debate but shall not be entitled vote in relation to any matter.

E - BUSINESS

20. Each Scrutiny Board shall exercise the functions set out in the Terms of Reference with regard to matters within its remit as set out in Article 6.

21. Any member of a Scrutiny Board may request that the Scrutiny Board of which they are a member considers a matter relevant to that Board's functions⁶.

22. Each Scrutiny Board shall participate in the development of the Council's Budget and Policy Framework as set out in the Budget and Policy Framework Procedure Rules.

23. Where a matter falls within the remit of more than one Scrutiny Board, the Scrutiny Officer, shall arrange for any matter to be dealt with following consultation with the relevant Scrutiny Board Chairs.

⁶ S9FC(1a&b) Local Government Act 2000

F – ORDER OF BUSINESS

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

- appeals against refusal of inspection of documents;
- exclusion of public;
- late items;
- declarations of interest;
- apologies for absence;
- minutes of the last meeting;
- items referred to the Scrutiny Board in accordance with Part I of these rules;
- the business otherwise set out on the agenda for the meeting; and
- the Scrutiny Board's work programme

G - REFERRAL OF MATTERS TO SCRUTINY BOARDS⁷

25. The Scrutiny Officer may receive referrals for scrutiny from:-

- 25.1. The Executive Board;
- 25.2. Full Council;
- 25.3. Healthwatch Leeds⁸ in relation to the planning, provision and operation of the health service in the Leeds City Council area⁹, or social care services¹⁰; or
- 25.4. Any Member of the authority¹¹ in relation to a matter which is relevant to the functions of a Scrutiny Board¹² and is not¹³:-
 - a a planning decision;
 - b a licensing decision;
 - c Any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;

⁷ S9FC Local Government Act 2000; S19(3&4) Police and Justice Act 2006; Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

⁸ As the Local Healthwatch Organisation for the Leeds area

⁹ Reg 21 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218; S221 Local Government and Public Involvement in Health Act

¹⁰ S226 Local Government and Involvement in Health Act 2007

¹¹ Sometimes known as a Councillor Call for Action - In considering whether to exercise this right to refer the Member shall consider any guidance for the time being issued by the Secretary of State.

¹² Local Crime and Disorder Matters shall only be referred to the Scrutiny Board with responsibility for Crime and Disorder functions S19(3b) Police and Justice Act 2006 and S9FC(5a) Local Government Act 2000.

¹³ Local Government Act 2000 S9FC; Overview and Scrutiny (Reference by Councillors)(Excluded Matters)(England)Order 2012/1022

Scrutiny Board Procedure Rules

- d Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Board.
- e For the avoidance of doubt the following matters will not be considered reasonable to include in the agenda for a meeting of a Scrutiny Board:-
 - i Matters which are subject to ongoing judicial proceedings, Ombudsman or audit inquiry;
 - ii Matters which are subject to an ongoing complaint under the Council's formal complaints procedure;
 - iii Matters which relate to individual personnel issues.

25.5. The exclusions set out in Rule 28.4 shall not prevent a Member from referring an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis.

26. Referrals under this Part shall be made in writing to the Scrutiny Officer who will:-

26.1. Acknowledge receipt of the referral¹⁴ within 20 working days beginning with the date on which the referral was made; and

26.1.1. add the referral to the agenda for the next meeting of the relevant Scrutiny Board and advise the referrer as to which Scrutiny Board will consider the referral and the date of the meeting at which that consideration will take place; or

26.1.2. inform the referrer that the matter will not be considered by a Scrutiny Board giving reasons for this decision; and

26.2. keep the referrer informed of any action taken in relation to the matter.

27. The Scrutiny Officer will receive requests for Call In in accordance with Part 5 of the Executive and Decision Making Procedure Rules

H – CONSIDERATION OF REFERRAL

28. Any matter referred to a Scrutiny Board in accordance with Part G of these rules shall be included in the agenda and discussed at a meeting of that Scrutiny Board.

29. The person making the referral will be invited to attend the relevant Scrutiny Board's meeting to make representations as to why it would be appropriate for the Board to

¹⁴ Acknowledgement of receipt and all other correspondence will be with the Referrer, in the case of a petition requesting Scrutiny this will be the petition organiser.

Scrutiny Board Procedure Rules

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

30. The Scrutiny Board shall consider whether to exercise its power to review or scrutinise the matter referred and may have regard to:-
 - 30.1. Any relevant information provided by or representations made by the Referrer as to why it would be appropriate for the Scrutiny Board to exercise any of its powers in relation to the matter; and
 - 30.2. The principles set out within the 'Vision for Leeds at Scrutiny' document as part of Article 6.
31. If the Scrutiny Board decides not to exercise its powers in relation to the matter it will notify the Referrer of its decision and the reasons for it.

I - UNDERTAKING SCRUTINY INQUIRIES

Terms of Reference

32. Where any Scrutiny Board decides that there shall be an inquiry, the Scrutiny Board shall
 - 32.1. consult with any relevant Director and Executive Member;
 - 32.2. agree the Terms of Reference of the Inquiry including where appropriate:-

“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”;
 - 32.3. agree the period within which the Inquiry’s Report is to be completed;
 - 32.4. compile a preliminary list of witnesses from whom the Scrutiny Board require evidence¹⁵; and
 - 32.5. compile a preliminary list of evidence including any relevant documents which the Scrutiny Board require to be produced.¹⁶

Working Groups

33. A Scrutiny Board may resolve to establish a Working Group if it is necessary to assist in ensuring the effectiveness and efficiency of its work.

¹⁵ As an Inquiry proceeds it may become apparent that further witnesses are required

¹⁶ As an inquiry proceeds it may become apparent that further evidence is required

Scrutiny Board Procedure Rules

34. Meetings of any Working Group appointed by a Scrutiny Board shall not be formal meetings; they shall not be open to the public and rules relating to Access to Information set out at Part F above shall not apply.
35. A summary of issues considered by a Working group must be considered by a Scrutiny Board prior to recommendations being made.

Provision of Information and Attendance of Witnesses¹⁷

36. A Scrutiny Board may require:-

- any Executive Member;
- the Chief Executive and/or any Director¹⁸; or
- a Council contractor¹⁹

36.1. to attend before it to answer questions and / or

36.2. to provide information about any matter within its terms of reference

37. It shall be the duty of any person required in accordance with Rule 39 above to attend and to answer questions²⁰.

38. A Scrutiny Board may invite any other person to attend a meeting to share information in the course of an inquiry or review.

Crime and Disorder Committee²¹

39. The relevant Scrutiny Board may, when undertaking an inquiry in relation to a Crime and Disorder Function:-

39.1. request Responsible Authorities and Co-Operating Persons and Bodies to provide it with information; and / or

39.2. require an officer or employee of a Responsible Authority or of a Co-Operating Person Or Body to attend a meeting of the Board in order to answer questions.

39.3. A request under this rule shall be made in writing and shall specify the date by which the information shall be provided²².

¹⁷ S9FA(8-10)

¹⁸ 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.

¹⁹ In accordance with contract terms and conditions.

²⁰ Although a Member or officer is not obliged to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a Court (S9FA of the 2000 Act)

²¹ S20(6A) Police and Justice Act 2006; Reg (5&6) Crime and Disorder (Overview and Scrutiny) Regulations 2009/942

Scrutiny Board Procedure Rules

- 39.4. The Responsible Authority or Co-operating Person or Body shall only be required to respond to a request under this Rule where reasonable notice of the intended date of attendance has been given.

Flood risk management²³

40. In the course of an inquiry into Flood Risk Management Functions the relevant Scrutiny Board may request information from a Risk Management Authority and the Risk Management Authority shall comply.

Health Scrutiny²⁴

41. The relevant Scrutiny Board shall, when undertaking an inquiry in relation to the planning, provision and operation of the health service in its area take into account:-
- 41.1. relevant information available to it; and
- 41.2. relevant information provided by Healthwatch Leeds.
42. The relevant Scrutiny Board may request a Responsible Person to provide such information about the planning, provision and operation of health services in its area as is reasonably necessary to discharge its functions²⁵.
43. The relevant Scrutiny Board may require any member or employee of a Responsible Person to attend to answer such questions as are necessary to discharge its functions and where reasonable notice has been given it shall be the duty of that member or employee to attend and to answer questions²⁶.

²² Upon receipt of such request the Responsible Authority or Co-operating Person or Body shall provide the information requested by the date indicated unless some or all of the information cannot be provided in that time in which case that information shall be provided as soon as possible. Information provided shall be

- depersonalised information unless the identification of an individual is necessary or appropriate to enable the Board to appropriately exercise its powers; and
- shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the Responsible Authorities, whether acting together or individually, or the Co-Operating Persons Or Bodies.

²³S9FH Local Government Act 2000

²⁴ Reg 21 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

²⁵ Upon receipt of such request the Responsible Person shall provide the information requested by the date indicated. Information provided shall not include

- Confidential information which relates to and identifies a living individual unless disclosed in a form from which the identity of the individual cannot be ascertained, or the individual consents to the disclosure; or
- Information the disclosure of which is prohibited by or under any enactment unless that prohibition arises because the information is capable of identifying and individual and the information can be disclosed in a form from which the identity of the individual cannot be ascertained.

²⁶The person will not be required to answer any question that would breach the requirements set out in footnote 29 above, or which they would be entitled to refuse to answer in or for the purpose of proceedings in Court in England or Wales.

Scrutiny Board Procedure Rules

Partner authorities²⁷

44. A Scrutiny Board may request a partner authority to provide information which relates to the functions of the relevant partner authority so far as those functions are exercised in relation to the authority's area, or the inhabitants of that area.

44.1. A request under this rule shall be made in writing and shall specify the date by which the information shall be provided²⁸.

Witnesses

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

45.1. the date upon which their evidence is to be taken;

45.2. the matters upon which evidence is sought;

45.3. any documents or reports that the Scrutiny Board wishes to have produced²⁹; and

45.4. the date upon which the Board requires any written evidence from the witness.

46. Where, in exceptional circumstances, the witness is unable to attend on the required date, then the Scrutiny Officer shall, in consultation with the Chair of the Scrutiny Board and the witness, arrange an alternative date for attendance, or agree an appropriate substitute.

47. Those assisting the Scrutiny Board by giving evidence shall be treated with respect and courtesy.

48. All oral evidence given to a Scrutiny Board may be recorded in full as shall appear to the Scrutiny Board to be appropriate.

²⁷Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012/1021

²⁸ Information shall not be provided if:-

- that information was obtained by the authority from any other person and provision of the information to the Scrutiny Board would constitute a breach of confidence actionable by any person;
- the disclosure would, or would be likely to, prejudice the exercise of functions of the authority or the legitimate interests of any persons (including the authority holding it);
- it is personal information unless the disclosure is permitted by or under data protection legislation and cannot be revised so as the individual concerned cannot be identified; or
- disclosure is prohibited by or under any enactment

²⁹ Sufficient notice shall be given for any document or report to be prepared

J - REPORTS AND RECOMMENDATIONS

49. At the conclusion of an inquiry a Scrutiny Board shall determine whether it is appropriate to make a report to:-
- 49.1. the authority or the executive; or
 - 49.2. when the inquiry or review relates to the planning, provision and operation of the health service in its area, to the Responsible Person ³⁰.
50. In making a report under this Part the Scrutiny Board shall consider any representations made by the Referrer about why it should make a report or recommendations
51. A report under this Part shall be made in writing and shall include³¹:-
- 51.1. An explanation of the matter reviewed or scrutinised;
 - 51.2. A list of the participants involved in the review;
 - 51.3. A summary of the evidence that the Scrutiny Board has taken; and
 - 51.4. An explanation of any recommendations.
52. Before finalising any recommendations to be made the Scrutiny Board shall invite advice³² from the appropriate Director(s). 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 Board's recommendations are finalised.
53. If the Scrutiny Board decides not to make a report or recommendations into the matter, the Scrutiny Officer will inform the Referrer about the decision of the Scrutiny Board, and the reasons for its decision.

K - MINORITY REPORTS

54. Where any voting member of the Scrutiny Board does not agree with the content of a report made under Part J, they may produce a Minority Report in accordance with this Part setting out their findings and recommendations.

³⁰ Reg 22 Local Authority (public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

³¹ S9F Local Government Act 2000; Reg 22(6) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

³² Such advice may include but is not limited to the financial and resource implications of the recommendations being considered.

Scrutiny Board Procedure Rules

55. The Member³³ should declare their intention to submit a minority report within the Board meeting at the time the majority report is agreed. This declaration shall be both formally minuted and referred to in the final report as part of the Board's resolutions.
56. 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.
57. Where the intention to produce a minority report has been minuted:-
- 57.1. The minority report should be delivered to Governance and Scrutiny Support within 5 working days after the Scrutiny Board meeting³⁴;
- 57.2. The Scrutiny Officer will arrange for the Minority Report to be attached as an appendix to the Scrutiny Board's Report.

L - SHARING AND PUBLICATION OF REPORTS³⁵

58. Where a Scrutiny Board is to share or publish a report, it must comply with relevant statutory provisions relating to exempt or confidential information³⁶.
59. Where a Scrutiny Board has made a report or recommendations to the Council or Executive it shall share a copy of the report with the Referrer.

Crime and Disorder Functions³⁷

60. Where the Scrutiny Board with responsibility for crime and disorder makes a report or recommendations to the Council or Executive about the exercise of Crime And Disorder Functions by Responsible Authorities, the Scrutiny Officer will provide a copy to
- each of the Responsible Authorities; and
 - each of the Co-Operating Persons And Bodies.

³³ In the Member's absence the Chair shall make the declaration on their behalf

³⁴ The Scrutiny Officer will confirm submission dates with the appropriate Member or Members

³⁵ S9FD Local Government Act 2000; S19(8) Police and Justice Act 2006

³⁶ S9FG Local Government Act 2000

³⁷ S19(8B) Police and Justice Act 2006; Reg 7 Crime and Disorder (Overview and Scrutiny Regulations 2009/942

M - RESPONSE TO A REPORT

Functions of the authority³⁸

61. Except as provided below, the Council, or the Executive shall consider any report and recommendations of a Scrutiny Board and shall respond to the Board, indicating what action (if any) it proposes to take and shall publish its response.

Crime and Disorder Functions³⁹

62. Where following an inquiry into Crime And Disorder Functions the relevant Scrutiny Board provides a report to a Relevant Authority, Or Co-Operating Person Or Body, that authority, person or body must:

62.1. consider the report or recommendations;

62.2. respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations or if this is not reasonably possible, as soon as reasonably possible thereafter, indicating what (if any) action it proposes to take; and

62.3. have regard to the report or recommendations in exercising its functions.

Flood Risk Management Functions⁴⁰

63. Where following an inquiry into Flood Risk Management Functions the relevant Scrutiny Board provides a report to a Risk Management Authority that authority shall:-

63.1. Have regard to the report and any recommendations made by the Scrutiny Board; and

63.2. Comply with any request from the Scrutiny board to provide a response.

Health functions⁴¹

64. Where following an inquiry into the planning, provision and operation of the health service in its area the relevant Scrutiny Board provides a report to a Responsible Person that Responsible Person must respond in writing to the Scrutiny Board within 28 days of the date of the report or recommendations.

³⁸ S9FE Local Government Act 2000

³⁹ S19(8B) Police and Justice Act 2006; Reg 7 Crime and Disorder (Overview and Scrutiny Regulations 2009/942

⁴⁰ S9FH(3)(b) & (5) Local Government Act 2000

⁴¹ Reg 22 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

Scrutiny Board Procedure Rules

Functions of Partner Authorities⁴²

65. This Rule applies 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:

- a functions of a relevant partner authority so far as exercisable in relation to the authority's area, or
- b the inhabitants of that area.

65.2. Where this rule applies and the relevant Scrutiny Board gives notice in writing accompanied by a copy of the report and recommendations, the relevant partner authority shall have regard to the report or recommendation in exercising its functions

N - MANDATORY CONSULTATION BY A RESPONSIBLE PERSON⁴³

66. This Part applies to the Scrutiny Board with responsibility for Health matters.

I - Proposal

67. Save where a joint consultation is undertaken⁴⁴, the Board shall consider any consultation from a Responsible Person in relation to a proposal for a substantial development or substantial variation in the provision of the health service in the area.

68. The Board will consider any notification from a Responsible Person that it 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.

II - Response

69. The Board may:-

69.1. Make comments on the proposal by the date provided by the Responsible Person; or

69.2. Decide not to comment or make a recommendation about the proposal by the date provided in which case the Board shall inform the Responsible Person whether it proposes to make a report to the Secretary of State in accordance with Section III below below, or the date when it will decide whether to make such a report. If the latter, the Board shall decide by the given date, and inform the Responsible Person of that decision.

⁴² S9FF Local Government Act 2000

⁴³ Reg 23 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

⁴⁴ Reg 30(5) Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

Scrutiny Board Procedure Rules

70. Where the Responsible Person disagrees with a recommendation included in the Scrutiny Board's comments and has notified the Board of that disagreement the Board shall take such steps as are reasonably practicable to reach agreement.

III - Reporting to the Secretary of State

71. The Board may report to the Secretary of State in writing where:

- 71.1. it is not satisfied that consultation on any proposal has been adequate in relation to content or time allowed; or
- 71.2. where no consultation has been carried out, and it is not satisfied that the reasons given by the Responsible Person are adequate;
- 71.3. the Board considers that the proposal would not be in the interests of the health service in its area;
- 71.4. the Responsible Person has notified the Board that it disagrees with a recommendation and agreement has not been reached within a reasonable period of time or the Responsible Person has failed to comply with its duty to try to reach agreement; or
- 71.5. the Board has decided not to make comments or recommendations in relation to the consultation and has advised the Responsible Person of its intention to refer the matter to the Secretary of State under Section II above.

72. A report to the Secretary in State shall include:

- 72.1. An explanation of the proposal and the reasons for making the report together with any evidence in support of those reasons which shall where relevant include:-
 - a Where the Board is not satisfied that consultation has been adequate, or the reasons for not consulting are adequate:-
 - i the reasons for this; and
 - ii an explanation of any steps taken to try to reach agreement with the Responsible Person about this
 - b Where the Board considers that the proposal would not be in the interests of the health service, a summary of the evidence considered, including any evidence of the effect or potential effect of the proposal on the sustainability or otherwise of the health services in the local area;
 - c Where the Responsible Person does not agree with the recommendations of the Board, an explanation of any steps the Board has taken to try to reach agreement with the Responsible Person; or
 - d Where the Board has decided not to make recommendations in relation to the proposal, evidence that the Board has informed the Responsible Person of its intention to make a report.

O - INTERPRETATION

73. These Rules shall be read and construed in accordance with the legislation and any statutory instruments or guidance from time to time in force in relation to the Council's overview and scrutiny functions.
74. References to the Council Procedure Rules, the Executive and Decision Making Procedure Rules or the Access to Information Procedure Rules shall mean those relevant rules set out in Part 4 of the Council's Constitution as amended from time to time.
75. The following words and phrases shall have the meanings set out below:-
- 75.1. Co-Operating Persons And Bodies shall mean the bodies and persons specified at Section 5(2) Crime and Disorder Act 1998⁴⁵
 - 75.2. Crime and Disorder functions shall mean those functions conferred by or under Section 6 Crime and Disorder Act 1998⁴⁶;
 - 75.3. Director shall mean all those officers listed at Article 12.1 of the Council's Constitution;
 - 75.4. Flood Risk Management Functions shall mean those functions defined at S4 Flood and Water Management Act 2010;
 - 75.5. Local Crime and Disorder Matter shall mean a matter concerning crime and disorder (including 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.⁴⁷;
 - 75.6. Scrutiny Officer shall mean the officer designated in accordance with Section 9FB Local Government Act 2000 (the 2000 Act) as specified in Article 6
 - 75.7. Referrer shall mean the person or body from whom a request for Scrutiny is received;
 - 75.8. Responsible Authorities shall mean the bodies and persons specified at Section 5 Crime and Disorder Act 1998⁴⁸;
 - 75.9. Responsible Person shall mean a relevant NHS Body or a relevant health service provider under S244 National Health Service Act 2006⁴⁹;
 - 75.10. Risk Management Authority shall mean those authorities listed S6(13) Flood and Water Management Act 2010

⁴⁵ S19(2)(b) Police and Justice Act 2006

⁴⁶ S19(11) Police and Justice Act 2006

⁴⁷ S19(11) Police and Justice Act 2006

⁴⁸ S19(1) Police and Justice Act 2006

⁴⁹ Reg 20 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218

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ARTICLE 6 – SCRUTINY BOARDS**6.1 ROLE**

The Council will appoint Scrutiny Boards as set out in Annex 2 to this Article to exercise functions conferred by section 9F of the Local Government Act 2000 and in accordance with the National Health Service Act 2006, in accordance with their terms of reference¹.

6.2 VISION FOR SCRUTINY

The Council has adopted a Vision for Scrutiny, which is attached at Annex 1.

6.3 ROLE OF SCRUTINY**Policy development and review**

Within their Terms of Reference all Scrutiny Boards may:

- assist the Council and the Executive in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- conduct research, community and other consultation in the analysis of policy issues and possible options;
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question Members of the Executive and Directors about their views on issues and proposals affecting the area; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Scrutiny

Within their terms of reference all Scrutiny Boards may:

- make recommendations to the Executive and/or appropriate committees and/or Council arising from the outcome of the scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and
- question and gather evidence.

¹ As set out at Part 3 Section 2A of the Constitution

Article 6 - Scrutiny Boards

6.4 SCRUTINY OFFICER

The Council has designated the post of Head of Governance and Scrutiny Support, as Scrutiny Officer².

The functions of the Scrutiny Officer are:

- (a) to promote the role of the Scrutiny Boards;
- (b) to provide support to the Scrutiny Boards and their members³;
- (c) to provide support and guidance to Members (including Executive Members), and officers⁴, in relation to the Scrutiny Boards' functions;
- (d) to report to Council⁵ annually about how the authority has carried out its overview and scrutiny functions.

6.5 PROCEEDINGS

Scrutiny Boards will conduct their proceedings in accordance with the Scrutiny Board Procedure Rules set out in Part 4 of this Constitution.

6.6 MEMBERSHIP

Members shall be appointed in accordance with the Scrutiny Board Procedure Rules.

Scrutiny Boards shall co-opt members in accordance with the Scrutiny Board Procedure Rules.

6.7 SCRUTINY BOARD CHAIRS

The Chair of each of the Scrutiny Boards shall be appointed in accordance with the Council Procedure Rules.

Group spokespersons shall not be appointed to Chair a Scrutiny Board which corresponds to the same portfolio.⁶

- The Scrutiny Board with responsibility for health shall nominate Members to any joint overview and scrutiny committee appointed by the authority.⁷

~~6.7 CO-OPTED MEMBERS~~

Education Representatives

² Under Section 9FB Local Government Act 2000.

³ The Scrutiny Officer shall exercise overall responsibility for the finances made available to Scrutiny Boards.

⁴ The Scrutiny Officer shall exercise overall responsibility for the work programme of the officers employed to support the work of the Scrutiny Boards.

⁵ After consultation with the relevant Scrutiny Chairs

⁶ This does not apply to those groups who have less than 10% of the membership of the Council

⁷ such nominations to reflect the political balance of the Board.

Article 6 - Scrutiny Boards

~~The following shall be appointed as voting representatives on each relevant Scrutiny Board dealing with educational matters⁸:~~

- ~~(a) For a term of office which does not go beyond the next Annual Meeting of the Council:~~
- ~~• one Church of England diocese representative~~
 - ~~• one Roman Catholic diocese representative~~
- ~~(b) For a four year term of office:~~
- ~~• three parent governor representatives~~

~~If the relevant Scrutiny Board deals with other matters, these representatives shall not vote on those other matters. They may stay in the meeting and speak.~~

Crime and Disorder Committee

~~Subject to the following provisions, the Scrutiny Board allocated special responsibility for crime and disorder may co-opt additional members to serve on the Board⁹.~~

- ~~• The Scrutiny Board cannot in this capacity co-opt an Executive Member.~~
- ~~• Unless the Scrutiny Board decides otherwise, any such co-opted member shall not be entitled to vote.~~
- ~~• The Scrutiny Board may limit a co-opted person's membership to the exercise of the Board's powers in relation to a particular matter or type of matter.~~
- ~~• The Scrutiny Board may withdraw the co-opted person's membership at any time.~~

Additional co-opted members

~~The following may be appointed to each Scrutiny Board¹⁰:~~

- ~~(a) For a term of office which does not go beyond the next Annual Meeting of the Council:~~
- ~~• up to five **non-voting** co-opted members~~
- ~~(b) For a term of office which relates to a particular Scrutiny Inquiry:~~
- ~~• up to two **non-voting** co-opted members~~

⁸ 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

⁹ The Crime and Disorder (Overview and Scrutiny) Regulations 2009

¹⁰ Co-option would normally only be appropriate where the co-opted member has some specialist skill or knowledge, which would be of assistance to the Scrutiny Board.

Vision for Scrutiny at Leeds

“To promote democratic engagement through the provision of an influential scrutiny function which is held in high regard by its many stakeholders and which achieves measurable service improvements which add value for the people of Leeds through a member led process of examination and review”

To achieve this Scrutiny will follow the nationally agreed ‘Four Principles of Good Scrutiny’;

1. Provide ‘critical friend’ challenge to decision makers, through holding them to account for decisions made, engaging in policy review and policy development;
2. Promote Scrutiny as a means by which the voice and concerns of the public can be heard;
3. Ensure Scrutiny is carried out by ‘independent minded’ Board members;
4. Improve public services by ensuring reviews of policy and service performance are focused.

To succeed Council recognises that the following conditions need to be present;

- Parity of esteem between the Executive and Scrutiny
- Co-operation with statutory partners
- Member leadership and engagement
- Genuine non-partisan working
- Evidence based conclusions and recommendations
- Effective dedicated officer support
- Supportive Directors and senior officer culture

Council agrees that it is incumbent upon Scrutiny Boards to recognise that resources to support the Scrutiny function are, (like all other Council functions), under considerable pressure and that requests from Scrutiny Boards cannot always be met. Therefore Council agrees that constructive consultation should take place between the Executive and Scrutiny about the availability of resources prior to any work being undertaken.

Consequently, when establishing their work programmes Scrutiny Boards should

- ***Seek the advice of the Scrutiny officer, the relevant Director and Executive Member about available resources***
- ***Avoid duplication by having a full appreciation of any existing forums already having oversight of, or monitoring a particular issue (e.g. Plans Panel, Housing Advisory Board, established member working groups, other Scrutiny Boards)***
- ***Ensure any Scrutiny undertaken has clarity and focus of purpose and will add value and can be delivered within an agreed time frame.***

Scrutiny Board	External oversight	Officer oversight (by reference to the Officer Delegation Scheme)	
		Council Functions	Executive Functions
Strategy and Resources		Chief Executive Director of Resources and Housing Chief Officer (Financial Services) City Solicitor Director of Communities and Environment	Chief Executive (1-3) Director of Resources and Housing (1-9) City Solicitor (1-3) Chief Officer (Financial Services)(1) Director of Communities and Environment (2, 15 – 17, 19) Director of City Development (6, 9)
Infrastructure, Investment and Inclusive Growth	Risk management authorities (defined by S6 Flood and Water Management Act 2010)	Director of City Development (a-w) Chief Planning Officer	Chief Executive (4) Director of Communities and Environment (9) Director of City Development (1, 3- 5, 7-8, 11) Chief Planning Officer (1-4) Director of Children and Families (2e)
Environment, Housing and Communities	Responsible authorities (defined by S5 Crime and Disorder Act 1998)	None	Director of Communities and Environment (1, 3-8, 10-14, 18) Director of Resources and Housing (10-12) Director of City Development (1 ¹¹ , 2)
Children and Families		Director of Children and Families	Director of Children and Families (1, 2a-d & f, 3)
Adults, Health and Active Lifestyles	Relevant NHS bodies or health service providers including:- NHS England NHS Leeds Clinical Commissioning Group Local NHS Trusts and other NHS service providers Healthwatch Leeds	None	Director of Adults and Health (1 - 8) Director of Public Health (1-6) Director of City Development (10)

¹¹ Relating to provision of frontline services only

SPECIAL RESPONSIBILITIES OF SCRUTINY BOARDS

1 – Flood risk Management

The Scrutiny Board (Infrastructure, Investment and Inclusive Growth) is allocated special responsibility for flood risk management namely:-

- To review and scrutinise the exercise by risk management authorities¹² of flood risk management functions¹³ which may affect the Leeds City Council area¹⁴.

2 – Crime and Disorder

The Scrutiny Board (Environment, Housing and Communities) is allocated special responsibility for crime and disorder namely:-

- To exercise the functions of a crime and disorder committee¹⁵, including the following:
 - a) To review or scrutinise the exercise of crime and disorder functions¹⁶ by responsible authorities¹⁷; and
 - b) To review or scrutinise any local crime or disorder matter¹⁸ raised by a Member.

3 – Health

The Scrutiny Board (Adults, Health and Active Lifestyles) is allocated special responsibility for health namely:-

- to review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and to make reports and recommendations on any such matter it has reviewed or scrutinised;
- to comment on, make recommendations about, or report to the Secretary of State in writing about such proposals as are referred to the authority by a relevant NHS body or a relevant health service provider;
- to respond to consultation by any relevant NHS body or health service provider; and

¹² As defined by Section 6 Flood and Water Management Act 2010

¹³ As defined by Section 4 Flood and Water Management Act 2010

¹⁴ In accordance with Section 9FH Local Government Act 2000

¹⁵ In accordance with Section 19 Police and Justice Act 2006

¹⁶ As defined by Section 6 Crime and Disorder Act 1998 (formulating and implementing crime and disorder strategies)

¹⁷ These are the authorities responsible for crime and disorder strategies set out in Section 5 Crime and Disorder Act 1998.

¹⁸ 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.

Article 6 - Scrutiny Boards

- ~~• to nominate Members to any joint overview and scrutiny committee appointed by the authority.⁴⁹~~

Matters which fall within the terms of reference of this Scrutiny Board include:

- arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of the authority's area and the quality and safety of such services;
- the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- arrangements made by the authority for public health, health promotion, health improvement and for addressing health inequalities;
- the planning of health services by NHS bodies, including plans made in co-operation with local authority's Health and Wellbeing Board for improving both the health of the local population and the provision of health care to that population;
- any matter referred by Healthwatch Leeds; and
- the arrangements made by relevant NHS bodies and health service providers for consulting and involving patients and the public.

The Scrutiny Board may make recommendations to the authority, relevant NHS bodies, or relevant health service providers arising from the scrutiny process.

4– Residual Responsibility

The Scrutiny Board (Strategy and Resources) is allocated residual responsibility for any function not otherwise allocated to a Scrutiny Board.

⁴⁹~~such nominations to reflect the political balance of the Board.~~

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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 writing¹, 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 [in consultation with the Independent Person](#) 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^{2 3};
 - b. Complaints which do not identify a subject Member;
 - c. Complaints which relate to a Member's personal or private life;

¹ [Complaints about the conduct of a parish or town councillor towards a clerk should be made by the chair or the by the parish or town council as a whole, rather than by the clerk in all but exceptional circumstances.](#)

² 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.

³ Anonymous complaints which reveal potential fraud or corruption will be referred to Internal Audit for consideration under the Council's adopted Whistle blowing Policy

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

- 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;
- 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 ago⁴ that there would be little benefit in taking action now;
- i. Complaints containing trivial allegations⁵, 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'⁶;

l. Complaints which do not relate to the Members' Code of Conduct;

l.m. Complaints that it is not possible to investigate.

- 7. In all cases where the complaint names a Member of a relevant authority, the Member will be notified of the complaint⁷. 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.

⁴ In general terms complaints should be submitted within 6 months of the alleged incident

⁵ Trivial allegations are those where further action would be disproportionate or not in the public interest

⁶ Such complaints will be redirected to the West Yorkshire Police, subject to the complainant's agreement.

⁷ Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

Stage 2 - Informal resolution

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.

10. At the same time the Monitoring Officer will refer the matter to the subject Member⁸ and the relevant Group Whip⁹ 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 Person¹⁰.
11. 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.
12. 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.
13. 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.

⁸ Information shared will include details of the complainant and their complaint. The Subject Member will receive this information as a data controller in their own right and all usual data protection controls will apply.

⁹ 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.

¹⁰ See Annex 1 for a summary of the role of the Independent Person.

14. At the end of the 28 day period the Monitoring Officer will, in consultation with the Chair of the Standards and Conduct Committee [and the Independent Person](#), seek to establish whether the subject Member (or Group Whip) has appropriately addressed matters which have been raised by the complainant.
15. 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.
16. 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).
17. 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

18. The Monitoring Officer will commission 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.
19. The Monitoring Officer must arrange for a meeting of the Standards and Conduct Committee (or the relevant Sub-Committee¹¹)¹² to be convened to consider the commissioned report of the complaint. Wherever possible the meeting will take place within 28 days of the report being finalised.
20. If the complaint relates to a Parish or Town Councillor, one of the co-opted Parish Members will be invited to attend the 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.

¹¹ Such 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.

¹² References to the Committee in rules 21 to 36 below shall be read as references to the Sub-Committee if such sub-committee has been appointed and is convened to hear the complaint.

21. The following people will also be invited to attend the Committee meeting:
 - a. The complainant;
 - b. The subject Member;
 - c. The Group Whip (if relevant); and
 - d. The Independent Person.
22. The Monitoring Officer will attend the meeting in order to advise the committee.
23. At the beginning of the meeting the Committee will be asked to consider whether the complaint should be considered in private in accordance with the provisions of Rule 10 of the Access to Information Procedure Rules relating to exempt information. If the meeting is to be held in private the press and public will be excluded¹³.
24. After initial consideration of the commissioned report, the 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.
25. The Committee may also ask questions of anyone present at the meeting in order to reach a conclusion on the complaint.
26. Before reaching a final decision on the complaint, the Committee must seek, and take account of, the view of the Independent Person in relation to the complaint.
27. If the 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 Committee should consider whether the information will be readily available to the Monitoring Officer.
28. Once the 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.

¹³ The Committee may invite people to remain in the meeting if it is considered that they could provide information relevant to the complaint.

Procedure for considering complaints alleging a failure to comply with a Members' Code of Conduct

29. If the 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 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.
30. If the Committee concludes that, on the balance of probabilities, the subject Member has failed to comply with the Members' Code of Conduct, the 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.
31. The recommendations available to the Committee include¹⁴ but are not 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.
32. The Committee may make a recommendation in relation to one or more of the above sanctions to full Council or, if appropriate, the Town or Parish 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 Committee meeting.
33. The Committee may also make general recommendations to the authority¹⁵ 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.
34. Within five working days of the meeting the Chair of the Committee will write to the complainant and the subject Member explaining the final decision of the Committee and detailing any recommendations made.
35. There will be no right of appeal against a decision of the Committee.

¹⁴ The committee may not decide to disqualify or suspend the subject Member as a Councillor.

¹⁵ Which shall be Leeds City Council and / or the Town or Parish Council concerned as appropriate

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-will** be sought, and taken into account, by the authority before:-

- Making a decision to treat a decision as valid under Stage 1 of this procedure
- Making a decision as to whether the subject Member has appropriately addressed matters raised by the complainant by way of informal resolution at Stage 2 of this procedure
- Making a -it makes its- decision on an allegation that it has decided to investigate under Stage 3 of this procedure.

~~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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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.⁴

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

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.

⁴ Where you are present at a formal meeting of the authority and identify any relevant and significant interest which is not a disclosable pecuniary interest and which relates to the business being conducted, you may declare the interest to the meeting, if you consider it is in the public interest to do so. You may also choose not to participate in the business as a result, although you are not obliged to do so.

You must co-operate fully and honestly with any scrutiny appropriate to your office and with any formal standards investigation.

~~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.

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 others⁵.

You must have due regard to the impartiality and integrity of the authority's statutory officers and its other employees⁶.

You must not bully⁷ or harass⁸ any person (including a council employee or other public office holder).

Part Two – Registration and disclosure of interests

Registration of Interests

7. Within 28 days of becoming a Member⁹~~your election or co-option~~, you must notify the Monitoring Officer of any 'disclosable pecuniary interests' which you have at that time¹⁰.
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.

⁵ Members should not instigate complaints under this Code which are politically motivated or malicious, or trivial in nature where further action would be disproportionate or not in the public interest.

⁶ ~~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.~~

⁷ Under this Code bullying is characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.

⁸ Under the Code harassment is characterised as: unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

⁹ By election or co-option

¹⁰ 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.

Members' Code of Conduct

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 pecuniary interest is a 'disclosable pecuniary interest' in relation to you if it is of a type described in Appendix 1, 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 you are civil partners, and you are aware that that other person has the interest.
11. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50¹¹ which you receive in your role as a Leeds City Councillor¹². 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.¹³

Sensitive interests

12. 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^{14 15}.

Disclosure of disclosable pecuniary interests at meetings

13. The following provisions apply if you are present at a meeting of the authority or of any committee¹⁶, 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.
14. 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).

¹¹ 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).

¹² This does not apply to events or hospitality given by the Council and 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.

¹³ These details will be removed from the register by the Monitoring Officer two calendar years after they were received.

¹⁴ 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

¹⁵ 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.

¹⁶ This includes the Executive Board and any committee of the executive.

Members' Code of Conduct

15. 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.
16. 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).
17. 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, or
 - (c) remain in the room during the discussion or vote on the matter (subject to paragraph 18 below).
18. If you are not a member of the relevant committee, sub-committee, joint committee or joint sub-committee, and are present at the meeting in another capacity, you may remain in the room to observe the proceedings but must not participate in the discussion on the matter, even as a member of the public.
19. In certain circumstances you may be granted a dispensation to permit you to take part in the business of the authority, even if you have a disclosable pecuniary interest relating to that business. Such dispensations are granted by the Head of Paid Service following a written request to the Monitoring Officer.

Allegations of a Failure to Comply with Code of Conduct

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

APPENDIX 1 - DEFINITION OF A 'DISCLOSABLE PECUNIARY INTEREST'¹⁷

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period¹⁸ in respect of any expenses incurred by you in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person¹⁹ (or a body in which the relevant person has a beneficial interest²⁰) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

Land - Any beneficial interest in land²¹ which is within the area of the relevant authority.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies - Any tenancy where (to your knowledge) –

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities²² of a body where –

- (a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either –

¹⁷ As defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464.

¹⁸ "Relevant period" means the period of 12 months ending with the day on which the Member completes their notification.

¹⁹ "Relevant person" refers to the Member and their spouse or civil partner, or a person with whom the Member is living as husband or wife, or a person with whom the Member is living as if they were civil partners, so long as the Member is aware that that other person has the interest.

²⁰ This means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. The definition of "director" includes a member of a committee of management of an industrial and provident society.

²¹ "Land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

²² "Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Members' Code of Conduct

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

THE PROTOCOL FOR THE COORDINATION OF EXTERNAL INSPECTION REPORTS

Application

1. This Protocol applies to formal inspections of Leeds City Council. The main bodies currently inspecting local government are:
 - The Care Quality Commission (CQC); and
 - OFSTED.
2. This list is not exhaustive and the Authority may be inspected by other bodies from time to time. These inspections will be considered individually by the relevant Director¹ and be subject to the processes outlined below if appropriate.

The Inspection Process

3. As soon as the relevant Director is aware that an inspection is due they will inform the Chief Executive and relevant Executive Member that an inspection is to take place and the relevant timescales.
4. The relevant Director will ensure that the Chief Executive is kept informed as necessary of the progress of the inspection, including:
 - Preparation arrangements;
 - Requirements for any corporate involvement in either the preparation or actual inspection;
 - Any significant emerging issues.
5. Where a **self assessment** identifies significant weaknesses the Director must inform the Chief Executive, so that additional support can be given to the Director if required.

Draft Reports

6. Upon receipt of the **draft** inspection report, the relevant Director will consider how to respond to the draft report.
7. Where appropriate the relevant Director shall make arrangements to share the draft report with:-
 - the Corporate Leadership Team;
 - the relevant Executive Board Member;
 - the Directorate Management Team; and
 - relevant partner organisations.
8. The relevant Director will liaise with the inspecting body and agree a final report and any action plan that may be necessary.

¹ Throughout this protocol, "Director" includes all those officers listed in Article 12

Final Reports

9. All Inspection reports are **confidential** prior to the official publication date. They will be issued on the understanding that the reports' contents will not be communicated by any person prior to the publication date.
10. Upon receipt of the **final** report the relevant Director will ensure that the report is clearly marked with the date on which it can be made public² and shall provide a copy to:
 - a. the relevant Executive Board Member;
 - b. Any opposition Members of Executive Board;
 - c. All Group Leaders;
 - d. the Chief Executive; and
 - e. the Head of Governance and Scrutiny Support.
11. Where appropriate the copy report shall be accompanied by a confidential briefing.
12. The Head of Governance and Scrutiny Support will ensure that the relevant Scrutiny Board Chair is made aware of the expected publication date of the report³.
13. On the date of publication the Director will publish the report on the Council's internet site⁴ and will notify all Members, by e-mail.
14. Where appropriate the relevant Director will arrange for consideration of the report by Executive Board and/or any relevant partnership body⁵.

Review and Monitoring

15. The implementation of any action plan set out in a final inspection report will be monitored by the relevant Director.
16. Scrutiny Boards may review any Inspection report or monitor any action plan which falls within their terms of reference.
17. Corporate Governance and Audit Committee may consider the governance and audit aspects of any inspection report, in line with their terms of reference.

² As stipulated or agreed by the inspecting body

³ The need to know rights of the Scrutiny Board Chair and members of the Scrutiny Board do not extend to those members having access to the report prior to publication.

⁴ Publication will be via the Modern.Gov system (or any successor system)

⁵ For example Health and Wellbeing Board, Safer Leeds Board, Children and Families Trust Board

APPOINTMENTS TO OUTSIDE BODIES PROCEDURE RULES

1.0 Scope

- 1.1 These Procedure Rules relate to those external organisations and partnerships (referred to as *Outside Bodies*) which have requested the Council to appoint an Elected Member (or suitable nominee¹) to them
- 1.2 For the avoidance of doubt, these Procedure Rules do not apply to appointments which are reserved to Council. These are listed separately in Part Three (Section 1) of the Constitution - Responsibility for Local Choice Functions.
- 1.3 Additionally it is recognised that, often at a local level, individual Elected Members may be personally approached to attend meetings of a variety of organisations in their personal capacity rather than in their capacity as a Councillor. Such instances are not covered within the scope of these Procedure Rules.

2.0 Determination of Outside Bodies to which an Appointment should be Made

- 2.1 The Head of Governance and Scrutiny Support will maintain a list of all Outside Bodies to which the Council appoints an Elected Member.
- 2.2 Each year the Member Management Committee will review the list of notified Outside Bodies and will determine whether the Council should make/continue to make an appointment to those bodies.
- 2.3 Determination will be based on one or more of the following criteria being met:
 - the proposed appointment is a statutory requirement;
 - the proposed appointment would be consistent with the Council's policy or strategic objectives; and/or
 - the proposed appointment would add value to the Council's activities.
- 2.4 Requests from an Outside body to make an appointment received after such an annual review will be referred to the relevant Director who will:
 - Provide advice on whether the Outside Body meets one or more of the criteria in Rule 2.3; and;
 - Identify the Lead Officer to work with the appointed Member should an appointment be made to the Strategic and Key Partnerships category.
- 2.5 Such requests will then be referred to the Member Management Committee for determination by reference to the same criteria.

¹ Which shall include an appointment of an individual, who is not an elected member, made upon the nomination of an elected member when such a nomination is a requirement of statute and/or the Trust Deed of a registered charity.

3.0 Determination of how an Appointment should be made

3.1 Where an organisation is deemed to have met one or more of these criteria, the Member Management Committee will allocate it into one of the following categories.

- **Strategic and Key Partnerships** – participation contributes to the Council's strategic functions, priorities and community leadership role.
- **Community and Local Engagement** – not necessary to fulfil strategic or key partnership role but, nonetheless, beneficial in terms of leading, engaging and supporting the community from an or ward perspective

3.2 Where an Outside Body has been categorised as **Strategic and Key Partnership**, appointment to it will be made by the Member Management Committee.

3.3 Where an Outside Body has been categorised as **Community and Local Engagement**, appointment to it will be made by the appropriate Community Committee.

3.4 Where a political group has been allocated a position to fill, then that position must be filled by Elected Members from the political group that has been allocated the place.

3.5 Should a political group wish to cede a place to another political group or where an appointment of an individual other than an elected Member is being considered, then such appointments must be made by either the Member Management Committee, or if delegated, by the Community Committee with that authority.

~~3.3~~3.6 Where it is not clear as to which particular Community Committee should make an appointment, the Member Management Committee will refer the request to the relevant Community Committee Chairs who will determine which is the appropriate Community Committee to make the appointment. This will be reported to the next meeting of the Community Committee.

4.0 The Appointment Procedure

Strategic and Key Partnerships

4.1 The Member Management Committee will first consider whether it is appropriate for an appointment to be of a specific office holder² either by reference to the constitution of the outside body concerned or in the light of any other circumstances as determined by the Member Management Committee. Such appointments will then be offered on this basis.

4.2 Nominations will then be sought for the remaining places. The Member Management Committee should have regard to a Member's current interests prior

² For example it may be considered necessary or otherwise appropriate to appoint a specific Executive Board Member

Appointments to Outside Bodies Procedure Rules

to making any appointment. The Member Management Committee will have regard to the principle of securing an overall allocation of places which reflects the proportion of Members from each Political Group on the Council as a whole.

4.3 All appointments are subject to annual change unless otherwise stated in the constitution of the external organisation. Each appointment (including in-year replacements) runs for the municipal year, ending at the next Annual Council Meeting.

~~4.4 Elected Members³ will fill all available appointments but it is recognised that Party Groups may not wish to take up vacancies which are made available to them. In such circumstances vacancies will be notified to the Member Management Committee and agreement sought as to whether the vacancy will be filled.~~

~~4.54.4~~ A vacancy occurring during the municipal year will normally be referred to the Member Management Committee for an appointment to be made, having regard to the principles as described above.

~~4.64.5~~ The City Solicitor will have delegated authority to make an appointment in the following circumstances:

- (i) where an appointment has been agreed by the Member Management Committee as a Whips nominee and the appropriate group Whip subsequently submits a nomination;
- (ii) where a group Whip wishes to replace a Member previously approved by the Member Management Committee with another Member of the same group; and/or
- (iii) where an organisation requires an appointment prior to the next meeting of the Member Management Committee, subject to this appointment being agreed by all Group Whips or their nominee.

That any instances of this delegation being used be reported to the next meeting of the Member Management Committee

Community and Local Partnerships

4.7 The Community Committee will first consider whether it is appropriate for an appointment to be of a specific office holder⁴ either by reference to the constitution of the outside body concerned or in the light of any other circumstances as determined by the Community Committee. Such appointments will then be offered on this basis.

~~³ Section 249 Local Government Act 1972 states that Aldermen and Honorary Freemen may attend and take part in civic ceremonies but do not have the right to attend Council/committee meetings or receive any allowances or payments under a Members Allowance Scheme. This establishes the principle that such persons should not be treated as Councillors, and therefore cannot be appointed to outside bodies in place of a Councillor if the request from an organisation is for a Councillor~~

⁴ For example it may be considered necessary or otherwise appropriate to appoint a specific Ward Member

Appointments to Outside Bodies Procedure Rules

- 4.8 Nominations will then be sought for the remaining places, having regard to trying to secure an overall allocation of places which reflects the proportion of Members from each Political Group on the area as a whole.
- 4.9 ~~Elected Members⁵ will fill all available appointments but it is recognised that Party Groups may not wish to take up vacancies which are made available to them. In such circumstances vacancies will be notified to the Community Committee and agreement sought as to whether the vacancy will be filled.~~
- 4.109 All appointments are subject to annual change unless otherwise stated in the constitution of the external organisation. Each appointment (including in-year replacements) runs for the municipal year, ending at the next Annual Council Meeting.
- 4.104 A vacancy occurring during the municipal year will normally be referred to the Community Committee for an appointment to be made, having regard to the principles as described above.
- 4.112 Community Committees may review the list of organisations to which they are asked to make appointments at any time and make recommendations to the Member Management Committee.
- 4.123 The City Solicitor will have delegated authority to make an appointment where an organisation requires an appointment prior to the next meeting of the relevant Community Committee, subject to all Members of that Community Committee being consulted on the proposals.
- 4.134 That any instances of this delegation being used be reported to the next meeting of the relevant Community Committee.

Support for Elected Member Appointees To External Organisations

Lead officer: A lead officer will be identified by the relevant Director for all relevant appointments in the Strategic and Key Partnerships category .

This officer will work closely with the appointed Member(s) to provide briefings and support. Further advice will also be offered by the Chief Finance Officer and/or the City Solicitor as appropriate.

Briefings: For organisations in the Community and Local engagement category, a lead officer will not be allocated unless the Director and/or relevant Executive Member for the service area deem that this will be beneficial. However, the representative may still seek support and briefings from Council officers.

~~⁵Section 249 Local Government Act 1972 states that Aldermen and Honorary Freemen may attend and take part in civic ceremonies but do not have the right to attend Council/committee meetings or receive any allowances or payments under a Members Allowance Scheme. This establishes the principle that such persons should not be treated as Councillors, and therefore cannot be appointed to outside bodies in place of a Councillor if the request from an organisation is for a Councillor~~

Appointments to Outside Bodies Procedure Rules

Induction: Partner/external organisations are expected to provide an induction into their affairs for newly appointed Council representatives. In the case of Strategic and Key Partnership Category appointments it is the lead officer's responsibility to ensure that an induction is arranged.

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Report author: Ian A Cornick
Tel: 37 88778

Report of: Catherine Witham – City Solicitor

Report to: General Purposes Committee

Date: 15th May 2019

Subject: Revised Criteria for the Appointment of Honorary Aldermen/Women

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

Summary of main issues

1. Under section 249 of the Local Government Act 1972, the Council may confer the title of Honorary Alderman/woman upon former members of the Council who, in the opinion of the Council have rendered “eminent service” to the Council as a past member of the authority.
2. The resolution to confer the title must be passed by a majority of at least two-thirds of members present at a specially convened Full Council meeting.
3. The Act does not define “eminent service” to the Council and it is therefore at the discretion of individual councils to determine what this might constitute for their individual authority.
4. A number of councils have developed criteria designed to ensure a consistency of approach whilst at the same time allowing the flexibility to recognise what might constitute “eminent service” to the Council in all its many forms.

Recommendations

General Purposes Committee are requested to consider this report and to make a recommendation to the annual meeting of Council on 23rd May that

- the "Protocol for the nomination of Honorary Aldermen/women within Leeds City Council" be adopted and included at part 5 of the Constitution; and

- the City Solicitor be authorised to review and amend the Protocol as necessary in consultation with the group whips.

1. Purpose of this report

- 1.1. The purpose of this report is to seek approval for the creation of a “protocol for the nomination of Honorary Aldermen/women” to be added to part 5 of the Constitution, which would include a revised criteria to consider nominations for the role of Honorary Aldermen/women.

2. Background information

- 2.1. Under section 249 of the Local Government Act 1972, the Council may confer the title of Honorary Alderman/woman upon former members of the Council who, in the opinion of the Council have rendered “eminent service” to the Council as a past member of the authority.
- 2.2. Following each local election, political agreement is sought as to the number of Honorary Aldermen/women, if any, that will be admitted to the role during that year.
- 2.3. Leaders of each political group represented on Council are asked to identify long serving Councillors that have either stood down, or have lost their seat and are not seeking re-election.

3. Main issues

- 3.1. The Local Government Act 1972 does not define “eminent service” to the Council and it is therefore at the discretion of individual councils to determine what this might constitute for their individual authority.
- 3.2. Leeds City Council does not currently have an agreed definition of the term “eminent service” which could be used as a criteria in identifying suitable persons for consideration for the role of Alderman/woman.
- 3.3. The Chief Whip, in consultation with all Group Whips, has identified that a minimum period of 8 years’ service in the role as Elected Member would provide a suitable length of service to accompany the criteria of “eminent service” from the point of view of this Council.
- 3.4. The complete criteria would then read:

Any person nominated for the honorary role of Alderman/woman should:

- No longer hold the position of Councillor
- Have served a minimum of 8 years on the Council, or have held the role of either Leader of Council or Lord Mayor
- Have, in the opinion of the Council, rendered eminent services by way of exceptional contribution to the City and it’s Council

4. Consultation and Engagement

4.1. This proposal has been discussed with Leaders and Whips from each Group.

4.2. The following comments have been received as part of the consultation:

4.2.1. "I'm not sure I like the idea of 8 years' service. We can all point to colleagues who've served less, but with great distinction."

4.2.2. "I do not agree with the second criteria. I think there is a case for saying that if you stand for the Council again you would resign as an Alderman."

5. Equality and Diversity / Cohesion and Integration

5.1. There are no equality diversity cohesion or integration implications arising from the proposals set out in this report.

6. Resources and value for money

6.1. There are no specific implications arising from this report.

7. Legal Implications, Access to Information and Call In

7.1. There are no legal, access to information or call in implications arising from this report.

8. Risk Management

8.1 There are no risks arising from this report.

9. Recommendations

9.1. General Purposes Committee are requested to consider this report and to make a recommendation to the annual meeting of Council on 23rd May that:

- the "Protocol for the nomination of Honorary Aldermen/women within Leeds City Council" be adopted and included at part 5 of the Constitution; and
- the City Solicitor be authorised to review and amend the Protocol as necessary in consultation with the group whips.

10. Appendices

10.1. Protocol for the nomination of Honorary Aldermen/women within Leeds City Council

THE PROTOCOL FOR THE NOMINATION OF HONORARY ALDERMEN/WOMEN

Application

1. This Protocol applies to the nomination of Honorary Aldermen/women.

Criteria

2. Any person nominated for the honorary role of Alderman/woman should:
 - No longer hold the position of Councillor;
 - Have served a minimum of 8 years on the Council or have held the role of either Leader of Council or Lord Mayor;
 - Have, in the opinion of the Council, rendered eminent services by way of exceptional contribution to the City and its Council.

The Nomination Process

3. Following elections, the Head of Democratic Services will seek political agreement as to the number of Honorary Aldermen/women, if any, to be admitted.
4. The Head of Democratic Services will liaise with their Group Leaders and Group Whips to identify any nominations.
5. Each Group Leader will write to their nominees inviting them to accept the nomination and will notify the Head of Democratic Services of nominees accepting the nomination.

The Ceremonial Process

6. The Head of Democratic Services will liaise with the Lord Mayor and Group Whips as to the date of the meeting of Full Council at which the ceremony will take place¹.
7. The Lord Mayor will write to each nominee inviting them, with up to three guests, to the conferment of status of Honorary Alderman / Alderwoman on the agreed date.
8. The Lord Mayor's Office will inform the Head of Democratic Services of the name of each nominee accepting the invitation not less than 7 working days before the agreed ceremony date. These names shall then be included in the Summons for the meeting.
9. The Head of Democratic Services will arrange for the Roll of Honour to be updated to include the conferment of status of Honorary Alderman / Alderwoman including details of the service of each of the nominees together with the date upon which they first came onto the Council.

¹ The presumption being that this will be on the next appropriate ordinary Council meeting day

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