

Chief Executive's Department
Civic Centre
HARTLEPOOL

22 February, 2013

The Mayor (Stuart Drummond)

Councillors Ainslie, C Akers-Belcher, S Akers-Belcher, Atkinson, Beck, Brash, Cook, Cranney, Dawkins, Fisher, Fleet, Gibbon, Griffin, Hall, Hargreaves, Hill, Jackson, James, Lauderdale, A E Lilley, G Lilley, Loynes, Dr. Morris, Payne, Richardson, Robinson, Shields, Simmons, Sirs, Tempest, Thompson, Wells and Wilcox.

Madam or Sir,

You are hereby summoned to attend an extraordinary meeting of the COUNCIL to be held on WEDNESDAY, 6 March, 2013 at 7.00 p.m. in the Civic Centre, Hartlepool to consider the subjects set out in the attached agenda.

Yours faithfully

D Stubbs
Chief Executive

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EXTRAORDINARY COUNCIL AGENDA



6 March 2013

at 7.00 p.m.

**In the Council Chamber,
Civic Centre, Hartlepool.**

1. To receive apologies from absent members.
2. To receive any declarations of interest from members.
3. To deal with any business required by statute to be done before any other business.
4. To receive the Chief Executive's report

EXTRAORDINARY COUNCIL

6 March 2013

**Report of:** Chief Executive**Subject:** BUSINESS REPORT

1. REVIEW AND REVISION OF THE COUNCIL'S CONSTITUTION**(i) Background**

On 6th December, 2012, Council formally passed a resolution at a specially convened meeting to agree a change to its governance arrangements. That change had been initiated through a Referendum held on 15th November, 2012, where a majority of electors were in favour of a system of governance comprising *"one or more Committees made up of elected Councillors"*. That Referendum under Section 9MA of the Local Government Act, 2000, as amended, was taken as a combined poll with the election of the Police and Crime Commissioner and permits the Council to introduce these new governance arrangements following the cessation of the Elected Mayor's term of office, at midnight on 5th May, 2013. This report therefore covers the process of the review and the necessary revisions and amendments to the Council's Constitution in order to operate a Committee based system, following the outcome of the Referendum.

(ii) Process of the Review

Council had *agreed "in principle"* to move to a Referendum at its meeting on 21st June, 2012, which was subsequently confirmed by a resolution on 2nd August, 2012. It had been decided that the residents of Hartlepool be consulted on all the possible governance options available for inclusion within a Referendum to enable a full and informed choice. There was also the formation of a Governance Working Group with a mandate to *'ensure a more effective form of governance of the authority..'*. This Working Group has issued various *"Issues Papers"* to develop the Council's new Constitutional arrangements with feedback invited from elected Members on the various parts of the Council's Constitution. A summary of those issues raised by Members has been included as **Appendix 1**. A summary of the main changes to the Constitution that are recommended to Council is included as **Appendix 2**. The Governance Working Group has been supplemented with an Officer Working Group and discussions have also taken place with representatives of the Department of Communities and Local Government in order to ensure that the new Constitutional arrangements are not only legally compliant but in a practical sense, sufficiently robust in order for the Council to have a more effective and efficient form of governance.

Section 37 of the Local Government Act, 2000, introduced the requirement for a Local Authority to prepare and keep up to date a document referred to as their “*Constitution*”. Similarly, under the Localism Act, 2011 (Schedule 2 refers) a local authority must prepare and keep up to date a Constitution, which contains;

- (a) a copy of the authority’s Standing Orders for the time being,
- (b) a copy of the authority’s Code of Conduct for the time being under Section 28 of the Localism Act, 2011,
- (c) such information as the Secretary of State may direct, and
- (d) such other information (if any) as the authority considers appropriate.

As was previously the case, a Local Authority must ensure that copies of their Constitution are available for inspection at their principal office and that copies are also available to members of the public on payment of such reasonable fee as the authority may determine.

In proceeding with their review of the Council’s Constitution, the Governance Working Group were guided by the earlier DETR document “*New Council Constitutions – Modular Constitutions for English Local Authorities*” and accompanying “*Guidance to English Local Authorities*” (2000) as well as the Local Authorities (Committee System) (England) Regulations, 2012. The earlier guidance indicated that “*the Constitution should be drafted as a flexible document*” (para 10.9 refers). By way of example, it should not be necessary to revise the Constitution “*every time an ad hoc Committee or Sub-Committee is appointed to undertake a particular task*”. However, it was recommended that the Constitution “*needs to be sufficiently detailed to allow anyone who has dealings with the local authority to use it, either by reference to it alone or by reference to it and other documents referred to in it (and for convenience available alongside it), to determine who is responsible for the matter with which they are concerned*”.

Under the Local Authorities (Committee System) (England) Regulations, 2012, it is prescribed that certain functions cannot be delegated to a Committee and which must therefore be carried out by full Council. This essentially covers, by way of example, the approval of a plan or strategy comprising the Council’s Policy Framework and the approval of the Council’s budget and the setting of Council Tax. Those matters which are therefore reserved to Council are reflected in the revised constitutional arrangements. The Governance Working Group have sought, in the main, to make only those necessary changes which reflects the Council operating a ‘Committee System’ as opposed to the executive arrangements of an Elected Mayor and Cabinet system of governance. Consequently, there are five ‘Policy Committees’, which accords with the advice in the earlier guidance and which will effectively replicate the functions currently discharged through the Council’s Cabinet and the various Portfolios. However, the Committees covering Children’s, Adult, Regeneration and Neighbourhood Services, will also more reflect the overall structure of the Borough Council. The Finance and Policy Committee to be chaired by the Leader of the Council will also accommodate the four Chairs of the other Policy Committees and will also notably, have responsibilities for the discharge of the Council’s functions in relation to public health. As before, the Council will have certain regulatory

Committees discharging functions relating to Town and Country Planning and Licensing and that “*Standards*” will now fall under the general remit of an Audit and Governance Committee which will also have responsibility for the Council’s statutory scrutiny functions, relating to health and crime and disorder. It is also recognised through CIPFA that an Audit and Governance Committee should be chaired by an elected Member outside of the majority political group. Furthermore, this Committee will also draw representation onto a Personnel Sub-Committee, which in turn will deal with those matters previously coming within the remit of the General Purposes (Appeals and Staffing) Committee. Of particular note, the functions previously delegated to the General Purposes Committee are now to be found within the Finance and Policy Committee or the Audit and Governance Committee, depending on whether the matters have a policy context or are of a more regulatory nature.

Subsequent reviews of the Council’s Constitution will be a function to be exercised by the Council’s Chief Solicitor acting as Monitoring Officer under a revised Article 15 (Reviewing the Constitution and Managing Council Business) with recommendations being made to Council as opposed to the current arrangements with recommendations emanating from a Constitution Committee.

The Health and Wellbeing Board which will operate as a Council Committee is also a feature of the new constitutional arrangements as well as the Police and Crime Panel, which operates as a Joint Committee within the Cleveland Police Force area. There is also recognition within the revised Part 2 of the Council’s Constitution to other Joint Committees/Joint Arrangements, namely the Cleveland Emergency Planning Joint Committee, Archives Joint Committee and Tees Valley Unlimited. On the same theme, there is recognition of the Council’s statutory obligation to combat crime and disorder and therefore there is now specific reference to the “*Safer Hartlepool Partnership*”. The Corporate Parent Forum will have linkage to the Children’s Services Committee. There is also reference within the Constitution to those co-optees who are required, for example, when the Council is discharging certain education functions or through ‘arrangements’ for dealing with complaints as to Member conduct, which again is detailed within the revised Constitution.

Public engagement will be through the two area Forums, namely North and Coastal Neighbourhood Forum and South and Central Neighbourhood Forum. These Forums will include the opportunity for “*face the public*” events. Finally, there are certain “*advisory*” bodies, most notably the Joint Consultative Committee.

The Governance Working Group have had uppermost in their consideration the views of all elected Members and consequently, each revised part of the Constitution has been provided to all elected Members, for comment. Although, only those necessary changes have been made to the Constitution there are certain aspects which have been retained even where the Council is not statutorily or otherwise obliged to retain such features. A case in point, is the retention of the “*Forward Plan*” and the taking of “*Key Decisions*” which provides advance public notification as to when and where a decision will be taken and by whom. There has also been a general updating of the Constitution to ensure

general compliance but to also ensure some degree of clarity as well as transparency through clear lines of responsibility for functions as well as plans and strategies and service areas in relation to the Policy Committees.

On 7th February, 2013, representatives from the Department of Communities and Local Government attended a meeting of the Governance Working Group. It was their opinion that the revisions to the Council's Constitution reflected the Regulations applying to a 'committee based local authority', of which it was duly noted that Hartlepool was the first authority to move away from executive arrangements. Further, that these new governance arrangements should be seen in the context of a new streamlined Committee system with appropriate delegation.

It is recognised that although there are many features of the Constitution which have been retained, appropriate training and understanding of the new constitutional and governance arrangements is a priority both for Members and Officers of the Authority. A training programme has been established, in this regard. There will also be a need, for appropriate transitional arrangements with the "*shadowing*" by prospective Policy Committee Chairs/Vice-Chairs with the relevant Portfolio Holders. It is also envisaged, that the "*Round Table*" discussions which normally take place in April before the commencement of the forthcoming municipal year will take place somewhat earlier to allow for appointments not only to Committees, but also under Part 7 of the Constitution to outside bodies and organisations. In this respect, whereas previous appointments were either through the Executive or Council or a mixture of both, all future appointments will be through Council. There is now a new sub-division within this particular part of the Council's Constitution to reflect, for example, the Council's participation in joint arrangements, in the community or in a regional or national theme. The changes to the Council's Constitution is attached as

Appendix 3

RECOMMENDATIONS

1. That Council approve the revisions to the Council's Constitution and adopt the Constitution as appended to this report (**Appendix 3**).
2. That the adoption of the revised Constitution be effective from the cessation of the Elected Mayor's term of office and the operation by the Borough Council of a Committee system after this date.

Comments received from Members on the proposed Constitution**APPENDIX 1**

Councillors	Issue	Comments
Brash and Hargreaves	Public Questions at Council	<ul style="list-style-type: none"> • Supplementary questions must be retained at the current number (i.e. two being permitted). • The deadline for submission of public questions should be reduced, with the deadline being exactly the same as for Councillors (i.e. noon on the day prior to the Council meeting). • There should be the facility to ask questions WITHOUT notice, just as Councillors are allowed to do, but only, as with Councillors, if it relates directly to a recent decision (made since the last meeting). • All Councillors should be able to be questioned, not just those who hold certain posts. In the new committee system all Councillors will have a role in decision making and therefore all should be accountable to the public and be prepared to answer questions. • Questions should be selected by way of a lottery to determine the order. • The monitoring officer's role should be strictly limited to that of matters pertaining to the law, with no interference on political or other grounds.
Brash and Hargreaves	Member Questions at Council	<ul style="list-style-type: none"> • Two supplementary questions are allowed for all questions that elected members ask (with or without notice) at Full Council. • Questions to members of the police and crime panel and fire authority have the same deadline for submission as all other questions from members, i.e. noon on the day prior to the meeting.

APPENDIX 1

Councillors	Issue	Comments
Brash and Hargreaves	Public at Policy Committees	The Council should specially designate a section at the start of policy committees or portfolio meetings to public questions, specifically about the agenda of said meeting.
Brash and Hargreaves	Allow ances	<p>Petrol - HMRC recommend that mileage payments for business travel should be at a rate of 45p per mile and this should be the case for elected members.</p> <p>Travel Cards – the Council should not pay for Councillors' travel cards,.</p> <p>Political meetings - the Council should not pay for the travel and subsistence of elected members attending political group meetings, as detailed in schedule 1 – item 10.</p>
G Lilley	Public Questions to Council	<p>On behalf of Putting Hartlepool First Group, all the issues raised by Councillors Brash and Hargreaves were supported together with the following relating to public questions which was submitted by Councillor Gibbon:-</p> <p><i>Questions should be considered on a first come first served basis</i></p>
Beck	Allow ances	<p>Member Expenses - no expenses should be paid to members attending political meetings or their ward surgeries.</p> <p>Subsistence Allowance - no tea time allowance especially if a lunch time allowance is paid.</p> <p>Petrol – petrol allowance should be paid at a reasonable rate distances over 35 miles but minimum rate in and around the town.</p> <p>Travel Cards - if travel cards are issued, then receipts for relevant journeys should be produced.</p>

Summary of Main Changes

APPENDIX 2

Constitutional Reference	Summary of Change
Part 1 – Summary and Explanation	<p>General updating to reflect the outcome of the Referendum held on 15th November, 2012 and the change to a committee system.</p> <p>That decisions are taken either through a Policy Committee or a Committee discharging a regulatory function or through delegation to Officers. It is also noted that the Council's Policy, Regulatory and other Committees are open to the public except where personal or confidential matters are being discussed.</p>
Part 2 – Articles of Constitution Article 1 – Introduction Article 2 – Members of the Council Article 3 – Local People and the Council Article 4 – Full Council Article 5 – The Ceremonial Mayor Article 6 – The Leader of the Council Article 7 – Policy Committees	<p>General updating</p> <p>General updating</p> <p>General updating</p> <p>General updating</p> <p>Revision to the current Article 5 “<i>Chaining the Council</i>”.</p> <p>Replacing the current Article 6 – Overview and Scrutiny. (NB Statutory Scrutiny Procedure Rules are referenced within Part 4 of the Council's Constitution). This revised Article covers the appointment and role and functions of the Leader but note (para 6.03 refers) that the Leader under the committee system has no formal legal powers and duties under either the Local Government Act, 1972 or the Local Government Act, 2000.</p> <p>This Article replaces the current Article 7 – The Executive. This Article now covers the five Policy Committees with additional reference to the Corporate Parent Forum. There is also specific reference to the Lead Member for Child and Adult Services who will exercise the role of Chair of Children's Services and Adult Services Committees respectively.</p>

Article 8 – Regulatory and Other Committees	Reference to the new Audit and Governance Committee and the Personnel Sub-Committee as well as to the existing Planning Committee and Licensing Committee. (NB - 12 Members of the authority to comprise the Licensing Committee which accords with the requirements contained within the Licensing Act, 2003).
Article 9 – Joint Committees and Partnership Boards	This Article replaces the current Article 9 – The Standards Committee, whose functions are now to be found within the Audit and Governance Committee. This particular Article covers all Joint Committees and Partnership Boards including the Health and Wellbeing Board to discharge the Council's functions under the Health and Social Care Act, 2012.
Article 10 – Neighbourhood Forums	Revisions to reflect the operation of Neighbourhood Forums (10.05 refers).
Article 11 – Joint Arrangements	General updating
Article 12 – Officers	Reference to the senior management structure which accords with the earlier guidance issued through the DETR and also incorporating the role of Director of Public Health.
Article 13 – Decision Making	Reflects the arrangements of a Committee based local authority.
Article 14 – Finance, Contracts and Legal Matters	General updating
Article 15 – Reviewing the Constitution and Managing Council Business	That the Monitoring Officer will monitor and review the operation of the Constitution and changes to the Constitution will follow approval by full Council. (NB – The protocol for monitoring and review of the Constitution by the Monitoring Officer – 15.02 refers).
Article 16 – Suspension, Interpretation and Publication of the Constitution	General updating
Schedule 1 – Members of the Council	
Schedule 2 – Structure of the Council	Replaces the current reference to “ <i>description of Executive arrangements</i> ”.

<p>Part 3 – Responsibility for Functions</p>	<p>Reflects the operation of a Committee system with those matters reserved through Council under the applicable Regulations and those functions able to be delegated to Committees, Sub-Committees and Officers through Section 101 of the Local Government Act, 1972.</p>
<p>Part 4 – Rules of Procedure</p> <p>Access to Information Procedure Rules</p> <p>Budget and Policy Framework Procedure Rules</p> <p>Contract Procedure Rules</p> <p>Council Procedure Rules</p>	<p>General updating</p> <p>Updated to reflect movement to a Committee system with necessary revisions to Standing Orders with regard to certain plans and strategies and the Council's budget. Revised summaries of the budget process and that relating to the Policy Framework.</p> <p>Changes to reflect certain statutory requirements, for example, the Public Services (Social Value) Act 2012 and recognition to electronic procurement. Reference, where required to the appropriate Committee and/or Officers, including the role of officers in relation to the opening of tenders.</p> <p>(i) Appointment to the role of Ceremonial Mayor and Deputy Ceremonial Mayor to exercise the roles of the Chair and Vice-Chair of the Council as required to be undertaken at the Annual meeting. (NB – Appointment of a Leader and if the Council does not so appoint then the Leader and Deputy Leader will be appointed through the majority political group).</p> <p>(ii) Rule 10 (Questions from the Public) Extension to 45 minutes for the period allowed for public questions. Notice to be given no later than noon on the Thursday before the meeting and at any one meeting no person may submit more than two questions with no provision for supplementary questions. Similarly (Rule 11) Questions on notice by Members to full Council, a Member is required to provide notice in writing no later than noon on the Thursday before</p>

	the meeting.
Executive Procedure Rules	(iii) New Rule 27 (Reference to Council) Wherein 17 or more Members may requisition that a 'Key Decision' taken by a Policy Committee (other than matters of urgency) can be referred to Council for debate.
Financial Procedure Rules	Deleted
Officer Employment Procedure Rules	General updating
Overview and Scrutiny Procedure Rules	General updating
	Deleted and replaced by "Statutory Scrutiny Procedure Rules" covering the Council's responsibility for Health and Crime and Disorder (additional reference to the Council 'call for action').
Part 5 – Codes and Protocols	
Code of Conduct for Councillors and Co-opted Members	
Code of Conduct for Officers	
Officer/Member Protocol	General updating
Planning Code of Practice	
Code of Corporate Governance	General updating (NB – Revised from the document originally approved by Council in 2009)
Guidance for Members and Officers Servicing on Outside Organisations and Other Bodies	Addition to Part 5
Public Questions to Council Meetings	Addition to Part 5
Part 6 – Members Allowance Scheme	General updating but subject to the recommendations to Council by the Independent Remuneration Panel.
Part 7 – Appointments to Outside Organisations and Other Bodies	Amendment to reflect that all future appointments will be through Council within the following categories; <ul style="list-style-type: none"> – Joint Committees – Leadership bodies and partnerships – Advisory – Council in the community – Other decision making bodies
Part 8 – Management Structure	To be updated.

Part 1

Summary and Explanation

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SUMMARY AND EXPLANATION

The Council's Constitution

1. Following a referendum held on 15th November 2012, Hartlepool Borough Council has agreed a revised Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution has been developed in accordance with the Local Government Act 2000 and the Localism Act 2011. These Acts, along with the Local Government Act 1972 and the Local Government and Housing Act 1989, are the key statutory references for the provisions of this Constitution. Any changes to the Constitution are likely to be initiated by both legislation and local experience.

What's in the Constitution?

2. The Constitution is divided into 16 Articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules, codes and protocols set out in the document.
3. Article 1 sets out the purpose of the Constitution. Articles 2 – 16 explain the rights of citizens and sets out a framework for how the key parts of the Council operate, these are:
 - Members of the Council (Article 2).
 - Local People and the Council (Article 3).
 - Full Council (Article 4).
 - The Ceremonial Mayor (Article 5).
 - The Leader of the Council (Article 6).
 - Policy Committees (Article 7).
 - Regulatory and other Committees (Article 8).
 - Joint Committees and Partnership Boards (Article 9).
 - Neighbourhood Forums (Article 10).
 - Joint Arrangements (Article 11).
 - Officers (Article 12).

- Decision Making (Article 13).
- Finance, Contracts and Legal Matters (Article 14).
- Review and Revision of the Constitution (Article 15).
- Suspension, Interpretation and Publication of the Constitution (Article 16).

How the Council operates

4. The Council is composed of 33 Councillors (often called Members), with one-third elected three years in four. As a result of the Local Government Boundary Commission for England review as concluded in 2011, all Members of the Council resigned in 2012 and their seats were filled in an all-out election that took place in May 2012. The Councillors elected will serve for 2, 3 or 4 years according to the election results. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
5. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Council has a duty to promote and maintain high standards of conduct by Members and co-opted Members of the Authority. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Audit and Governance Committee when the Committee discharges standards functions.
6. All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. Further details of how meetings of the Council operate can be found in Article 4 and the Council Procedure Rules, contained within Part 4 of this Constitution.

How decisions are made

7. Most day to day decisions are made by Policy Committees, Sub-Committees or through Officers. The Council has 5 Policy Committees which deal with those functions, plans and strategies and service areas as set out within Article 7 and Part 3 (Functions and Responsibilities) of this Constitution. When major decisions (called key decisions) are to be discussed or made, then these are published in the Council's Forward Plan insofar as they can be anticipated. The public are entitled to attend meetings of Policy Committees when major decisions are discussed, except where personal or confidential matters are being considered. Any decisions

that are outside the budget and policy framework must be referred by a Policy Committee to Council for a decision. A Policy Committee also has the discretion to refer any matter to Council for determination. In addition, not less than 17 Members of Council (at least one half of the composition of Council) may request the referral of a major decision to Council for debate and decision in accordance with the Rules of Procedure set out within Part 4 of the Constitution. Committees also carry out a number of regulatory functions, including dealing with planning applications, licensing and most other regulatory business. Meetings of the Council's Policy, Regulatory and other Committees are open to the public except where personal or confidential matters are being discussed.

Statutory Scrutiny

8. The Council has a number of statutory scrutiny responsibilities in relation to health and crime and disorder, as defined within the Health and Social Care Act 2012 and Police and Crime Act 2006. In fulfilling these roles, the Audit and Governance Committee is responsible for the review and scrutiny of matters relating to the planning, provision and operation of health services, it is also designated as the Council's 'Crime and Disorder Committee' with responsibility for the review and scrutiny of crime and disorder matters. These roles and responsibilities are more fully set out within Part 3 – Responsibility for Functions.

Neighbourhood Forums

9. The Council has two Neighbourhood Forums; 'North and Coastal' and 'South and Central'. These Forums (operating on neighbourhood management boundaries) bring an area dimension to the work of the Council. They allow local people to raise issues of concern, principally relating to neighbourhood management services, and act as a very important mechanism for community involvement and engagement for the Council, its Committees, and the Strategic Partners Group. Both meetings of the Forums take place in the Civic Centre on the same day on a quarterly basis.

The Council's Staff

10. The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between Officers and Members of the Council and can be found in Part 5 – Codes and Protocols of this Constitution.

Peoples Rights

11. People have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. Solicitors and local advice agencies can advise on the legal rights of individuals.
12. Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.
13. People have the right to:
 - vote at local elections if they are registered;
 - contact their local Councillor about any matters of concern to them;
 - obtain a copy of the Constitution;
 - attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
 - petition to request a referendum on a constitutional change as to how the Council should be run (5% of the number of local government electors within the Borough are required to support a petition and there can only be one referendum in any period of 10 years);
 - participate in the Council's question time and contribute to inquiries in accordance with the relevant procedure rules;
 - participate in the Neighbourhood Forums in accordance with the relevant procedure rules;
 - find out, from the Council's Forward Plan, what key decisions are to be discussed by the Policy Committees or by Council, and when;
 - see reports and background papers, and any record of decisions made by the Council and its Committees in accordance with the relevant procedure rules;
 - complain to the Council about the way in which services are being delivered;

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should normally do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

Further information

- 14.** The Council welcomes participation by the town's people in its work. For further information on your rights or about this Constitution, please contact:

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Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY

Telephone: 01429 284171

E-mail: angela.armstrong@hartlepool.gov.uk or
democratic.services@hartlepool.gov.uk

Part 2

Articles of the Constitution

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ARTICLES OF THE CONSTITUTION

Article		Page
1	Introduction	
	The Constitution.....	7
	Powers of the Council.....	7
	Purpose of the Constitution.....	7
	Interpretation and Review of the Constitution.....	8
2	Members of the Council	
	Composition and Eligibility.....	9
	Election and terms of Councillors.....	9
	Roles and functions of all Councillors	9
	Conduct.....	10
	Allowances.....	10
3	Local People and the Council	
	People's rights.....	11
	People's responsibilities	12
4	Full Council	
	Functions of the Full Council.....	13
	Council meetings	13
	Responsibility for functions	14
	Meanings.....	14
5	The Ceremonial Mayor	
	Role and functions.....	15
6	The Leader of the Council	
	Appointment.....	17
	Role and Function.....	17
	The Leader as a Member of the Council.....	18

7	Policy Committees	
	Finance and Policy Committee.....	19
	Children's Services Committee	19
	Corporate Parent Forum.....	19
	Adult Services Committee.....	20
	Regeneration Services Committee.....	20
	Neighbourhood Services Committee.....	20
8	Regulatory and Other Committees	
	Regulatory and Other Committees	21
	Advisory bodies.....	22
9	Joint Committees and Partnership Boards	
	Joint Committees:	
	Joint Archives Committee.....	23
	Emergency Planning Joint Committee.....	23
	Police and Crime Panel.....	23
	North East Purchasing Organisation.....	23
	Partnership Boards:	
	Children's Strategic Partnership.....	24
	Health and Wellbeing Board.....	24
	Safer Hartlepool Partnership.....	25
	Tees Valley Unlimited.....	25
10	Neighbourhood Forums	
	Neighbourhood Forums.....	27
	Composition and quorums	27
	Chair and Vice-Chair.....	27
	Remit of Neighbourhood Forums.....	28
	Operation of Neighbourhood Forums.....	28
	Access to Information.....	28
	Face the Public – Statutory Partnerships	28
11	Joint Arrangements	
	Arrangements to promote well being.....	30
	Joint Arrangements	30
	Access to Information.....	30
	Delegation to and from other local authorities	30
	Contracting out.....	31
	Joint Arrangements with other public bodies	31

12	Officers	
	Management structure.....	33
	Functions of the Head of Paid Service.....	34
	Functions of the Monitoring Officer.....	34
	Functions of the Chief Finance Officer.....	36
	Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer	36
	Conduct.....	37
	Employment.....	37
13	Decision Making	
	Responsibility for decision making.....	39
	Principles of decision making	39
	Types of Decision	40
	Council Decisions	40
	Key Decisions.....	40
	Decision making by the Full Council.....	41
	Decision making in the duty of statutory scrutiny functions	41
	Decision making by other committees and sub-committees established by the Council	41
	Decision making by Council bodies acting as tribunals.....	42
	Decision making in partnership with other bodies	42
14	Finance, Contracts and Legal Matters	
	Financial management.....	43
	Contracts.....	43
	Legal proceedings	43
	Authentication of documents.....	43
	Common seal of the Council.....	43
15	Review and Revision of the Constitution	
	Duty to monitor and review the Constitution.....	45
	Protocol for Monitoring and Review of the Constitution by the Monitoring Officer	45
	Changes to the Constitution.....	45
16	Suspension, Interpretation and Publication of the Constitution	
	Suspension of the Constitution.....	47
	Interpretation	47
	Publication	47
	Schedule 1 – Members of the Council	49
	Schedule 2 –Structure of the Council	51

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INTRODUCTION

1.01 The Constitution

This Constitution, and all its appendices, is the Constitution of Hartlepool Borough Council.

1.02 Powers of the Council

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

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- i) Enable the Council to exercise its function as a statutory body;
- ii) Enable the Council to provide clear leadership to the community in partnership with people, businesses and other organisations;
- iii) Support the active involvement of people in the process of Local Authority decision-making;
- iv) Help Councillors represent their constituents more effectively;
- v) Enable decisions to be taken efficiently and effectively;
- vi) Provide a powerful and effective means of holding decision-makers to public account;
- vii) Ensure that no one will review or scrutinise a decision in which they were directly involved;
- viii) Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- ix) Provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15 Review and Revision of the Constitution

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ARTICLE 2

MEMBERS OF THE COUNCIL

2.01 Composition and Eligibility

Composition

The Council will comprise 33 Members (otherwise called Councillors), see Schedule 1. There are 11 electoral wards comprising three Members in each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State. A Councillor is appointed at the Annual Meeting as the Ceremonial Mayor, to chair Council meetings and to attend to ceremonial duties.

Eligibility

Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

2.02 Election and terms of Councillors

Due to the 2010/11 Local Government Boundary Commission for England Review, elections for all seats on the Council took place in 2012. Thereafter, the ordinary election of a third of all Councillors will be held on the first Thursday in May in each year, except that in 2013 and every fourth year after there will be no regular election. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.03 Roles and functions of all Councillors

(a) Key roles

All Councillors will:

Collectively be the ultimate policy-makers and determine the budget and policy framework;

Represent their communities and bring their views into the Council's decision-making process, ie become the advocate of and for their communities;

Contribute to the good governance of the area and actively encourage community participation and people involvement in decision making;

Effectively represent the interests of their ward and of individual constituents;

Be available to represent the Council on other bodies; and

Maintain the highest standards of conduct and ethics.

(b) Rights and duties

Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and the provisions of this Constitution.

Councillors will not make public information that is confidential or exempt without the consent of the Council. They will not divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

For these purposes, "confidential" and "exempt" information is defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors will at all times observe the 'Council's Code of Conduct' and the 'Protocol on Member/Officer Relations' set out in Part 5 of this Constitution.

2.05 Allowances

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

ARTICLE 3

LOCAL PEOPLE AND THE COUNCIL

3.01 People's rights

Citizens have the rights set out below. People's rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

(a) Voting and petitions

- (i) Local People on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for a constitutional change to the governance arrangements operated by the Council. This can be submitted to the Council from 16 November 2022, namely 10 years after the last referendum, and must comply with the requirements of the relevant regulations.
- (ii) Local People on the electoral roll have the right to vote in a referendum, where the Secretary of State has determined that the Council in its capacity as the local precepting authority proposes a basic amount of Council Tax which the Secretary of State deems to be excessive and which is required to be determined through a local referendum.

(b) Information

Local people have the right to:

Attend meetings of the Council, its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

Find out from the Forward Plan what key decisions will be taken by Committees or Officers and when;

See reports and background papers, and any records of decisions made by the Council, its Committees and Sub-Committees, subject to the Access to Information procedure rules set out in Part 4 of this Constitution; and

Inspect the Council's accounts and make their views known to the external auditor.

(c) Participation

People have the right to participate in a variety of Council meetings; these include question-time at Full Council, public speaking at regulatory Committees in accordance with accepted procedures and discussions at Neighbourhood Forums. How to do this is set out in “Part 4 – Rules of Procedure” and “Part 5 – Codes and Protocols” (Public Questions to Council) within the Constitution.

(d) Complaints

People have the right to complain to:

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

3.02 People's responsibilities

People are expected to behave in a manner that contributes to the well being of the Borough.

People are required to register to vote and are actively encouraged to exercise their vote as part of their commitment to citizenship and local democracy.

People must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.

ARTICLE 4

FULL COUNCIL

4.01 Functions of the Full Council

The Council will exercise the following functions:

- i) adopting any changes to the Constitution;
- ii) approving or adopting the policy framework and the budget following recommendations from a Policy Committee;
- iii) to represent the views of the local community on matters of significance including making decisions about any matter in the discharge of a function which is covered by the policy framework or the budget, where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget (this is subject to the Budget and Policy Framework Procedure Rules and the Access to Information Procedure Rules in Part 4 of this Constitution);
- iv) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (unless specified otherwise in this Constitution);
- v) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- vi) adopting an allowances scheme under Article 2.05;
- vii) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- viii) confirming the appointment of the Head of Paid Service;
- ix) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- x) all other matters which by law must be reserved to Council.

4.02 Council meetings

There are three types of Council meeting:

- i) the annual meeting;

- ii) ordinary meetings;
- iii) extraordinary meetings;

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

4.03 Responsibility for functions

The Council will maintain a list in Part 3 of this Constitution setting out the responsibilities for the Council's functions and those functions (other than those matters expressly reserved to Council) to be exercised either through a Policy, Regulatory or other Committee or Sub-Committee. The structure of the Council operating a Committee system under the Localism Act 2011 is shown in Schedule 2.

4.04 Meanings

(a) Policy Framework

The policy framework means the following plans and strategies:-

Children and Young People's Plan
 Vision for Adult Social Care in Hartlepool
 Youth Justice Strategic Plan
 Child Poverty Strategy
 Health and Wellbeing Strategy
 Council Plan
 Sustainable Community Strategy
 Community Safety Plan
 The plans and strategies which together comprise the
 Development Plan
 Housing Strategy
 Local Transport Plan
 Tees Valley Joint Waste Management Strategy
 Economic Regeneration Strategy
 Hartlepool Voluntary and Community Sector Strategy

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

ARTICLE 5

THE CEREMONIAL MAYOR

5.01 Role and Function of the Ceremonial Mayor

At its Annual meeting the Council will appoint a Ceremonial Mayor and a Deputy Ceremonial Mayor. The Ceremonial Mayor will also act as the Chair of Council and the Deputy Ceremonial Mayor will act as the Vice Chair of Council. The Ceremonial Mayor and in his/her absence the Deputy Ceremonial Mayor will have the following roles, functions and responsibilities;

- i) be first citizen of the Borough;
- ii) uphold and promote the purposes of the Constitution;
- iii) preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- iv) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which Members can ask questions of the Chairs of Committees and Sub-Committees;
- v) promote public involvement in the Council's activities;
- vi) be the conscience of the Council; and
- vii) attend, with the Ceremonial Mayor's consort, the following civic and ceremonial functions (at which both the Ceremonial Mayor and the Ceremonial Mayor's consort will be entitled to wear the appropriate chains (or the Deputy Ceremonial Mayor and consort if substituting for the Ceremonial Mayor and consort):
 - Annual Civic Service
 - Annual Memorial Service - Bombardment
 - Annual Remembrance Day Service and Associated Events
 - Armed Forces Day
 - Charity Event(s) to be held at the discretion of the Ceremonial Mayor
 - Workers Memorial Day

- As the representative of the Council at:

- Royal visits
 - Official openings
 - Other Councils' civic events
 - Presentation of community awards
 - School, church and other official visits
 - Greeting civic and other dignitaries

- Any other events, as determined by the Council

Other more specific duties are outlined in the Council Procedures within Part 4 of the Constitution.

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ARTICLE 6

THE LEADER OF THE COUNCIL

6.01 Appointment

- (a) The Council may appoint a Leader of the Council (referred to in this Article as the “Leader”) from amongst its voting Members. If the Council does not appoint a Leader, the Leader of the largest political group will become the Leader.
- (b) The Council may also appoint a Deputy Leader who will exercise the powers vested in the Leader if he or she is unavailable or otherwise unable to act. If the Council does not make an appointment of Deputy Leader, the largest political group will make the appointment.

6.02 Role and Functions

The Leader will carry out the following roles:

- be the political Leader of the Council and act as the Council’s principal public spokesperson;
- act for the benefit of all the Borough’s citizens and other interested persons and stakeholders;
- give the overall policy direction to the Council and lead with the Chairs of the Council’s Committees and Sub-Committees, the implementation of policies, budgets and strategies approved by the Council;
- represent the interests of the Council and its community at regional, national and international levels;
- be the Chair of the Council’s Finance and Policy Committee and fulfil the role of the Leader of the Council.;
- provide policy direction and progress the Council’s corporate objectives with Committee Chairs, the Chief Executive and Chief Officers, the Leaders of other political groups on the Council, partners and other stakeholders;
- maintain professional working relationships and mutual respect with Members and Officers;
- attend and participate in such civic and ceremonial functions and duties as determined by Council.

6.03 The Leader as a Member of the Council

The Leader is subject to the same rules about qualification and disqualification as any other Member. As the Council operates a Committee system under the Localism Act 2011 and regulations made thereunder, the Leader has no formal legal powers and duties vested in him or her under the Local Government Act 1972 or the Local Government Act 2000.

In practice, all Local Authorities need to appoint a Member as Leader who will hold a significant role within the Council as the main political spokesperson and the focus of policy direction. Hence, the Leader will chair the Finance and Policy Committee, which has responsibility for the development and interpretation of the Council's broad policies and its finances.

The Leader must together with all Elected (and Co-opted) Members adhere to the rules about disclosure of pecuniary and other prejudicial interests to comply with the Council's Code of Conduct as set out within Part 5 of this Constitution.

As a member of a political group, will be taken into account when calculating seat allocations on Committees and Sub-Committees of which he/she is a Member, in order to reflect the political composition of the Council as a whole in accordance with the Local Government and Housing Act 1989.

In recognition of the role of the Leader, the Members' Allowances Scheme as set out within Part 6 of the Constitution, allocates a special responsibility allowance payment to the joint role of Leader and Chair of the Finance and Policy Committee.

ARTICLE 7

POLICY COMMITTEES

7.01 Policy Committees

The Council will appoint the Policy Committees. Part 3 of this Constitution sets out the functions to be discharged by the Committees as outlined below:

Finance and Policy Committee	11 Members of the Authority (Chaired by the Leader of the largest majority group)
Functions: Responsibility for the financial and other resources of the Authority, for developing and implementing the Authority's plans and strategies under the budget and policy framework. Additional service area responsibility including asset management, strategic procurement, electoral services, revenues and benefits, social welfare and public health, under the Health and Social Care Act 2012, including the development of partnership working.	
Children's Services Committee	Chair to be Lead Member for Children's Services and 6 Members of the Authority and co-optees (together with education representatives when discharging education functions)
Functions: Responsible for children's services, including child protection to children and young people. Exercising the Council's functions as Local Education Authority. The oversight of the Children's Strategic Partnership Board for the purposes of the Children Act 2004.	

Corporate Parent Forum	7 Members of the Authority, 4 non-voting co-optees and 2 Officers.
Functions: This Sub-Committee of the Children's Services Committee is responsible for the development, implementation and review of the Council's Corporate Parent Strategies and policies in order to ensure that the Council's duty as a 'Corporate Parent' is discharged properly, effectively and consistently.	
Adult Services Committee	Chair to be Lead Member for Adult Services and 6 Members of the Authority
Functions: Responsible for adult social care and related services.	
Regeneration Services Committee	7 Members of the Authority
Functions: Responsible for public protection, housing policy including housing market renewal and strategy, economic development and regeneration, building control and planning (except for development control and management functions delegated to the Planning Committee) and sustainability, trading standards, culture and information services including libraries and community buildings and museums and art gallery, sport and recreation including leisure centre management, sport and physical activity and Carlton Outdoor Education Centre and Tees Archaeology.	
Neighbourhood Services Committee	7 Members of the Authority
Functions: Responsible for waste, coastal protection and flood defence, highways and traffic management (including integrated transport and partnership working) neighbourhood management and community safety.	

ARTICLE 8

REGULATORY AND OTHER COMMITTEES

8.01 Regulatory and other Committees

The Council will appoint Committees to undertake a variety of regulatory and other functions that are the responsibility of the Council. These Committees are set out below.

Responsibility for Functions are contained in Part 3 of this Constitution to discharge the functions as detailed below.

Audit and Governance Committee	7 Members of the Authority (chaired by a Member not in the majority group and comprising Members not on Finance and Policy Committee), (Independent Member(s) and Parish Council representatives when dealing with standards functions) and one fully co-opted representative from a responsible local policing body during consideration of Crime and Disorder Committee matters.
Functions: Financial governance and stewardship, risk management and audit, making appointments to the Independent Remuneration Panel, dealing with issues of conduct against Members, granting dispensations and promoting and maintaining high ethical standards. The discharge of all statutory scrutiny functions relating to Health and Wellbeing under the Health and Social Care Act 2012 and Crime and Disorder for the purposes of the Police and Justice Act 2006. NB: A Personnel Sub-Committee (quorum 3 Members) will deal with workforce appeals and related matters.	

Personnel Sub-Committee	3 Members of the Authority from a rota from the membership of the Audit and Governance Committee
Functions:	
This Sub-Committee deals with appeals against dismissals and grievances in accordance with the Council's workforce policies and procedures.	

Planning Committee	16 Members of the Authority
Functions:	
Exercise the Council's Development Control and Management functions including Conservation, Town and Village Greens, Commons Registration and Public Rights of Way.	

Licensing Committee	12 Members of the Authority
Functions:	
Discharges the Council's functions under the Licensing Act 2003 and the Gambling Act 2005. Additional responsibility in dealing with applications relating to private hire vehicles, hackney carriages and the determination of the appeals, consents, licences and premises as delegated to the Committee. NB: a Licensing Sub-Committee (quorum 3 Members) will deal with individual applications and 'day to day' decisions as determined by the Committee.	

The Council will appoint such other Committees/Sub-Committees as it considers appropriate to exercise any of its functions.

8.02 Advisory bodies

The Council will appoint the advisory bodies set out in Part 7 of this Constitution.

The Council or a Policy Committee may from time to time establish a Working Group or ad hoc panels, the membership being drawn from Members of the Council and/or non voting co-optees. The proceedings and recommendations or advice from such group or panel shall be reported to the appropriate Policy Committee. No Committee or Sub-Committee can delegate its function to any such group or panel.

ARTICLE 9

JOINT COMMITTEES AND PARTNERSHIP BOARDS

- 9.01** The Council will appoint or make appointments to the Joint Committees and Partnership Boards to exercise the functions as set out in the table below.

Joint Committees

Joint Archives Committee	1 Member from each of the Local Authorities.
Functions: A Joint Committee of the Boroughs of Hartlepool, Stockton, Middlesbrough and Redcar and Cleveland to manage documentary and other historic material through a Joint Archive Service, following the abolition of Cleveland County Council.	

Emergency Planning Joint Committee	1 Member from each of the Local Authorities (substitutes allowed)
Functions: The Emergency Planning Joint Committee is a Committee of the four constituent unitary Local Authorities. The Committee meets quarterly to monitor the delivery of the Cleveland Emergency Planning Unit against its financial management, performance in line with its annual plan, and to hear feedback upon incidents and lessons learned across the Cleveland area. The Committee is authorised to agree budgetary provision from the four Authorities to the Emergency Planning Unit.	

Police and Crime Panel	2 Members of the Authority (named substitutes allowed)
Functions: A Joint Committee for the Boroughs of Hartlepool, Stockton, Middlesbrough and Redcar and Cleveland to fulfil the functions within the Police Reform and Social Responsibility Act 2011, including scrutiny of the elected Police and Crime Commissioner for the Cleveland Police Force Area.	

North East Purchasing Organisation	2 Members, one of which is to be from within the membership of the Committee with responsibility for Procurement
Functions: A Joint Committee comprising of 24 Members from the 12 North East Local Authorities (2 from each) established as a means of joint contracting for pooling purchase power, knowledge and expertise. The function is to deliver value for money, efficiencies and savings within the public sector including the development of the local economy wherever possible.	

Partnership Boards

Children's Strategic Partnership	1 Member – Chair of Children's Services Committee
Functions: The partnership brings together partners to inform the Health and Wellbeing Board on the making of arrangements to improve outcomes for local children, young people and their families. This includes supporting the development and refresh of the Joint Strategic Needs Assessment and Health and Wellbeing Strategy. The Partnership is responsible for delivering the Children and Young People's Plan, leading on the Child Poverty Strategy, working in partnership with the Safeguarding Children Board to keep children safe from harm, acting to ensure that all services for children and young people comply with the values set out in the Commissioning Framework and direct joint commissioning arrangements within Hartlepool in line with statutory guidance, taking account of national and local priorities.	

Health and Wellbeing Board	4 Members and those appointed Officers of the Authority and other voting members having regard to the requirements under the Health and Social Care Act 2012
Functions: Advising the Council, Health Bodies and Clinical Commissioning Groups to improve the health and wellbeing of the people of Hartlepool through integrated health and social care services. Responsibility for preparing a Joint Health and Wellbeing Strategy and Joint Strategic	

Needs Assessment.

Safer Hartlepool Partnership	2 Members of the Authority (including the Leader of the Council who will Chair the Partnership)

Functions:

A partnership to create confident cohesive and healthy communities by working together to reduce crime, anti-social behaviour and substance misuse in Hartlepool.

The Partnership is responsible for delivering the Community Safety Plan (previously known as the Crime, Disorder and Substance Misuse Strategy), the Annual Youth Justice Plan, the Drug Treatment Plan (Adults and Children), the Alcohol Harm Reduction Strategy, the Domestic Violence Strategy, the Social Behaviour Plan, the Prevent Action Plan, the Community Cohesion Framework and for the delivery of the community safety outcomes within the Sustainable Community Strategy.

Tees Valley Unlimited	1 Member (substitute allowed) on a Leadership Board with other Local Authority and non Local Authority representation. An Investment Board comprising Local Authority Chief Executives (substitute allowed) and such other representatives as determined.

Functions:

Operating as Local Enterprise Partnership between constituent Local Authorities, business and other sectors in the Tees Valley Region, determining local economic priorities and undertaking activities to drive economic growth. The production and development of a Statement of Ambition setting out the vision for the Tees Valley and a Tees Valley Economic and Regeneration Investment Plan associated with economic regeneration, housing and transport initiatives.

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ARTICLE 10

NEIGHBOURHOOD FORUMS

10.01 Neighbourhood Forums

The Council will establish two Neighbourhood Forums; 'North and Coastal' and 'South and Central'. These Forums (operating on neighbourhood management boundaries) bring an area dimension to the work of the Council. They allow local people to raise issues of concern, principally relating to neighbourhood management services, and act as a very important mechanism for community involvement and engagement for the Council. Both meetings take place in the Civic Centre on the same day on a quarterly basis.

North & Coastal Neighbourhood Forum

Comprising the following wards:

- ♦ *De Bruce*
- ♦ *Jesmond*
- ♦ *Hart*
- ♦ *Headland & Harbour*
- ♦ *Seaton*

South & Central Neighbourhood Forum

Comprising the following wards:

- ♦ *Victoria*
- ♦ *Burn Valley*
- ♦ *Manor House*
- ♦ *Fens & Rossmere*
- ♦ *Rural West*
- ♦ *Foggy Furze*

10.02 Composition and quorums

- (a) Each Councillor will be a Member of the Neighbourhood Forum for his/her ward. Each Forum will have an Elected Member Chair and Vice-Chair who will represent the Forums on the Strategic Partners Group.
- (b) The quorums for the Forums should comprise three Elected Members.

10.03 Chair and Vice-Chair

The Chair and Vice Chair of each Forum will be appointed by the Council. In accordance with the established arrangements, the Chair and Vice Chair of each Neighbourhood Forum will represent their Forum and the community it serves on the Strategic Partners Group

10.04 Remit of Neighbourhood Forums

- i) To be a focal point for local consultation on the provision of Council services and neighbourhood issues
- ii) To enable discussion to take place with Councillors on issues of local interest.
- iii) To advise the Council, its Committees and Sub-Committees on matters of interest to their area.
- iv) To assist all Councillors in listening to and representing their community.
- v) To help build partnerships between the Local Authority, other local public, private and voluntary sector organisations and the public.
- vi) To provide a platform for the reporting of Ward Member budgets

10.05 Operation of Neighbourhood Forums

Meetings of Neighbourhood Forums will comply with the appropriate procedure rules set out in the Constitution: Part 4 Rules of Procedure and Part 5 Officer-Member Protocol. The agenda for each Neighbourhood Forum will include an item for the Policy Committees to Face the Public. During this item, the Chairs of the Policy Committees will undertake to:

- (i) Update the Neighbourhood Forum on the work of their Committee during the last quarter;
- (ii) Inform the Neighbourhood Forum of the planned work of their Committee including future challenges and plans;
- (iii) Consult the Neighbourhood Forum in the development of key strategies and plans for their Committee;
- (iv) Consult Neighbourhood Forums on their Committee's budget proposals.

10.06 Access to information

Neighbourhood Forums will comply with the Access to Information Procedure Rules in Part 4 of this Constitution.

10.07 Face the Public – Statutory Partnerships

In accordance with statutory guidance the Safer Hartlepool Partnership and the Health and Wellbeing Board will each hold one Face the Public Event a year. These events will be held separately from the Neighbourhood Forums but will be open to Elected Members and the public. The statutory partners will undertake to:

- (i) Update those attending on their work during the last year;
- (ii) Inform those attending on their future plans including future challenges;
- (iii) Consult on the development of key partner strategies and plans for the Borough;
- (iv) Receive questions from those attending on their work, future plans and priorities.

These meetings will be chaired by the Chair of the Safer Hartlepool Partnership and the Chair of the Health and Wellbeing Board as appropriate.

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ARTICLE 11

JOINT ARRANGEMENTS

11.01 Arrangements to promote wellbeing

The Council, in order to exercise the general power of competence and to promote the economic, social or environmental wellbeing of the area and in the interests of the efficient discharge of a function or service, may:

- (i) enter into arrangements or agreements with any person or body;
- (ii) co-operate with, facilitate or co-ordinate the activities of, any person or body; and
- (iii) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (i) The Council may establish joint arrangements with one or more local authorities to exercise functions. Such arrangements may involve the appointment of a joint committee with other local authorities.
- (ii) Information about any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution. Details of representation on Joint Committees can be found in Part 7 of this Constitution.

11.03 Access to information

The Access to Information Rules in Part 4 of this Constitution apply.

- (i) If the Joint Committee contains Members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (i) The Council may delegate functions to another Local Authority or, in certain circumstances, the Executive of another Local Authority.
- (ii) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to Council.

11.05 Contracting out

The Council may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

11.06 Joint arrangements with other public bodies.

Under Section 75 of the National Health Service Act 2006, Section 10 of the Children's Act 2004 and the provisions of the Health and Social Care Act 2012, Local Authorities, Health Bodies and others have powers to delegate the exercise of certain functions to each other and to co-operate in the exercise of their functions.

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ARTICLE 12

OFFICERS

12.01 Management structure

(a) General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

(b) Chief Officers

The Council will engage persons who will be designated Chief Officers in accordance with the Officer Employment Procedure Rules in Part 4 of this constitution.

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	<ol style="list-style-type: none">1) Overall corporate management and operational responsibility (including overall management responsibility for all Officers).2) Provision of professional advice to all parties in the decision making process.3) Representing the Council on partnerships and external bodies (as required by statute or the Council).
Director of Child and Adult Services	<ol style="list-style-type: none">1) Director of Children's Services for the purposes of Section 18 of the Children Act 2004.2) Social and welfare services for children and young people, including child protection, education and training.3) Arrangements to promote co-operation between partner agencies to reduce and mitigate the effects of child poverty.4) Director of Adult Social Services for the purposes of Section 6 (A1) of the Local Authority Social Services Act 1970.5) Adult Social Care and Health Services,

	<p>including joint working arrangements.</p> <p>6) Tourism, leisure and culture.</p>
Director of Regeneration and Neighbourhoods	<p>1) Development and management of the Local Plan, economic development and regeneration.</p> <p>2) Highways and Transportation.</p> <p>3) Environmental Services (including environmental health, licensing and trading standards).</p> <p>4) Waste Management (including the implementation of a joint waste management strategy, waste collection, disposal, recycling and cleansing).</p> <p>5) Community safety.</p> <p>6) Housing strategy.</p> <p>7) Strategic Procurement</p> <p>8) Asset and Property management.</p>
Director of Public Health	<p>1) Management of Public Health (including commissioning) and reducing health inequalities and taking steps to improve public health.</p> <p>2) Joint working arrangements to deliver effective public health interventions.</p> <p>3) Preparation of an annual report on the health of the local population.</p> <p>4) Such other public health functions as the Secretary of State shall determine.</p>

(c) Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

Designation	Post
Head of Paid Service	Chief Executive
Monitoring Officer	Chief Solicitor
Chief Finance Officer	Chief Finance Officer

Such posts will have the functions described in 12.02–12.04 below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at Part 8 of this Constitution.

12.02 Function of the Head of Paid Service

(a) Discharge of functions by the Council

The Head of Paid Service will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

(b) Restrictions on functions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

12.03 Functions of the Monitoring Officer

(a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

(b) Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to

maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Audit and Governance Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee in the Committee's discharge of its standard functions.

Notwithstanding any duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council, to the Audit and Governance Committee or a Sub-Committee, for the purpose of investigation and/or determination of a complaint against a Member.

(d) Conducting investigations

The Monitoring Officer will conduct and undertake such investigations into matters of complaint as referred to the Monitoring Officer and make reports or recommendations in respect of them to the Audit and Governance Committee or to Council.

(e) Proper Officer for access to information

The Monitoring Officer will ensure that Council and Committee decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

(f) Providing advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors. Where the Monitoring Officer considers that a Member(s) has acted contrary to his/her advice it is open to him/her to refer the matter to the Audit and Governance Committee as a breach of the Council's Code of Conduct or issue a report to the Council under s.5 Local Government and Housing Act 1989; or seek judicial review, as s/he considers appropriate in the circumstances.

(g) Restrictions on posts

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 Functions of the Chief Finance Officer

(a) Ensuring lawfulness and financial prudence of decision making.

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) Administration of financial affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

(e) Give financial information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Conduct

Officers will comply with such Code of Conduct as adopted within the Council as part of their employment and shall adhere to the Officer/Member Protocol set out in Part 5 of this Constitution.

12.07 Employment

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

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ARTICLE 13

DECISION MAKING

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution as shown in Schedule 2.

13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- i) proportionality (ie the action must be proportionate to the desired outcome);
- ii) in accordance with the Constitution;
- iii) due consultation and the taking of professional advice from Officers;
- iv) respect for human rights and equality;
- v) best value;
- vi) a presumption in favour of openness;
- vii) clarity of aims and desired outcomes;
- viii) due consideration of options available to the decision taker;
- ix) consideration of relevant matters only;
- x) subsidiarity (i.e. delegation of decisions to the most appropriate level);
- xi) efficiency (i.e. decisions must not be unnecessarily delayed); and
- xii) reasonableness.

13.03 Types of decision

(a) Council decisions

The main functions of the Council are set out in paragraph 4.01 of Article 4. Some of these are only exercisable by Council, others may be delegated to Committees or Officers. Details of the functions for which Council is responsible and their delegation can be found in Part 3 of the Constitution.

(b) Key decisions

A key decision is a decision which falls within one or more of the following categories:

- (i) any decision which is financially significant because it will result in income, expenditure or savings with a gross full year effect of £100,000 or greater;

or

- (ii) any decision which the originator of the report, in consultation with his or her Chief Officer, believes may have a significant impact on communities living or working in an area comprising two or more wards.

A decision is not defined as key in the following circumstances:

- (a) a bid of £100,000 or greater for funding made by the Council to third parties where a further report will be submitted for approval of the scheme, should the bid be successful;
- (b) expenditure which is inevitable (as defined by the Chief Executive) for the day to day provision of services (eg day to day supplies, payment of energy bills etc);
- (c) a transaction which is carried out as part of the efficient administration of the Council's finances within the Council's agreed policies, eg Treasury Management activities;
- (d) a decision to invite tenders or sign contracts shall not be treated as a key decision insofar as the purpose of the contract is to fulfil the policy intention of a key decision, implement an explicit policy within the approved budget or policy framework, implement a capital project named in the approved capital programme or provide for the continuation of an established policy or service;

- (e) a decision in which the essential characteristics of the proposal are included in the budget in sufficient detail to allow interested parties to understand it;
- (f) a decision which is a direct consequence of implementing a previous key decision, except where one of the tests above, has not previously been applied; and
- (g) an exempt decision regarding care packages, service responses and expenditure for care and accommodation which relate to individual service users.

Further explanation:

- the Budget and the plans and strategies that make up the policy framework will be included in the Forward Plan;
- a report's author in consultation with her/his Chief Officer will determine whether a decision is key.

(c) Delegations

Key decisions can be made at Committees in accordance with the Scheme of Delegation to Committees or by Officers in accordance with the scheme of Delegation to Officers.

13.04 Decision making by the Full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making in the duty of statutory scrutiny functions

A Committee undertaking Statutory Scrutiny functions will follow the Statutory Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 13.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.07 Decision making by Council bodies acting as tribunals

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

13.08 Decision making in partnership with other bodies

The Council, a Councillor or an Officer acting through any partnership arrangement will follow such proper procedures which have been agreed with that body for the purposes of those arrangements.

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ARTICLE 14

FINANCE, CONTRACTS AND LEGAL MATTERS

14.01 Financial management

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

14.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

14.03 Legal proceedings

The Chief Solicitor, or his/her authorised representative, is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Solicitor considers that such action is necessary to protect the Council's interests.

14.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Solicitor should be sealed. The affixing of the Common Seal will be attested by the Chief Solicitor or some other person authorised by him/her.

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ARTICLE 15

REVIEWING THE CONSTITUTION AND MANAGING COUNCIL BUSINESS

15.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect

15.02 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task the Monitoring Officer may:

- 1) observe meetings of different parts of the Member and Officer structure;
- 2) undertake an audit trail of a sample of decisions;
- 3) record and analyse issues raised with the Monitoring Officer by Members, Officers, the public and other relevant stakeholders; and
- 4) compare practices in the Council with other comparable Authorities, and/or national examples of best practice.

15.03 Changes to the Constitution

(a) Approval

Changes to the Constitution will only be approved by the Council after consideration of the proposal through recommendations of the Monitoring Officer.

(b) Change from a Committee system to a Mayoral form of Executive or a Leader and Cabinet form of Executive or to such other prescribed arrangements

The Council may take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum following the expiration of the statutory moratorium period in the holding of a referendum, namely, the period of 10 years from the date of the previous referendum.

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ARTICLE 16

SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.01 Suspension of the Constitution

(a) Limit to suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Full Council to the extent permitted within those Rules and the law.

(b) Procedure to suspend

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

(c) Rules capable of suspension

Individual procedure rules in Part 4 of this Constitution detail the ability to suspend elements of the rules.

16.02 Interpretation

The ruling of the Chair as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will be after advice from the Monitoring Officer and will have regard to the purposes of this Constitution contained in Article 1.

Where under any enactment, the Council is required to adopt standing orders or regulation for any purpose or to any effect, the provisions of this Constitution relating to that purpose or having that effect shall be deemed to be in compliance with that enactment.

16.03 Publication

- i) The Chief Executive will give as soon as practicable a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

- ii) The Monitoring Officer and Democratic Services Team Manager will ensure that copies are available for inspection at council offices and other appropriate locations and can be purchased by members of the local press and the public on payment of a reasonable fee.
- iii) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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SCHEDULE 1 - MEMBERS OF THE COUNCIL

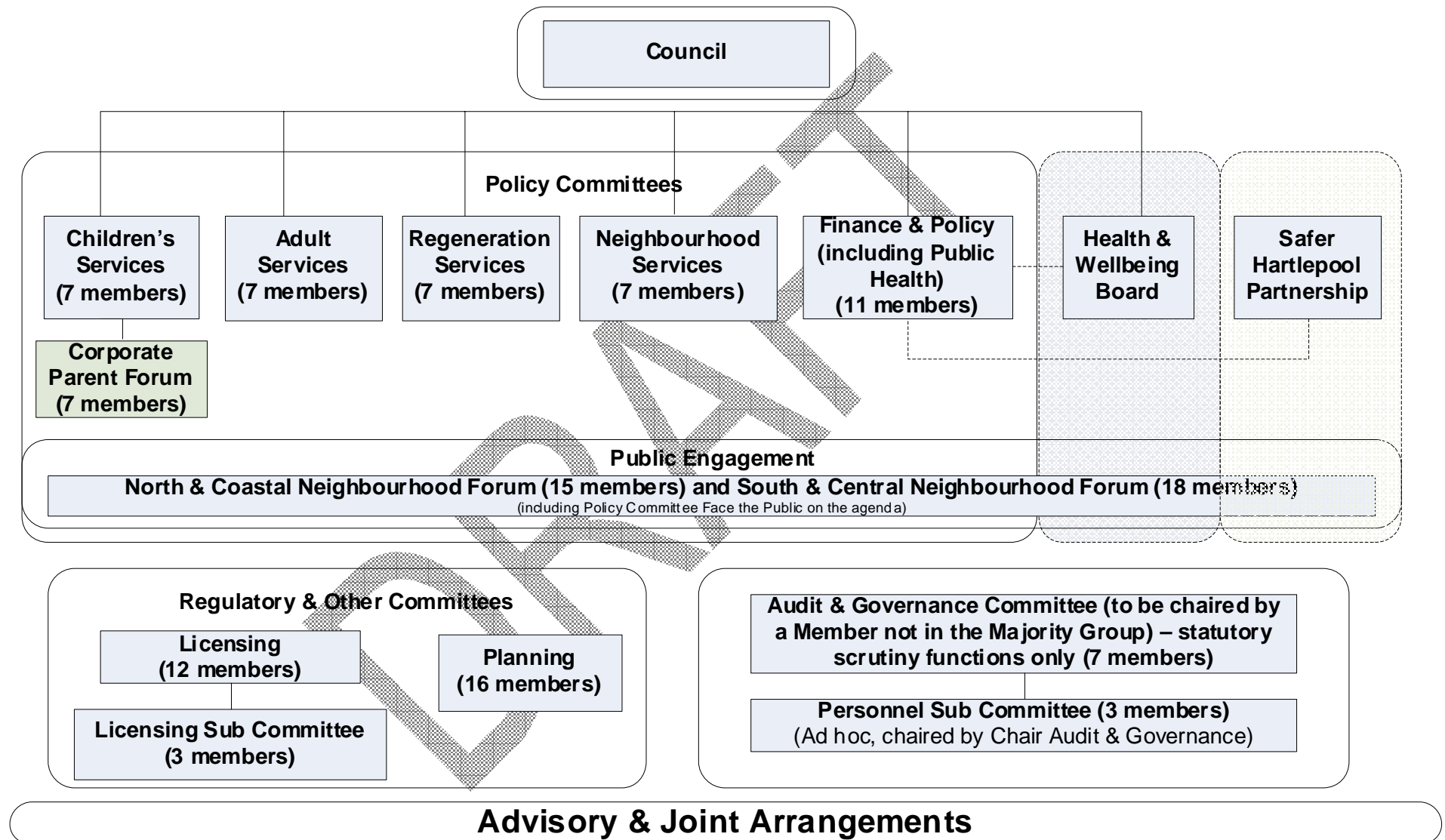
COUNCILLOR	WARD	ADDRESS
J Ainslie (L)	Headland and Harbour	10 Regent Street, TS24 0QN
C Akers-Belcher (L)	Foggy Furze	101 Westbrooke Avenue TS25 5HY
S J Akers-Belcher (L)	Manor House	101 Westbrook Avenue, TS25 5HY
K Atkinson (PHF)	Seaton	15 Bilsdale Road, Seaton Carew , TS25 2AQ
P Beck (L)	Hart	217 Macaulay Road, TS25 4NJ
J Brash (L)	Burn Valley	35 Tunstall Avenue, TS26 8NE
R W Cook (L)	De Bruce	7 Bellasis Grove, TS27 3PL
K H Cranney (L)	Foggy Furze	117 Stockton Road, TS25 1SJ
K Dawkins (PHF)	Jesmond	4 Jesmond Mews, TS26 8SD
K Fisher (I)	Hart	c/o Civic Centre, TS24 8AY
M Fleet (L)	Jesmond	25 Amberton Road, TS24 8LT
S Gibbon (PHF)	Fens and Rossmere	44 Honiton Way, TS25 2PU
S Griffin (L)	De Bruce	79 Davison Drive, TS24 9BX
G G Hall (L)	Burn Valley	11 Eamont Gardens, TS26 9JD
P Hargreaves (L)	Victoria	35 Tunstall Avenue, TS26 8NE
C F Hill (I)	Seaton	18 Lingdale Drive, Seaton Carew , TS25 2AJ
P T Jackson (L)	Headland and Harbour	5 New quay Close, Cliffords Green, TS26 0XG
M A James (L)	Manor House	40 Arncliffe Gardens, TS26 9JF
J Lauderdale (I)	Burn Valley	122 Cornwall Street, TS25 5RG
A E Lilley (PHF)	Fens and Rossmere	68 Fens Crescent, TS25 2QN
G M Lilley (PHF)	Fens and Rossmere	68 Fens Crescent, TS25 2QN
B Loynes (C)	Rural West	38 Mountston Close, TS26 0LR
Dr G H Morris (C)	Rural West	15 West Park, TS26 0DB
R W Payne (L)	Headland and Harbour	31 The Ashes, Seaton Carew , TS25 2QY

Note: The following abbreviations have been used for political group affiliation:
 (C) Conservative (L) Labour (PHF) Putting Hartlepool First
 (I) Independent

COUNCILLOR	WARD	ADDRESS
C Richardson (L)	Victoria	3 Teesdale Avenue, TS26 9QD
J Robinson (L)	Hart	42 Dodsw orth Walk, TS27 3PF
L Shields (L)	Jesmond	86 Lime Crescent, TS24 8JW
C Simmons (L)	Victoria	9 Granville Avenue, TS26 8ND
K Sirs (L)	Foggy Furze	17 Charterhouse Street, TS25 5RW
S Tempest (L)	De Bruce	1 Henry Smith Terrace, TS24 0PD
P Thompson (I)	Seaton	60 Intrepid Close, Seaton Carew , TS25 1GF
R Wells (C)	Rural West	c/o Conservative Office, Civic Centre TS24 8AY
A Wilcox (L)	Manor House	1 Grange Avenue, TS26 9QJ

Note: The following abbreviations have been used for political group affiliation:
 (C) Conservative (L) Labour (PHF) Putting Hartlepool First
 (I) Independent

Schedule 2 – Structure of the Council



Part 3

Responsibility for Functions

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RESPONSIBILITY FOR FUNCTIONS

	Page
A Introduction.....	5
B Council functions and delegation scheme	
Council.....	7
Finance and Policy Committee.....	15
Adult Services Committee.....	21
Children's Services Committee.....	23
Corporate Parent Forum.....	26
Regeneration Services Committee.....	27
Neighbourhood Services Committee.....	29
Audit and Governance Committee.....	31
Personnel Sub-Committee.....	35
North and Coastal Neighbourhood Forum.....	36
South and Central Neighbourhood Forum.....	38
Licensing Committee.....	40
Licensing Sub-Committee.....	43
Planning Committee.....	44
Safer Hartlepool Partnership.....	48
Health and Wellbeing Board.....	50
Civic Honours Committee.....	52
Decision making by joint bodies.....	53
Decision making by Officers – statutory framework and basic principles.....	53
Individual Director/Chief Officer delegation.....	56
C Proper officer functions.....	65
Power to Act Generally.....	71
Appendix 1 – Delegation Scheme - Officers.....	62
Appendix 2 – Power to Act Generally.....	75

DRAFT

A. INTRODUCTION

1. This part of the Constitution sets out which bodies are responsible for particular Council functions.
2. These are described in more detail in the paragraphs below. Also included in this part of the Constitution are details of the membership of Committees and Forums, information about other bodies (including advisory bodies) and the list of proper officer functions. Advisory bodies have no decision-making power but will advise the Council or its Committees or Sub-Committees, about a particular function. The list of proper officer functions sets out the Officers responsible for certain functions under a particular piece of legislation.

Council Functions

3. These are functions which under law cannot be the responsibility of a Committee or Sub-Committee or through an Officer. For example adopting the annual budget, is a decision which can only be taken at a meeting of the Full Council. In other cases, the responsibility for undertaking a function may be delegated by the Full Council to a Committee or Sub-Committee or an Officer or through joint arrangements with other Authorities – where this is the case it is identified in a separate column in each function table.

Committee Functions

4. All other functions are delegated by Council to Committees and Sub-Committees and to Officers. Where a function is discharged through a Committee or Sub-Committee, decisions about these functions will be taken either by a Policy Committee (Article 7), or through Regulatory and other Committees (Article 8). The Council is also able to discharge functions through Joint Arrangements (Articles 9 and 11) with other Authorities and through Officers. Further information about the delegation scheme and its operation can be found in section B.

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B. COUNCIL FUNCTIONS AND DELEGATION SCHEME

The delegation arrangements in this Constitution reflect the principles that all matters that have been previously delegated prior to the revision of this Constitution should remain so. Where, in any statement of the powers previously delegated, reference is made to the holder of a post or office which no longer exists, that reference shall be interpreted as being a reference to the holder of the current post or office of which the responsibilities or functions most closely relate to those of the former post-holder or office holder. In the event of any contradiction between the earlier delegations and those set out below, the latter shall prevail.

(*The Council has determined that Plans and Strategies for the alleviation of child poverty within the Borough should be reflected across all Policy Committees.)

Council	
Membership:	33 Councillors
Quorum :	9
FUNCTION	DELEGATION
1. Functions relating to the approval or adoption of a Plan or Strategy of a description specified in column (1) of the Schedule to the Local Authorities (Committee System)(England) Regulations 2012 (SI No.1020) ('the Regulations') and conferred by the enactments specified in relation to those functions in column (2).	
2. The approval or adoption of a Plan or Strategy for the control of the Local Authority's borrowing, investments or capital expenditure, or for determining the Authority's minimum revenue provision.	

Council (Continued...)	
FUNCTION	DELEGATION
3. The approval for the purpose of submission to the Secretary of State or any Minister of the Crown for approval, of any Plan or Strategy referred to in 1 and 2 above (whether or not in the form of a draft) of which any part is required to be so submitted.	
4. Functions relating to town and country planning and development control.	Planning Committee and the Director of Regeneration and Neighbourhoods
5. Licensing and registration functions.	Planning Committee, Licensing Committee and the Director of Regeneration and Neighbourhoods
6. Functions relating to health and safety at work.	Finance and Policy Committee and the Director of Regeneration and Neighbourhoods
7. Functions relating to elections a) Duty to appoint an electoral registration officer b) Functions in relation to parishes and parish councils, contained in Part II of the Local Government and Rating Act, 1997 (c29) and subordinate legislation under that part. c) Power to dissolve small parish councils d) Power to make orders for grouping parishes, dissolving groups and separating parishes from groups. e) Duty to appoint returning officer for local government elections f) Duty to divide constituency into polling districts g) Power to fill vacancies in parish councils in the event of insufficient nominations	All other powers to the Finance and Policy Committee or the Chief Solicitor

Council (continued)	
FUNCTION	DELEGATION
8. Functions relating to name and status of areas and individuals.	
9. Power to make, amend, revoke or re-enact byelaws.	
10. Power to promote or oppose local or personal Bills.	
11. Functions relating to pensions.	Finance and Policy Committee, Personnel Sub-Committee (dealing with appeals) and the Chief Executive
12. Functions relating to public rights of way.	Planning Committee and the following Officers: <ul style="list-style-type: none"> - Director of Regeneration and Neighbourhoods - Chief Solicitor
13. Functions relating to Sea Fisheries.	Finance and Policy Committee
14. Power to make standing orders.	
15. To approve the appointment of the Head of Paid Service and power to appoint Directors and Chief Officers, and to engage such staff (as the Chief Executive as Head of Paid Service considers necessary to carry out the Council's functions) and to determine the terms and conditions of those employees (on which they hold office (including procedures for their dismissal)).	Appointments Panel (appointment of Directors and Chief Officers) and Chief Executive (all other officer appointments) in accordance with the Officer Employment Procedure Rules.
16. Power to make standing orders as to contracts.	
17. Duty to make arrangements for proper administration of financial affairs.	

Council (continued)	
FUNCTION	DELEGATION
18. Power to appoint Officers for particular purposes (appointment of "Proper Officers").	
19. Power to make limestone pavement order.	Planning Committee and the Director of Regeneration and Neighbourhoods
20. Duty to designate officer as the Head of the Authority's Paid Service, and to provide staff.	
21. Duty to designate officer as the monitoring officer, and to provide staff.	
22. Duty to approve Authority's statement of accounts, and Annual Governance Statement.	Audit and Governance Committee
23. Powers relating to the protection of important hedgerows.	Planning Committee and the Director of Regeneration and Neighbourhoods
24. Powers relating to the preservation of trees.	Planning Committee and the Director of Regeneration and Neighbourhoods
25. Powers to make payments or provide other benefits in cases of maladministration.	Chief Solicitor (acting in capacity of Monitoring Officer)
26. The determination of an appeal against any decision made by or on behalf of the Authority.	Audit and Governance Committee
27. The making of arrangements pursuant to subsection (1) of Section 6.1(1) of, and Schedule 18 to, the Schools Standards and Framework 1998 Act (appeals against exclusion of pupils).	Chief Executive

Council (continued)	
FUNCTION	DELEGATION
28. The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals).	Chief Executive
29. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies regarding the admission of permanently excluded pupils).	Chief Executive
30. The making of appointments under Part 2 of Schedule 6 of the Police Reform and Social Responsibility Act 2011.	
31. The discharge of any functions relating to the control of pollution or the management of air quality.	Director of Regeneration and Neighbourhoods
32. The service of an abatement notice in respect of a statutory nuisance.	Director of Regeneration and Neighbourhoods
33. The inspection of the Authority's area to detect any statutory nuisance.	Director of Regeneration and Neighbourhoods
34. The investigation of any complaint as to the existence of a statutory nuisance.	Director of Regeneration and Neighbourhoods

Council (continued)	
FUNCTION	DELEGATION
<p>35. The appointment of any individual:</p> <p>a) to any office other than an office in which he/she is employed by the Authority;</p> <p>b) to any body other than –</p> <p>i) the Authority</p> <p>ii) a joint Committee of two or more Authorities; or</p> <p>c) to any Committee or sub-committee of such a body, and the revocation of any such appointment.</p>	
<p>36. The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities.</p>	Finance and Policy Committee
<p>37. The function of making any scheme authorised or required by regulations under section 18 (schemes for basic, attendance and special responsibility allowances for Local Authority Members) of the Local Government and Housing Act 1989(4), or of amending, revoking or replacing any such scheme.</p>	

Council (continued)	
FUNCTION	DELEGATION
<p>38. The function of determining:</p> <p>(a) the amount of any allowance payable under –</p> <ul style="list-style-type: none"> i) subsection (5) of section 3 (ceremonial mayor/chairman's expenses) of the 1972 Act; ii) subsection (4) of section 5 (deputy mayor/vice-chairman's expenses) of that Act; iii) subsection (4) of section 173 (financial loss allowance) of that Act iv) section 175 (allowances for attending conferences and meetings) of that Act; <p>(b) the rates at which payments are to be made under section 174 (travelling and subsistence allowances) of that Act;</p> <p>(c) the amount of any allowance payable pursuant to a scheme under section 18 of the Local Government and Housing Act 1989, or the rates at which payments by way of any such allowance are to be made;</p>	
<p>39. To exercise powers under Part 2 of the Local Government and Public Involvement in Health Act 2007 regarding a change in the Council's scheme for elections and for providing by order for consequential changes to the years in which ordinary elections of parish Councillors take place.</p>	

Council (continued)		
FUNCTION		DELEGATION
40.	Functions relating to the conduct of Community Governance Review under Part 4 of the Local Government and Public Involvement in Health Act 2007 including the receipt and validation of a community governance petition, the terms of reference for any review and to formulate, publish and make decisions relating from a community governance review.	
41.	The function of making a request to the Local Government Boundary Commission for England under Section 57 (requests for single member electoral areas) of the Local Democracy, Economic Development and Construction Act 2009 for single member electoral areas.	
42.	Power to approve the Annual Council Tax Support Scheme.	
43.	The determination of Departmental staffing proposals where service areas are being amalgamated and/or a service area is created or modified due to additional grant funding.	Finance and Policy Committee
44.	Functions reserved to Council by law.	

Finance and Policy Committee	
Membership:	11 Councillors: Chair (Leader of Council) Vice Chair (Deputy Leader of Council) Chair of Children's Services Committee Chair of Adult Services Committee Chair of Regeneration Services Committee Chair of Neighbourhood Services Committee Plus 5 other Councillors
Quorum :	3
FUNCTION	DELEGATION
<ol style="list-style-type: none"> 1. Responsibility for the financial and other resources of the Authority, for developing and implementing the authority's plans and strategies under the budget and policy framework. Additional service area responsibility including asset management, strategic procurement, electoral services, revenues and benefits, social welfare and public health, under the Health and Social Care Act 2012, including the development of partnership working. 2. The formulation, development and implementation of the policy framework (as detailed below) and budget and the implementation of these in respect of Council functions and services not otherwise the responsibility of Council or any other Committee, in particular finance and support services. 	

Finance and Policy Committee (Continued....)	
<p>3. The exercise of public health functions of the Authority under Part 5 of the Health and Social Care Act 2012 including partnership arrangements made under Section 75 of the National Health Service Act 2006 and the overall development of partnership working.</p> <p>4. Responsibility for the functional areas, other Plans and Strategies and service areas as detailed below.</p> <p>5. The determination of Departmental staffing proposals where service areas are being amalgamated and/or a service area is created or modified due to additional grant funding.</p>	
<p>ELECTIONS</p> <p>6. Functions relating to elections:</p> <p>a) Power to assign Officers in relation to requisitions of the Electoral Registration Officer</p> <p>b) Duty to provide assistance at European Parliamentary Elections</p> <p>c) Power to divide electoral divisions into polling districts at Local Government elections</p> <p>d) Powers in respect of holding elections</p> <p>e) Power to pay expenses properly incurred by Electoral Registration Officers</p> <p>f) Duty to declare vacancy in office in certain cases</p> <p>g) Duty to give public notice of a casual vacancy</p> <p>h) Power to make temporary appointments to Parish Councils</p>	<p>Chief Solicitor</p> <p>Chief Solicitor</p> <p>Chief Solicitor</p> <p>Chief Solicitor</p> <p>Chief Solicitor</p> <p>Chief Solicitor</p>

Finance and Policy Committee (Continued....)	
<p>i) Power to determine fees and conditions for supply of copies of, or extracts from, election documents.</p> <p>j) Power to submit proposals to the Secretary of State for an order under section 10 (pilotschemes for local elections in England and Wales) of the Representation of the People Act 2000.</p> <p>7. Functions relating to Local Government pensions, etc., except those reserved to the Personnel Sub-Committee in dealing with matters of appeal etc.</p> <p>8. Power to make agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities.</p> <p>9. To advise on the appointment of school governors.</p> <p>10.Functions relating to health and safety at work (as set out in Part C of Schedule 1 to the Regulations).</p>	
<p>FINANCE ADMINISTRATION</p>	
<p>11.Writing-off of debts above the limits allocated to Officers.</p>	<p>Chief Finance Officer Power to write off debts within the approved limit of £1,000.</p>
<p>PROCUREMENT</p>	
<p>12. To receive and examine quarterly reports on the monitoring and outcome of contract letting procedures including outputs, values, value for money considerations and performance (incorporating if necessary provider comparative analysis) where lowest/highest price is not payable/receivable.</p>	

Finance and Policy Committee (Continued....)	
<p>13. To receive and examine reports on any exemptions granted to these Contract Procedure Rules.</p> <p>Policy Framework Areas Annual Capital Budget Annual Revenue Budget Council Plan Health and Wellbeing Strategy Sustainable Community Strategy</p> <p>Other Plans & Strategies Alcohol Harm Reduction Strategy Annual Drug Treatment Plan Anti-Fraud and Corruption Strategy Asset Management Plan Commissioning & Procurement Strategy Corporate Capital Strategy Debt Recovery Strategy Equality & Diversity Plan Health Protection Plan Health and Safety Services Plan HR Strategy People Framework (incl. HR & Workforce Development Strategies) Public Health Strategy Risk Management Strategy Treasury Management Strategy Whistleblowing Policy Workforce Development Strategy</p> <p>Service Area Child Poverty * Financial Management (Corporate) Accountancy Financial Management Benefits (incl. Fraud and control) and means tested services Revenues collection Payments / Payroll</p>	<p>Chief Executive, Director of Child and Adults Services and Director of Regeneration and Neighbourhoods</p> <ol style="list-style-type: none"> 1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact. 2. Approval of Departmental service plans. 3. Strategic service level financial and performance monitoring. 4. Setting of fees and charges that have not been determined as part of the budget process, where the in-year additional income or expenditure does not have a gross full year effect greater than £100,000 i.e. where key decision test (i) does not apply.

Finance and Policy Committee (Continued....)	
<p> Insurances Social Fund Legal Land Charges Members Services Public Relations ICT Policy / Performance / Partnerships Complaints / Consultation Democratic Services Workforce Development Human Resources Advisors and operations Organisational Development Customer Services / Hartlepool Connect Registrars Equality / Diversity Health, Safety and Wellbeing Strategic Procurement and Reprographic Logistics Asset and Property Management Facilities Management Commissioning public health services Smoking / public health intervention in tobacco control , Obesity / nutrition / healthy weight/ physical activity, Alcohol, Drugs, Cancer, Cardiovascular disease, Breastfeeding, Oral health promotion, Respiratory disease Public mental health / suicide prevention Public health and community safety (domestic violence) NHS Health Check programme School nursing Children's public health 0-5 years and 5-19 years Accidental injury prevention </p>	<p> 6. Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the relevant Policy Committee or as part of the approved budget and policy framework. 7. Involvement in grant allocations and other allocations of funding within the terms of a scheme or method of allocation previously agreed by the Council. 8. Improvement plans and other key reports. 9. External Audit and other inspection reports on service and non-strategic corporate matters. 10. Allocations, scheme designs and specifications within agreed programmes of works. 11. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee. </p>

Finance and Policy Committee (Continued....)	
<p>Public health intelligence and epidemiology Joint strategic needs assessments Health equity audits Health impact assessments GP primary prevention programme Health protection plan and related services including: Outbreaks and communicable disease, Sexual health, Immunisation, Screening, Seasonal Flu and Mortality Infection control</p>	

Adult Services Committee	
Membership:	7 Councillors: Chair Vice Chair Plus 5 other Councillors
Quorum :	3
FUNCTION	DELEGATION
<ol style="list-style-type: none"> 1. Responsible for Adult Social Care and related services 2. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below. <p>Policy Framework Areas Vision for Adult Social Care in Hartlepool</p> <p>Other Strategies & Plans Dementia Strategy Housing Care & Support Strategy Carers Strategy Reablement Strategy Assistive Technology Strategy</p> <p>Service Areas Child Poverty * Older Peoples Commissioning Mental Health Commissioning Commissioning for Working Age Adults Social Care Transformation Adult Social Work Teams</p> <ul style="list-style-type: none"> • Older People • Learning Disabilities • Physical Disabilities • Sensory Loss <p>Safeguarding Vulnerable Adults</p>	<p>Chief Executive, Director of Child and Adults Services and Director of Regeneration and Neighbourhoods</p> <ol style="list-style-type: none"> 1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact. 2. Approval of Departmental service plans. 3. Strategic service level financial and performance monitoring. 4. Setting of fees and charges that have not been determined as part of the budget process, where the in-year additional income or expenditure does not have a gross full year effect greater than £100,000 i.e. where key decision test (i)

<p>Integrated Mental Health Services Occupational Therapy Early Intervention and Reablement Assistive Technology Direct Care and Support Services for Vulnerable Adults Day Services Commissioned Services Team Performance Management and Management Information Housing Related Support</p>	<p>does not apply.</p> <p>5. Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the relevant Policy Committee or as part of the approved budget and policy framework.</p> <p>6. Involvement in grant allocations and other allocations of funding within the terms of a scheme or method of allocation previously agreed by the Council.</p> <p>7. Improvement plans and other key reports.</p> <p>8. External Audit and other inspection reports on service and non-strategic corporate matters.</p> <p>9. Policies, plans and strategies which are not part of the budget and policy framework.</p>
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Children's Services Committee	
Membership:	7 Members comprising: Chair Vice Chair Plus 5 other Councillors Education Representatives (when discharging education functions); 2 Church Representatives (voting): Michael Lee (term of office February 2012 – January 2014); 3 Parent Governor Representatives (1 from each of the following representing: Primary, Secondary and Special Schools within the Borough): Primary – Sacha Paul Bedding October 2011 – September 2013; 6 Young Persons Representatives
Quorum:	3
FUNCTION	DELEGATION
<ol style="list-style-type: none"> 1. Responsible for children's services including child protection of children and young people. Exercising the Council's functions as Local Education Authority. Oversight of the Children's Strategic Partnership for the purposes of the Children Act 2004. 2. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below. 	

<p>Policy Framework</p> <p>Children and Young People's Plan Child Poverty Strategy Youth Justice Strategic Plan</p> <p>Other Strategies & Plans</p> <p>Children's Centres and Extended Schools Strategy Early Intervention Strategy Education Asset Management SEN and Disability Action Plan Children Looked After Strategy School Support and Challenge Protocol 14-19 Strategy</p> <p>Service Area</p> <p>Child Poverty * Safeguarding, Assessment & Support Children looked after and leaving care Children with disabilities Fostering and adoption Safeguarding and Review / Independent Reviewing Officers Local Safeguarding Children Board Children's Strategic Commissioning Integrated Youth Support Services Youth Offending Service Early Intervention and Prevention Services including children's centres and extended services Monitoring of Schools Causing Concern School Improvement Support & Challenge Curriculum development and enrichment Performance management and self-evaluation Pupil Referral Unit ICT in schools Transformation of Learning Primary Capital Programme Social and Educational Inclusion School Transformation Special Educational Needs Educational Psychology</p>	<p>Chief Executive, Director of Child and Adults Services and Director of Regeneration and Neighbourhoods</p> <ol style="list-style-type: none"> 1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact. 2. Approval of Departmental service plans. 3. Strategic service level financial and performance monitoring. 4. Setting of fees and charges that have not been determined as part of the budget process, where the in-year additional income or expenditure does not have a gross full year effect greater than £100,000 i.e. where key decision test (i) does not apply. 5. Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the relevant Policy Committee or as part of the approved budget and policy framework. 6. Involvement in grant allocations and other allocations of funding within the terms of a scheme or method of allocation previously agreed by the Council. 7. Improvement plans and other key reports.
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<p>Early Years Foundation Stage School Capital (in partnership with R&N) School Admissions and School Place Planning</p>	<p>8. External Audit and other inspection reports on service and non-strategic corporate matters.</p> <p>9. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee.</p>
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Corporate Parent Forum	
Membership:	13 comprising: The Leader of the Council: Chair of Children's Services Committee: Chair of Adult Services Committee: 4 Other Councillors: 2 Children and Young People who are, or have been, looked after; 2 Foster Carers; Assistant Director (Children's Services); Policy Link Officer
Quorum :	3 Councillors and 1 representative from the Children, Young People and Foster Carers
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 1. This Sub-Committee of the Children's Services Committee is responsible for the development, implementation and review of the Council's Corporate Parent Strategies and policies in order to ensure that the Council's duty as a 'Corporate Parent' is discharged properly, effectively and consistently. 2. To advise and make recommendations to the Council's decision-making bodies and other partner agencies on any issues that affect children and young people who are Looked After by Hartlepool Borough Council. 3. To oversee the exercise of the Council's responsibilities as Corporate Parent and ensure that the interests of Looked After Children are appropriately reflected in all Council policies and the work of the Children's Strategic Partnership. 	

Regeneration Services Committee	
Membership:	7 Members: Chair Vice Chair Plus 5 other Councillors
Quorum :	3
FUNCTION	DELEGATION
<p>1. Responsible for public protection, housing policy including housing market renewal and strategy, economic development and regeneration, building control and planning (except for development control and management functions delegated to the Planning Committee) and sustainability, trading standards, culture, leisure and tourism.</p> <p>2. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below.</p> <p>Policy Framework Areas Economic Regeneration Strategy Housing Strategy The plans and strategies which together comprise the Local Plan</p> <p>Other Strategies & Plans Adult Learning Plan Archaeology Plan Arts & Museums Plan Arts Strategy Empty Homes Strategy Food Law Enforcement Service Plan Fuel Poverty Strategy Library Plan Local Cultural Strategy</p>	<p>Chief Executive, Director of Child and Adults Services and Director of Regeneration and Neighbourhoods</p> <p>1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact.</p> <p>2. Approval of Departmental service plans.</p> <p>3. Strategic service level financial</p>

<p> Planning Policy Tourism Strategy Trading Standards Service Delivery Plan Sport & Physical Activity Strategy Playing Pitch Strategy Indoor Sports Facilities Strategy Multi Use Games Area Strategy (MUGA) </p> <p> Service Areas Child Poverty * Environmental Health and Protection Building Control Economic Regeneration Housing Services Homelessness and Housing advice Public Protection Planning Services Housing Management </p> <p> Adult Education Community Centres Culture & Information Services;- <ul style="list-style-type: none"> Libraries & Community Buildings Museums & Art Gallery Theatre & Arts Development Strategic Events & Independent Safety Advisory Group Tourist Information & Box Office </p> <p> Sport & Recreation;- <ul style="list-style-type: none"> Leisure Centre management Sport & Physical Activity Carlton Outdoor Education Centre Outdoor Activities & Summerhill Primary Swimming </p> <p> Tees Archaeology;- <ul style="list-style-type: none"> Historic Environment Record (HER) </p>	<p>and performance monitoring.</p> <ol style="list-style-type: none"> Setting of fees and charges that have not been determined as part of the budget process, where the in-year additional income or expenditure does not have a gross full year effect greater than £100,000 i.e. where key decision test (i) does not apply. Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the relevant Policy Committee or as part of the approved budget and policy framework. Involvement in grant allocations and other allocations of funding within the terms of a scheme or method of allocation previously agreed by the Council. Improvement plans and other key reports. External Audit and other inspection reports on service and non-strategic corporate matters. Allocations, scheme designs and specifications within agreed programmes of works. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee
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Neighbourhood Services Committee	
Membership:	7 Members: Chair Vice Chair Plus 5 other Councillors
Quorum :	3
FUNCTION	DELEGATION
1. Responsible for waste, coastal protection and flood defence, highways and traffic management (including integrated transport and partnership working) neighbourhood management and community safety. 2. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below. Policy Framework Areas Community Safety Plan Local Transport Plan Tees Valley Joint Waste Management Strategy Hartlepool Voluntary and Community Sector Strategy Other Strategies & Plans Child Poverty * Allotment Development Strategy Cleveland Emergency Planning Unit Annual Plan Climate Change Strategy Community Cohesion Framework Contaminated Land Plan Domestic Violence Strategy Hartlepool Incident Response Plan Highway Asset Management Plan	Chief Executive, Director of Child and Adults Services and Director of Regeneration and Neighbourhoods 1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact. 2. Approval of Departmental service plans. 3. Strategic service level financial and performance monitoring. 4. Setting of fees and charges

<p> Highway Maintenance Plan Highway Network Management Plan Neighbourhood Management & Empowerment Strategy Network Management Plan Prevent Action Plan Rights of Way Improvement Plan Shoreline Management Plan Social Behaviour Plan Waste Management Strategy Winter Maintenance Plan Play Facility Strategy </p> <p> Service Areas Neighbourhood Management Cemeteries and Crematorium Community Safety Integrated Transport Unit Highways and Traffic Street Lighting Car Parking School Crossing Patrol Road Safety Engineering Design and Management Emergency Planning Unit Business Continuity Parks and Countryside Waste and Environment </p>	<p>that have not been determined as part of the budget process, where the in-year additional income or expenditure does not have a gross full year effect greater than £100,000 i.e. where key decision test (i) does not apply.</p> <ol style="list-style-type: none"> 5. Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the relevant Policy Committee or as part of the approved budget and policy framework. 6. Involvement in grant allocations and other allocations of funding within the terms of a scheme or method of allocation previously agreed by the Council. 7. Improvement plans and other key reports. 8. External Audit and other inspection reports on service and non-strategic corporate matters. 9. Allocations, scheme designs and specifications within agreed programmes of works. 10. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee.
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Audit and Governance Committee	
Membership:	<p>7 Members of the Authority (chaired by a Member not in the majority group and comprising Members not on Finance and Policy Committee),</p> <p>Plus (Independent Member(s) and Parish Council representatives when dealing with standards functions) and one fully co-opted representative from a responsible local policing body. during consideration of Crime and Disorder Committee matters</p>
Quorum :	3
FUNCTION	DELEGATION
<p>AUDIT</p> <ol style="list-style-type: none"> 1. Promote the independent internal audit function and raise awareness of internal control, reviewing controls and financial operations and developing an anti-fraud culture. 2. Focussing and monitoring the Council's audit resources by reviewing the plans and reports of the external auditor and the internal audit team to ensure that audit work is co-ordinated. 3. Monitoring audit performance by including reporting schedules and action on recommendations. 4. Power to approve Authority's statement of accounts and Annual Governance Statement 5. To scrutinise the Treasury Management Strategy and resulting Treasury Management 	

Audit and Governance Committee (Continued...)	
<p>solutions thereon and to make such recommendations to Council as the Committee shall deem appropriate.</p> <p>6. Consider the overall effectiveness of the Council's corporate governance arrangements, risk management and anti-fraud and anti-corruption arrangements and to seek assurance that action is taken on risk related issues identified by internal and external audit.</p> <p>7. Functions relating to the scrutiny of contracts.</p> <p>The monitoring of contracts (at the discretion of the Committee) subject to the formal quotation and tendering procedures under the Council's Contract Procedure Rules.</p> <p>8. Making appointments to the Independent Remuneration Panel as established under the provisions of the Local Government Act 2000.</p> <p>STANDARDS</p> <p>9. Promoting and maintaining high standards of conduct by Members and Co-opted Members of the Authority.</p> <p>10. Assisting Members and Co-opted Members to observe the requirements of the Council's Code of Conduct.</p> <p>11. To advise and offer guidance to Members and Co-opted Members on the adoption or revision of the Code of Conduct.</p>	

Audit and Governance Committee (Continued...)	
<p>12. To delegate to a Hearing Sub-Committee, the conduct of a hearing upon a complaint and to make recommendations and report findings, as appropriate.</p> <p>13. To grant dispensations to Members and Co-opted Members (including Parish Council representatives) from requirements relating to interests as set out within the relevant Code of Conduct.</p> <p>14. Powers to make payments or provide other benefits in cases of maladministration etc.</p> <p>15. To assist in making recommendations through the better governance of the Council insofar as it relates to the maintenance and promotion of high ethical standards.</p>	<p>Chief Solicitor acting as the Council's Monitoring Officer</p> <p>Chief Solicitor acting as the Council's Monitoring Officer</p>
<p>STATUTORY SCRUTINY</p> <p>16. To exercise and undertake the statutory health scrutiny functions of the Authority under Part 5 of Chapter 2 of the Health and Social Care Act 2012 and regulations made thereunder and associated guidance.</p> <p>17. To undertake the functions of the Authority's Crime and Disorder Committee for the purposes of the Police and Justice Act 2006.</p>	

Audit and Governance Committee (Continued...)	
<p>MISCELLANEOUS</p> <p>18. Power to determine complaints to Members in accordance with the Council's agreed corporate complaints procedures.</p> <p>19. Power to consider and determine:</p> <ul style="list-style-type: none"> • Appeals against dismissal • Disputes or appeals arising out of departmental staffing reviews and/or re-structures • Grievances at the final internal stage <p>20. Functions relating to local government pensions, etc. relating to the determination of individual cases.</p>	<p>Personnel Sub-Committee</p> <p>Personnel Sub-Committee</p>

Personnel Sub-Committee	
Membership:	Three members selected from a rota of Audit and Governance Committee Members maintained by the Democratic Services Team Manager.
Quorum:	3
FUNCTION	DELEGATION
<p>1. Power to consider and determine:</p> <ul style="list-style-type: none"> • Appeals against dismissal • Disputes or appeals arising out of departmental staffing reviews and/or re-structures • Grievances at the final internal stage <p>2. Functions relating to local government pensions, etc. relating to the determination of individual cases.</p>	<p>Chief Executive Individual early retirement decisions within the scheme with the agreement of the Chief Finance Officer and in consultation with the appropriate Director.</p>

North and Coastal Neighbourhood Forum	
Membership:	<p>Elected representatives of the following Wards: De Bruce, Hart, Headland and Harbour, Jesmond and Seaton</p> <p>Councillors: Ainslie, Atkinson, Beck, Cook, Dawkins, Fisher, Fleet, Griffin, Hill, Jackson, Payne, Robinson, Shields, Tempest and Thompson</p>
Quorum :	3
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 1. To be a focal point for local consultation on the provision of Council Services through Face the Public and other events incorporating consultation on the Council's Annual Budget. 2. To enable discussion to take place with Elected representatives on issues of local interest. 3. To advise the Council on matters of interest to their area. 4. To be a key part of the Council's local consultation process. 5. To assist all Councillors in listening to and representing their community. 6. To help build partnerships between the Local Authority, other local public, private and voluntary sector organisations and the public. 	

North and Coastal Neighbourhood Forum (Continued...)	
FUNCTIONS	DELEGATIONS
<p>7. To assist in the development of the Sustainable Community Strategy.</p> <p>8. To recommend schemes for the general improvement of the area from a Ward Member budget specifically allocated for this purpose.</p> <p>9. Face the Public for Policy Committees</p>	<p>Director of Regeneration and Neighbourhoods + Approval of Ward Member Budget submissions</p>

South and Central Neighbourhood Forum	
Membership:	<p>Elected representatives of the following Wards: Burn Valley, Fens and Rossmere, Foggy Furze, Manor House, Rural West and Victoria.</p> <p>Councillors: C Akers-Belcher, S Akers-Belcher, Brash, Cranney, Gibbon, Hall, Hargreaves, James, Lauderdale, A Lilley, G Lilley, Loynes, Morris, Richardson, Simmons, Sirs, Wells and Wilcox</p>
Quorum :	3
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 1. To be a focal point for local consultation on the provision of Council Services through Face the Public and other events incorporating consultation on the Council's Annual Budget. 2. To enable discussion to take place with Elected representatives on issues of local interest. 3. To advise the Council on matters of interest to their area. 4. To be a key part of the Council's local consultation process. 5. To assist all Councillors in listening to and representing their community. 6. To help build partnerships between the Local Authority, other local public, private and voluntary sector organisations and the public. 	

South and Central Neighbourhood Forum (continued....)	
FUNCTIONS	DELEGATIONS
7. To assist in the development of the Sustainable Community Strategy. 8. To recommend schemes for the general improvement of the area from a Ward Member budget specifically allocated for this purpose. 9. Face the Public for Policy Committees	Director of Regeneration and Neighbourhoods - Approval of Ward Member Budget submissions

Licensing Committee	
Membership:	12 Councillors : Chair Vice Chair Plus 10 other Councillors
Quorum :	3
FUNCTIONS	DELEGATIONS
<p>1. Discharges the Council's functions under the Licensing Act 2003 and the Gambling Act 2005. Additional responsibility in dealing with applications relating to private hire vehicles, hackney carriages and the determination of the appeals, consents, licences and premises as delegated to the Committee. NB: a Licensing Sub-Committee (quorum 3 Members) will deal with individual applications and 'day to day' decisions as determined by the Committee.</p> <p>2. All licensing and registration functions, except those relating to Commons Registration, Roads and Highways (delegated to Planning Committee by Council)</p> <p>3. Licensing functions under the Licensing Act 2003 and the Gambling Act 2005 in considering the grant refusal, variation, issue of any counter notice and cancellation of licences, certificates, permits or registration (other than where such matters have been delayed) in respect of;</p> <p>1. Application for Premises Licence (Gambling Act).</p>	<p>Director of Regeneration and Neighbourhoods:</p> <p>Power to carry out all of the functions of the Committee with the exception of the power to refuse, revoke or suspend any licence or registration.</p> <p>Power to refuse, revoke or suspend any licence or registration in cases where eligibility criteria are not met or in cases where there is judged to be a clear risk to the well-being of the public which needs to be addressed as a matter of urgency.</p>

Licensing Committee (Continued....)	
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 2. Application for a Variation of Premises Licence (Gambling Act). 3. Application for a Transfer of a Premises Licence (Gambling Act). 4. Application for a Provisional Statement (Gambling Act). 5. Review of a Premises Licence (Gambling Act). 6. Application for a Club/Gaming Club Machine Permits (Gambling Act). 7. Cancellation of Club/Gaming Club Machine Permits (Gambling Act). 8. Applications for other permits under the Gambling Act. 9. Cancellation of Licensed Premises Gaming Machine Permits (Gambling Act). 10. Consideration of Temporary Use Notice (Gambling Act). 11. Decision to give a Counter Notice to a Temporary Use Notice (Gambling Act). 12. Amusements with Prizes (Gambling Act). 13. Lotteries (Gambling Act). 14. Prize Bingo (Gambling Act). 15. Application for a Premises Licence (Licensing Act). 16. Application for a Variation of a Premises Licence (Licensing Act). 17. Application to Transfer a Premises Licence (Licensing Act). 18. Application to Grant a Provisional Statement (Licensing Act). 	

Licensing Committee (Continued....)	
FUNCTIONS	DELEGATIONS
<p>19. Application to Vary a Designated Supervisor (Licensing Act).</p> <p>20. Application to Grant a Club Premises Certificate (Licensing Act).</p> <p>21. To Grant a Variation of a Club Premises Certificate (Licensing Act).</p> <p>22. Making an order under Section 284 disapplying Section 279 (Exempt Gaming) or Section 282(i) (Gaming Machines Automatic Entitlement) to specific licensed premises.</p> <p>23. Approving the Statement of Principles to be applied regarding functions relating to Family Entertainment Centre Gaming Machine Permits and Prize Gaming Permits.</p>	

Licensing Sub-Committee	
Membership:	Three members selected from a rota of Licensing Committee Members maintained by the Democratic Services Team Manager
Quorum :	3
FUNCTIONS	DELEGATIONS
Dealing with individual licensing and other applications and 'day to day' decisions as determined by the Committee.	

Planning Committee	
Membership:	16: Chair : Vice Chair : Plus 14 other Councillors
Quorum :	7
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 1. Exercise the Council's development control and management functions including conservation, Town and Village Greens, commons registration and public rights of way. 2. All functions relating to town and country planning and development control. 3. Powers relating to the protection of important hedgerows 4. Powers relating to the preservation of trees. 5. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land. 6. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976. 	<p>Director of Regeneration and Neighbourhoods</p> <ol style="list-style-type: none"> 1. Power to carry out all of the functions of the Committee in paragraphs 1-5 adjacent, subject to the following exceptions: <ol style="list-style-type: none"> i) in the case of any relevant application which is submitted to the Council for determination, any matter which any member requests should be referred to the Committee for decision, such request to be received within 21 days of publication of details of the application. ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial, iii) the determination of applications submitted by the Council in respect of its own land or proposed development, except those relating to operational development to which there is no lodged objection.

Planning Committee (continued....)	
FUNCTIONS	DELEGATIONS
<p>7. Powers, related to Commons Registration</p> <p>8. Functions relating to public rights of way.</p> <p>9. The licensing and registration functions relating to the New Roads and Street Works Act 1991 and the Highways Act 1980.</p> <p>10. Functions relating to Town and Village Greens</p> <p>11. To comment upon relevant Development Plan Documents (DPD's) and Supplementary Planning Documents (SPD's).</p> <p>12. To consider reports on the proposed DPD's of neighbouring authorities where the Council is a consultee.</p> <p>13. To receive reports on the performance of the Development Control and Planning Policy section.</p> <p>14. To consider reports on proposed changes to national planning policy.</p>	<p>iv) the refusal of an application except with the agreement of the Chair of the Committee.</p> <p>v) except in cases of urgency</p> <p>a) power to require the discontinuance of a use of land</p> <p>b) power to serve a stop notice (including a temporary stop notice)</p> <p>c) power to issue an enforcement notice</p> <p>d) power to apply for an injunction restraining a breach of planning control</p> <p>e) power to serve a building preservation notice and related powers</p> <p>f) power to issue enforcement notice in relation to demolition of unlisted building in conservation area</p> <p>g) powers to acquire a listed building in need of repair and to serve a repairs notice</p> <p>h) power to apply for an injunction in relation to a listed building,</p> <p>exercise of such powers to be reported for information to the next available meeting of the Committee.</p> <p>2. Power to formulate decision notices following decisions made in principle by the Committee.</p>

Planning Committee (continued....)	
FUNCTIONS	DELEGATIONS
	<ol style="list-style-type: none"> 3. Power to negotiate and set charges for diversion or related matters and to take action regarding blockages or Rights of Way issues other than those related to countryside management. 4. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way (other than those delegated to the Director of Regeneration and Neighbourhoods), following discussion of the issues with the Chair of the Committee. 5. In relation to matters which are relevant to countryside management, power to negotiate and set charges for diversion or related matters and to take action regarding blockage on Rights of Way issues. 6. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way which are relevant to countryside management. 7. Power to carry out all of the functions of the Committee with the exception of any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial.

Planning Committee (continued....)	
FUNCTIONS	DELEGATIONS
	<p>8. Power to register without modification unopposed applications to register land as town or village green in respect of Town and Village Greens, following the statutory consultation period.</p>
	<p>Planning Services Manager</p> <p>Power to require proper maintenance of land under Section 215 of the Town and Country Planning Act 1990</p>
	<p>Chief Solicitor</p> <p>1. Power to confirm without modification unopposed creation, diversion or extinguishment Orders in respect of Public Rights of Way, following the statutory advertising period.</p> <p>2. Power to confirm, without modification, unopposed footpath and footway conversion orders following the statutory advertising period.</p> <p>3. Power to confirm, without modification, all future unopposed Definitive Map Modification Orders following the statutory advertising period.</p>

Safer Hartlepool Partnership	
Membership: (Currently Under Review)	<ul style="list-style-type: none"> • *Two Elected Members, including the Leader of Council • *Chief Executive, Hartlepool Borough Council • *Director of Regeneration and Neighbourhoods, Hartlepool Borough Council • *Neighbourhood Manager (Community Safety) , Hartlepool Borough Council • *Director of Public Health - Hartlepool Borough Council/Primary Care Trust* • *Hartlepool District Commander Cleveland Police • *Office of the Police and Crime Commissioner • *Youth Offending Service - Chair of Management Board, Hartlepool Borough Council • *Director of Offender Management, Durham Tees Valley Probation Trust • *Cleveland Fire and Rescue Authority - nominated member • Cleveland Fire and Rescue Service – Hartlepool District Manager • VCS Representative – Chief Executive, Safe in Tees Valley • Housing Hartlepool – Director of Housing Services • Hartlepool Magistrates Court – Chair of the Bench <p><i>* indicates Responsible Authority member</i></p>
Quorum :	7 Members, with at least 2 being Responsible Authority Members.
FUNCTIONS	DELEGATIONS
1. A partnership to create confident cohesive and healthy communities	

by working together to reduce crime, anti-social behaviour and substance misuse in Hartlepool.

2. The Partnership is responsible for the delivery of the community safety outcomes within the Sustainable Community Strategy.

PLANS AND STRATEGIES

Community Safety Plan (previously known as the Crime, Disorder and Substance Misuse Strategy)
Youth Justice Strategic Plan
Drug Treatment Plan
Alcohol Harm Reduction Strategy
Domestic Violence Strategy
Social Behaviour Plan
Prevent Action Plan
Community Cohesion Framework
Troubled Families Programme

Health and Wellbeing Board	
Membership:	<p>Prescribed Members:</p> <p>Elected Members, Hartlepool Borough Council, including the Leader of the Council (4); Representatives of Hartlepool and Stockton-on-Tees Clinical Commissioning Group (2); Director of Public Health, Hartlepool Borough Council (1); Director of Child and Adult Services, Hartlepool Borough Council (1); Representatives of Healthwatch (2).</p> <p>Other Members:</p> <p>Chief Executive, Hartlepool Borough Council (1); Director of Regeneration and Neighbourhoods, Hartlepool Borough Council (1); Representative of the NHS Commissioning Board Area Team (1); Representative of Hartlepool Voluntary & Community Sector (1); Representative of Tees Esk and Wear Valley NHS Trust (1); Representative of North Tees and Hartlepool NHS Foundation Trust (1); Representative of North East Ambulance NHS Trust (1); Representative of Cleveland Fire Brigade (1).</p>
Quorum :	3
FUNCTIONS	DELEGATIONS
<p>Responsibility for the preparation and implementation of a Health and Wellbeing Strategy for the Borough.</p> <p>Responsibility for ensuring the development and use of a</p>	

comprehensive evidence based Joint Strategic Needs Assessment (JSNA) for Hartlepool.

Responsibility for ensuring consistency between the commissioning priorities of partners and the Health and Wellbeing Strategy and JSNA. Having strategic influence over commissioning and investment decisions across health, public health and social care services to ensure integration and joint commissioning particularly for those services being commissioned and provided to the most vulnerable people.

Civic Honours Committee	
Membership:	Chair of Council Plus 4 Councillors nominated by Council on an ad-hoc basis
Quorum :	3
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 1. Receive, consider and make recommendations to Council in respect of confement of the Freedom of the Borough upon individuals or organisations. 2. Consider nominations for Honorary Alderman and make recommendations to the Council thereon. 3. Make recommendations and issue guidance as the Committee may consider appropriate to Council on the confement of Civic Honours. 	

8. Decision Making by Joint Bodies

The following joint bodies will exercise functions in accordance with the terms of the agreements currently in operation:

- Tees Valley Unlimited
- The North East Purchasing Organisation
- Archives Joint Committee
- Cleveland Emergency Planning Committee

9. Decision Making by Officers – Statutory Framework and Basic Principles

- 9.1.** Legislation and Statutory Guidance provides that Councils should continue to delegate operational management decisions to Officers, as well as decisions in respect of functions which require professional officer training and skills. Where decisions are currently delegated, those delegations should continue. The officer delegation arrangements in this constitution reflects this Guidance) and all matters previously delegated to Officers prior to the revision of the constitution remain so. Where, in any statement of the powers previously delegated, reference is made to the holder of a post or office which no longer exists, that reference shall be interpreted as being a reference to the holder of the current post or office of which the responsibilities or functions most closely relates to those of the former post-holder or office holder. In the event of any contradiction between the earlier delegations and those set out below, the latter shall prevail.

Functions other than those listed in paragraphs 2 to 7 above are delegated to the Officers listed in the appended table or their authorised representatives.

Officers will at all times operate in accordance with policies and procedures approved by Members and within the Council's budget and policy framework. They will also exercise the powers and observe the requirements contained in the Council's budget and policy framework procedure rules, financial procedure rules, contract procedure rules and officer employment procedure rules, together with any other relevant provisions of the Council's constitution.

- 9.2** Responsibilities to be exercised by all Officers listed in Appendix 1 and their authorised representatives

Working within the basic principles set out in the introductory section, the Council's Corporate Management Team and their authorised representatives may take decisions and initiate action falling within

their managerial or professional responsibilities in the following categories;

1. Any matters within the terms of existing personnel and staff policies, practices and procedures.
2. Negotiation and agreement with Trade Unions on Departmental matters.
3. The engagement of temporary staff or assistance where necessary.
4. Development of, and recruitment to, staffing structures within approved staffing budgets and in line with service priorities, with the agreement of the Chief Executive Officer and Chief Finance Officer, where the circumstances are not of the categories reserved to Members.
5. Authorisation of paid secondary employment or any additional payments for posts other than those appointed to by Members, with the agreement of the relevant Director and the Chief Finance Officer.
6. The initiation and conduct of any legal action or proceedings, in consultation with the Chief Solicitor where appropriate.
7. The exercise of the Council's powers or the discharge of its duties under any relevant legislative provisions.
8. The exercise of any powers, duties or responsibilities allocated under legislation or statutory guidance to the postholder.
9. Signing, negotiating, or otherwise acting as the Council's representative, as necessary to implement a decision, or in connection with the day to day management of Council business, subject to the financing and legal implications being approved by the Chief Finance Officer and/or Chief Solicitor.

10. Approval or otherwise of any function or activities to be held in Council premises, or on Council land or which otherwise requires the Council's agreement, following consultation with relevant colleagues.
11. Discretion to waive charges in appropriate circumstances.
12. Submission of bids for funding where urgent action is required.
13. Allocation of grants or financial support/compensation within thresholds or on Terms approved by Members.
14. The necessary temporary closure of facilities or buildings, including bank holiday closures.
15. Any action required as a consequence of emergency incidents.
16. Any decision provided for within the terms of a policy, procedure or scheme previously approved by the Council or under delegated authority.
17. Any action necessary to implement a strategy, policy, plan or programme agreed or delegated by Members.

In exercising their delegated powers, Chief Officers will

- (i) act within the law, the Council's Constitution and follow the Council's policy framework including the approved budget.
- (ii) consult the relevant Committee Chair prior to taking action where:-
 - a) the taking of the action has policy or significant financial implications or
 - b) where the relevant Committee Chair has given a prior indication that he/she wishes to be consulted on the matter or type of matter.
- (iii) consult any other appropriate Chief Officer
- (iv) keep a formal record of the exercise of the delegated power and of the consultation undertaken.
- (v) make the record available on request to
 - a) The public, provided this does not involve the release of confidential or exempt information.

- b) Any Member of the Council provided this does not involve the release of confidential or exempt information to which the member is not entitled.

Each Chief Officer shall act as the designated Proper Officer for the following functions under the Local Government Act 1972, as amended:-

- i) to identify which background papers disclose facts on which a particular report or an important part of the report is based (Section 100D(5)(a) of the Act);
- ii) to prepare a list of background papers and to make arrangements for production of copies of background papers (Section 100D(1)(a) and (B);

(Such delegation related to the Chief Officer(s) in whose name(s) the report is prepared).

Chief Officers may authorise any other Officers of the Council to exercise powers delegated to them. Chief Officers must prepare in writing a scheme authorising any other Officers to exercise such powers. Chief Officers shall remain accountable for any action or decisions taken under that authority.

For the avoidance of doubt, any delegation made by Chief Officers and any authorisation to Officers shall continue in force and any action taken thereunder shall remain valid unless and until it is superseded by such further delegation or authorisation.

In the event of a Chief Officer post being vacant, or in the absence of a Chief Officer those delegated powers may be exercised by the relevant Heads of Service(s) within that Department so far as permitted by law.

Where this Constitution permits the exercise of delegated powers by Heads of Service such exercise is subject to the same restrictions and requirements as are applicable to Chief Officers.

10. Individual Director/Chief Officer Delegation

All Officers listed in appendix 1 may exercise such delegations which apply to the functions and services for which they are responsible. A summary of how responsibility for functions and services is allocated within the Council's officer management structure is given in Part 8 of the constitution. Delegations should be exercised following consultation with other Directors/Chief Officers where they have a relevant interest.

The following section identifies additional delegated responsibilities which are exercisable by named Officers or their representatives. Some of the matters listed are covered by the general delegations above, but have been included separately where this provides additional clarity.

Chief Executive

1. Determination of attendance by Councillors at non-local events either not included in the approved list of conferences, seminars and meetings, or where the Member is not specified on the approved list, together with any reasonable associated costs.
2. Determination of attendance of Directors at events not on the approved list of conferences, seminars and meetings.
3. Determination of the filling or otherwise of vacant posts that occur within existing staffing establishments.
4. Determination of any requests in connection with the use of office accommodation within any Council establishments, together with matters relating to Bank Holiday and other closures of the Civic Centre and other administrative buildings.
5. Determination of all matters relevant to the discharge of the Council's civic and ceremonial functions, including the replacement of civic vehicles, and the provision of appropriate hospitality, which may be necessary to facilitate the efficient discharge of the Council's functions in this area, in line with the policies on civic and ceremonial issues approved by Councillors.
6. To exercise any function which is delegated to a designated Chief Officer.
7. Exercise the powers to make closure orders under Section 40 of the Anti-Social Behaviour Act 2003 and to respond to Police consultation in respect of closure notices.
8. Determination, and where necessary adjudication, on all issues of interpretation/application relating to the national and local conditions of service both corporately and in individual cases.
9. Power to consult, negotiate and reach agreements with the Trade Unions on corporate staffing/employment matters within the overall policy and financial framework determined by members, and in consultation with Directors/Chief Officers as appropriate.

Assistant Chief Executive

1. To exercise all of the powers of the Chief Executive under the Constitution, in the absence of the Chief Executive.
2. To receive and record declarations of hospitality received from Officers.

Chief Solicitor

1. Power to seek Counsel's opinion on any matter affecting the Council's affairs and instruct Counsel as necessary in the Council's interests.
2. Power to institute, withdraw from, compromise or participate in any legal proceedings involving the Council.
3. Power to take any legal action necessary to give effect to a decision of the Council.

Chief Finance Officer

1. The arrangement of insurance cover and settling of claims within the framework of the approved Insurance Strategy.
2. To administer the billing and collection of Council Tax and Non-Domestic Rates in accordance with the Local Government Finance Acts 1988 and 1992.
3. To determine applications for rate relief under sections 43, 45, 47 and 48 of the Local Government Finance Act 1988 in accordance with any general scheme approved by the Council.
4. To determine applications for hardship relief in respect of Non-Domestic Rates under Section 49 of the Local Government Act 1988 in accordance with any general scheme approved by the Council.
5. To determine applications in respect of empty allowances for part-occupation of non-domestic hereditaments under Section 44A of the Local Government Act 1988.
6. To make proposals for the alteration of the Local Valuation List and to lodge appeals against decisions of the Valuation Tribunal and Lands Tribunal.
7. To take Court proceedings for the recovery of, Council Tax, Non-Domestic Rates and Sundry Debts.

8. To write off irrecoverable Community Charge, Council Tax, Non-Domestic Rates and other irrecoverable debts which are uneconomic to collect.
9. To manage the borrowing, financing and investment requirements of the Council in accordance with approved council policy.
10. To make all necessary banking arrangements on behalf of the Council.
11. To administer and grant Housing and Council Tax Benefit (for pensioners and any other excepted categories) under the Social Security, Contributions and Benefits Act 1992 and the Social Security Administration Act 1992.
12. To grant Discretionary Housing Payments to Housing Benefit recipients for Housing Costs in accordance with the Social Security Amendment (Discretionary Housing Payments) Regulations 2001 and the Discretionary Housing Payments (Grants) Order 2001.
13. To administer and grant Council Tax support to working age adults under the approved Local Council Tax Support Scheme.
14. To administer and grant Social Fund grant payments.
15. To determine sanctions in fraudulent benefit cases in accordance with the Social Security Administration Act 1992.

Director of Child and Adult Services

1. Exercise responsibilities and duties in order to promote and safeguard the interests and well being of children and adults, for whom the Local Authority has a social services function.
2. Exercise the authority to handle financial affairs on behalf of vulnerable adults, including to accept and enact duties through the Court of Protection.
3. Exercise the authority to institute legal proceedings and action in relation to vulnerable adults and to accept on behalf of the local Authority, Court and other legal orders, in relation to those vulnerable adults including the power to authorise the deprivation of liberty of persons under the Mental Capacity Act 2005.
4. Agree care packages, service responses and expenditure for care and accommodation of individuals for whom the Council

has a social services function and to do so within the Council's eligibility criteria and exceptionally outside of eligibility criteria where necessary on the grounds of urgency, vulnerability or legal directive.

5. Determine contracts and arrangements for social care services in accordance with the commissioning strategy and approved contract process and in relation to independent sector providers, with other Local Authorities and with health bodies.
6. Establish and operate registers of need, condition or service.
7. Exercise duties as Responsible Individual and matters relating to registration and operation of social care services.
8. Determine and implement any response necessary to meet the needs of young people in the youth justice system as required by the courts or the national standards for the Youth Offending Service.
9. Exercise responsibilities and duties in order to protect and safeguard the interest and well being of children for whom the Local Authority has a social services function.
10. Exercise responsibilities and duties conferred as or exercisable by the Local Authority in their capacity as Local Education Authority.
11. Determine:
 - Whether to make an assessment of a child's educational needs.
 - Whether to make a statement of special educational needs after such an assessment.
 - The manner in which the Authority proposes to provide for those needs.
 - Any payment or reimbursement of travelling costs incurred by a pupil with SEN or the parents of such a pupil in relation to the attendance of the child at school, visits of the parent to the school and weekend visits to the home by the pupil.
12. Exercise the powers of the Council as Local Education Authority under the Schools Standards and Framework Act 1998 and any steps required under direction issued by the Secretary of State for Education.

13. To make arrangements to promote co-operation between the Council and its partner Authorities and other persons or bodies to reduce and mitigate the effects of child poverty in the Council's area under Section 21 of the Child Poverty Act 2010.
14. Exercise responsibilities and duties in order to protect and safeguard the interest and well being of children for whom the local authority has a social services function.
15. Exercise responsibilities and duties conferred as or exercisable by the Local Authority in their capacity as Local Education Authority.
16. Approve grants and awards to pupils and students in further or higher education in accordance with nationally or locally agreed schemes or provisions, or as a special case outside such provisions, in either case in accordance with regulations and advice issued by the Secretary of State for Education.

Director of Regeneration and Neighbourhood Services

1. Determine and implement a joint waste strategy developed by the constituent Authorities.
2. To manage, operate and develop regeneration policies and activities.
3. To receive, pass or reject all plans, certificates and notices pursuant to the Building Regulations 2010 and related legislation.
4. To exercise the Council's functions in respect of dangerous and dilapidated buildings and other structures including authorising service of Notice under the Public Health Acts 1936 and 1961 and the Building Act 1984.
5. To determine all forms of planning and other applications under Part III and Part VIII and Part VIII (Chapter II) of the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act, the Planning (Hazardous Substances) Act 1990, the Planning Act 2008 or under any related secondary legislation except those reserved to the Planning Committee.
6. To exercise the Council's functions with regard to temporary markets under Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.

7. To undertake the Council's powers and duties in relation to high hedge complaints under the Anti-Social Behaviour Act 2003.
8. To exercise the functions of the Council in relation to the management, inspection and control of asbestos, (Control of Asbestos at Work Regulations), and water systems in relation to Legionella (Approved Code of Practice for Minimisation of Legionella in Water Systems (L8)).
9. To exercise the Council's functions under the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987.
10. Exercise responsibilities in relation to applications for Child Safety Orders under Section 11 of the Crime and Disorder Act 1998.
11. Power to apply for Anti-Social Behaviour Orders under Section 1 of the Crime and Disorder Act 1998 in consultation with Cleveland Police and to respond to consultation with social landlords.
12. To consent/respond to Police consultation in respect of designation of areas for dispersal of groups under the Anti-Social Behaviour Act 2003.
13. Exercise responsibilities in consultation with the Chief Solicitor in relation to Drink Banning Orders under the Violent Crime Reduction Act 2006.
14. Power to approve land and property disposals, leases, lettings, licences, wayleaves, easements, undertaking and concluding rent reviews, lease renewals and the release and amendments of restrictions, covenants and other land and property matters within prescribed thresholds as approved by Council.
15. Power to offer, open and accept tenders subject to compliance with the Council's Contract Procedure Rules, the best value tender received by the Council for a land and property advertised for sale or to let by way of lease or licence upon the open market and to report back to the appropriate Committee for information.

Director of Public Health

1. To oversee public health and commissioning to deliver better health outcomes and to reduce health inequalities within the Borough.

2. To liaise with Local Authorities, communities and voluntary groups, public health services and clinical commissioning groups to deliver effective public health interventions.
3. To prepare an Annual Report on the health of the local population.

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C. PROPER OFFICER FUNCTIONS

1. The Chief Executive is hereby appointed the Proper Officer in relation to any reference to any enactment other than the Local Government Act 1972, or in any instrument made before the 26th October, 1972, to the Clerk of a Council or the Town Clerk of a Borough, which by virtue of any provision in the said Act, is to be construed as a reference to the Proper Officer of the Council.
2. The Chief Executive is hereby designated as Head of the Paid Service.
3. The Chief Executive is hereby appointed the Proper Officer under Section 6(3) of the Sheriffs Act, 1887.
4. The Chief Finance Officer is hereby appointed the Proper Officer in relation to any reference in any enactments or Instruments to a Borough Treasurer or Treasurer or Section 151 Officer which by any such provision is to be construed as a reference to the Proper Officer of the Council.
5. The Chief Solicitor is hereby appointed Monitoring Officer under the Local Government and Housing Act, 1989.
6. The Chief Solicitor is hereby appointed the Proper Officer for the purposes of the Commons Registration Act 1965.
7. The Chief Solicitor is hereby appointed the Returning Officer and the Electoral Registration Officer under S.35 and S.8 respectively of the Representation of the People Act 1983.
8. The Chief Solicitor is hereby appointed the proper officer for the taking of an election candidate's declaration of expenses pursuant to S.82 Representation of the People Act 1983.
9. The Assistant Chief Executive is hereby appointed Proper Officer under the Local Government and Housing Act 1989 as amended in respect of politically restricted posts.
10. The Chief Solicitor is hereby appointed Proper Officer under the Local Government (Miscellaneous Provisions) Act 1976 s. 41(2A) for the purposes of certification of records of decisions.
11. The Chief Executive is hereby appointed Proper Officer under the Local Elections (Declaration of Acceptance of Office) Order 2001 for the purposes of receipt of declaration of office of Members.

12. The Assistant Chief Executive is hereby appointed Proper Officer for the purposes of Registration Services Act 1953 as amended.
13. The Director of Child and Adult Services is hereby appointed Proper Officer under Section 532 of the Education Act 1996.
14. The Director of Regeneration and Neighbourhoods is hereby appointed the Proper Officer under Section 606 of the Housing Act 1985.
15. The Director of Child and Adult Services is hereby appointed Proper Officer under Section 6 of the Local Authority Social Services Act 1970 (as amended).
16. The Assistant Director (Transportation and Engineering Services) is hereby appointed Proper Officer in relation to any reference in any enactments or Instruments referred to in any resolution of the Council to a Borough Engineer, Borough Surveyor, Surveyor or Head of Engineering and Waste Management which by any provision in the Local Government Act, 1972, is to be construed as a reference to the Proper Officer of the Council.
17. The Assistant Director (Regeneration and Planning) and Director of Regeneration and Neighbourhoods are hereby appointed the Proper Officers in relation to any reference in any enactments or Instruments to a Sanitary Inspector or Public Health Officer which by any such provision is to be construed as a reference to the Proper Officer of the Council.
18. The person appointed by the Health Protection Agency North East (part of Public Health England) as a Consultant in Communicable Disease/Consultant in Health Protection/Regional Epidemiologist/Unit Director is hereby appointed to act as Proper Officer for the Council for the purposes of functions under the Public Health (Control of Disease) Act 1984 (as amended) and in relation to any reference in any enactments or instruments made thereunder.
19. The Assistant Chief Executive is hereby appointed Proper Officer to receive notices under the Local government (Committees and Political Groups) Regulations 1990.
20. The Assistant Chief Executive is hereby appointed Proper Officer to undertake the Council's duties under the Civil Partnership Act 2004.
21. The Director of Child and Adult Services as the Proper Officer under Section 18 of the Children Act 2004.
22. The Director of Child and Adult Services is hereby appointed the Proper Officer for ensuring compliance with the Local Authority

Social Services and National Health Services Complaints (England) Regulations 2009.

23. The Scrutiny Manager is hereby designated as Scrutiny Officer under Section 31 of the Local Democracy, Economic Development and Construction Act 2009.
24. The Director of Public Health is hereby appointed Proper Officer for the purposes of Section 30 of the Health and Social Care Act 2012.
25. In respect of the sections of the Local Government Act 1972 set out in the first column hereunder the Officer of the Council referred to in the second column shall be the Proper Officer with regard to the function referred to in the third column, that is to say:-

Section of Act	Proper Officer	Functions
13(3)	Chief Executive	Parish Trustee
83(1) to (4)	Chief Executive	Witness and receipt of declarations of acceptance of office.
84	Chief Executive	Receipt of declaration of resignation of office.
88(2)	Chief Executive	Convening of meeting of Council to fill casual vacancy in the Office of Chairman.
89(1)(b)	Chief Executive	Receipt of notice of casual vacancy from 2 Local Government electors
100B - 100F	Chief Solicitor	Functions with respect to exempt information
115(2)	Chief Finance Officer	Receipt of money due from Officers
117	Chief Executive	Keeping record of particulars of any notice given by an officer as to a pecuniary interest in any contract or proposed contract.
146(1)(a) & (b)	Chief Finance Officer	Declarations and certificates with regard to securities.
191	Assistant Director (Transportation and Engineering Services)	Functions with respect to ordnance survey

Section of Act	Proper Officer	Functions
210(6) & (b)	Chief Executive	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or, if there is no such office, to Proper Officers
212(1) and (2)	Chief Solicitor	Proper Officer to act as local registrar for Land Charges Act 1972 and 1975
225(1)	Assistant Chief Executive	Deposit of Documents
229(5)	Chief Solicitor	Certification of photographic copies of documents
234(1) and (2)	Chief Executive	Authentication of documents
236(9)	Chief Solicitor	To send copies of bye-laws for Parish Records.
238	Chief Solicitor	Certification of bye-law s
248	Chief Solicitor	Keeping of roll of Freemen
Schedule 12 Para. 4(2)(b)	Chief Executive	Signature of summonses to Council meetings
Para. 4(3)	Chief Executive	Receipt of notices regarding address to which summons to meetings is to be sent
Para. 25(7)	Chief Solicitor	Certification of resolutions under para. 25 of Schedule 14
Schedule 16 Para. 28	Chief Solicitor	Receipt on deposit of lists of protected buildings (section 54(4) of the Town and Country Planning Act 1971)

For the purpose of exercising any of the functions for which the Officer of the Council named in the first column hereunder is appointed Proper Officer whenever that Officer is unable to perform such functions, the officer of the Council named in the second column hereunder shall be appointed Deputy to the Proper Officer in respect of these functions, that is to say:-

Proper Officer

Chief Executive

Chief Solicitor

Assistant Chief Executive

Chief Finance Officer

Assistant Director
(Transportation and Engineering)

Assistant Director (Regeneration and
Planning)

Director of Regeneration and Neighbourhoods

Deputy Proper Officer

Assistant Chief Executive

Chief Executive

Chief Solicitor

Assistant Chief Finance Officer

Director of Regeneration and
Neighbourhoods

Director of Regeneration and
Neighbourhoods

Assistant Director (Transportation
and Engineering) or Assistant
Director (Regeneration and
Planning) (as appropriate)

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POWER TO ACT GENERALLY

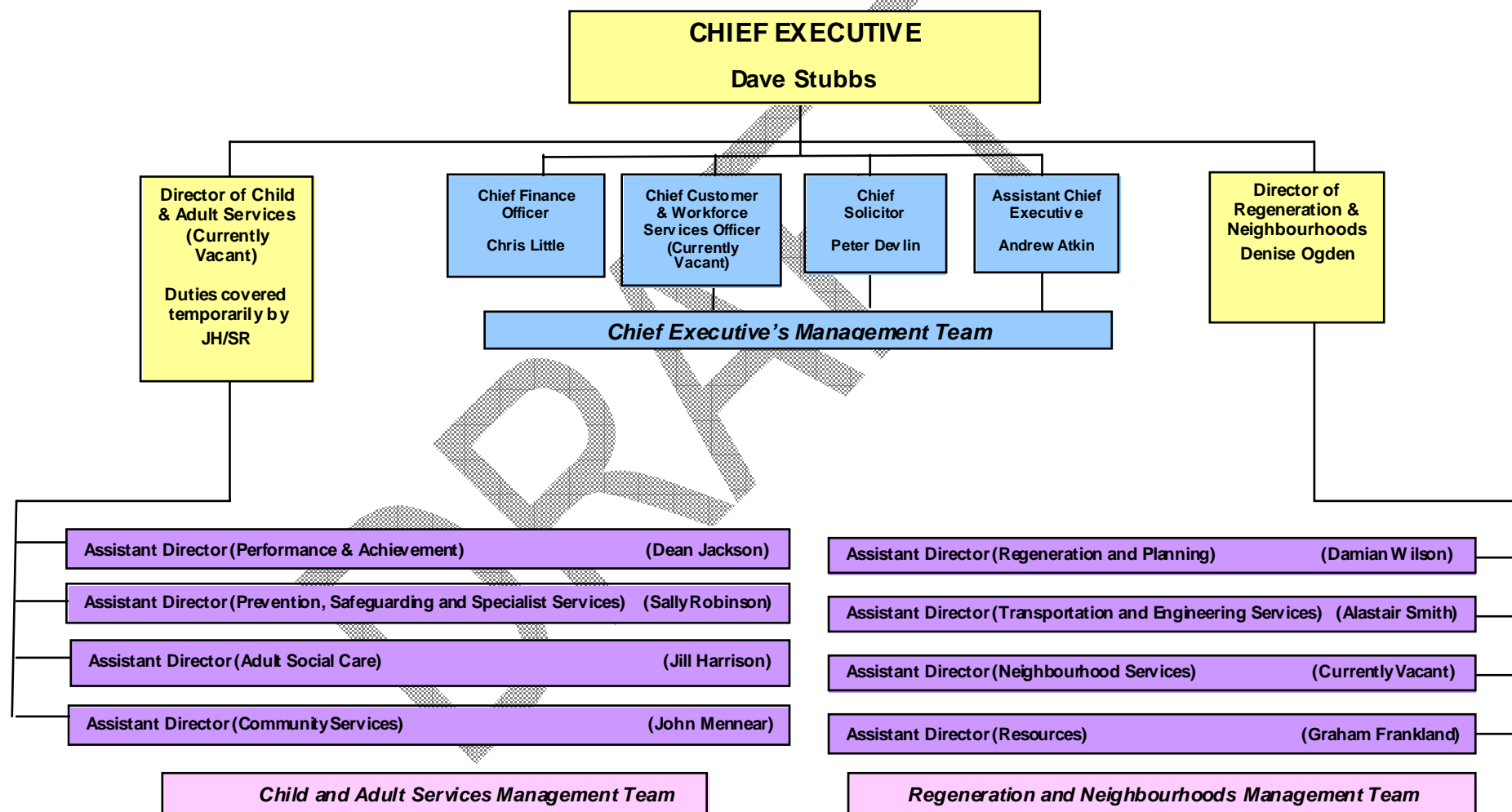
1. The exercise of any functions of the Council in respect of any particular matter which has been delegated shall include the power to take any action incidental, conducive or ancillary thereto.
2. Any power delegated to a Chief Officer may be delegated by him/her to an Officer with his/her Department provided that the same is permitted by law.
3. Chief Officers shall see the power to act generally to undertake the enforcement of all legislation as detailed in Appendix 2, relating to the Council's powers, duties and functions, including the issuing of certificates, licences, notices, consents and orders including the authorisation of registration and the maintenance of such registers and lists relating thereto.

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DELEGATION SCHEME – OFFICERS

APPENDIX 1



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POWER TO ACT GENERALLY

Abandonment of Animals Act 1960
Access to Neighbouring Land Act 1992
Accommodation Agencies Act 1953
Acquisition of Land Act 1981
Administration of Justice Act 1970
Adoption Act 1976
Adoption and Children Act 2002
Agriculture Act 1970
Agriculture (Miscellaneous Provisions) Acts 1968, 1972, 1976
Agriculture Produce (Grading & Marking) Act 1931
Airports Act 1986
Animal Act 1971
Animal Boarding Establishments 1963
Animal Health Act 1981
Animal Health and Welfare Act 1984
Animal Welfare Act 2006
Animals Cruel Poisons Act 1962
Anti-Social Behaviour Act 2003
Apprenticeships, Skills, Children and Learning Act 2009
Asylum and Immigration Act 2004
Audit Commission Act 1998

Banking Act 1987
Breeding of Dogs Acts 1973, 1991
Bribery Act 2010
Building Act 1984
Building Regulations Act 1991
Business Names Act 1985

Caravan Sites and Control of Development Act 1960
Care Standards Act 2000
Caravan Sites Act 1968

Charities Act 2006
Charities Act 2011
Child Support Act 1991
Child Support Pensions and Social Security Act 2000
Child Trust Funds Act 2004
Children Act 1989
Children Act 2004
Child Care Act 1980
Child Poverty Act 2010
Childcare Act 2006
Children and Adoption Act 2006
Children (Leaving Care) Act 2000
Children, Schools and Families Act 2010
Children and Young Persons Act 1933
Children and Young Persons Act 2008
Children and Young Persons (Protection from Tobacco) Act 1992
Charities Act 1992
Christmas Day (Trading) Act 2004
Chronically Sick and Disabled Persons Act 1970
Cinemas Act 1985
Civil Contingencies Act 2004
Civil Partnership Act 2004
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Cleveland County Act 1986
Climate Change and Sustainable Energy Act 2006
Coastal Protection Act 1949
Commonhold and Leasehold Reform Act 2002
Commons Act 2006
Companies Act 1985
Companies Act 1989
Companies Act 2006
Competition Act 1998
Concessionary Bus Travel Act 2007
Consumer Credit Act 1974
Control of Dogs Order 1992

Control of Pollution Act 1974 and 1976
Copyright, Designs and Patents Act 1988
Coroners and Justice Act 2009
Courts Act 2003
Criminal Damage Act 1971
Criminal Justice Act 2003
Criminal Procedure and Investigations Act 1996
Climate Change Act 2008
Consumer Protection Act 1987
Contract (Rights of Third Parties) Act 1999
Copyright Design and Patents Act 1988
Corporate Manslaughter and Corporate Homicide Act 2007
County of Cleveland Act 1987
Courts and Legal Services Act 1990
Crime and Disorder Act 1998
Criminal Damage Act 1971
Criminal Justice Act 1991
Criminal Justice and Immigration act 2008
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Criminal Law Act 1977
Criminal Procedure and Investigations Act 1996
Council Tax (New Valuation Lists for England) Act 2006
Countryside and Rights of Way Act 2000
Customs and Excise Management Act 1979
Cycle Tracks Act 1984

Dangerous Dogs Acts 1989 and 1991
Dangerous Wild Animals Act 1976
Data Protection Act 1998
Defective Premises Act 1972
Defamation Act 1996
Deregulation and Contracting Out Act 1994
Development of Tourism Act 1969
Digital Economy Act 2010
Disability Discrimination Acts 1995 and 2005

Disabled Persons (Services, Consultation and Representation) Act 1986
Disability Rights commission (DRC) Act 1999
Dogs Act 1871
Dogs Act 1906
Dogs (Fouling of Land) Act 1996
Dogs Protection of Livestock Act 1953
Domestic Violence, Crime and Victims Act 2004

Education Act 1962
Education Act 1973
Education Act 1996
Education Act 1997
Education Act 2002
Education Act 2011
Education and Skills Act 2008
Education and Inspections Act 2006
Education Reform Act 1988
Elections Act 2001
Electoral Administration Act 2006
Electronic Communications Act 2000
Employment Acts 1982 – 2002
Employment Act 2008
Employment Equality Act 1998
Employment Protection (Consolidation) Act 1978
Employment Relations Act 1999
Employment Rights act 1996
Employment Rights (Dispute Resolution) Act 1998
Employment Tribunals Act 1996
Environment Act 1995
Environmental Protection Act 1990
Energy Act 1976
Energy Act 2008
Energy Act 2011
Energy Conservation Act 1981
Energy Conservation Act 1996
Equal Pay Act 1970 (as amended)

Equality Acts 2004, 2006 and 2010

Estates agents Act 1979

European Communities Act 1972

Explosive (Age of Purchase) Act 1976

Explosives Act 1875

Factories Act 1961

Fair Trading Act 1973

Farm and Garden Chemicals Act 1985

Fire Precautions Act 1971

Fire Safety and Safety of Place of Sport Act 1987

Flood and Water Management Act 2010

Food Act 1984

Food Safety Act 1990

Food and Environmental Protection Act 1985

Forgery and Counterfeiting Act 1981

Foreign Traffic (Foreign Vehicles) Act 1972

Fraud Act 2006

Freedom of Information Act 2000

Gambling Act 2005

Game Acts 1831 – 1860

Gender Recognition Act 2004

Guard Dogs Act 1975

Hallmarking Act 1973

Health Act 1999

Health Act 2006

Health and Safety at Work Act Etc 1974

Health and Safety (Offences) Act 2008

Health and Social Care Act 2001

Health and Social Care Act 2008

Health and Social Care Act 2012

Health and Social Care (Community Health and Standards) Act 2003

Hire Purchase Act 1973

Highways Act 1980

Highways (Obstruction by Body Corporate) Act 2004
Home Energy Conservation Act 1995
Homelessness Act 2002
Housing Acts 1957 – 1985 as amended
Housing Act 1988
Housing Act 1996
Housing Act 2004
Housing Associations Act 1985
Housing Grants, Construction and Regeneration Act 1996
Housing and Regeneration Act 2008
Human Rights Act 1998
Human Fertilisation and Embryology Act 2008

Immigration and Asylum Act 1999
Immigration, Asylum and Nationality Act 2006
Income and Corporation Taxes Act 1988
Incitement to Religious Hatred Act (1986 Public Order Act)
Independent Living and Human Rights Act 1998
Insurance Brokers (Registration) Act 1977
Insurance Companies Act 1981
Intoxicating Substances (Supply) Act 1985
Jobseekers Act 1995
Justices of the Peace Act 1997

Land Drainage Act 1991
Land Registration Act 2002
Landlord and Tenant Act 1954
Landlord and Tenant Act 1985
Landlord and Tenant Act 1987
Landlord and Tenant Act 1988
Late Night Refreshment Houses Act 1969
Late Payment of Commercial Debts (Interest) Act 1998
Litter Act 1983
Law of Property Act 1925
Law of Property (Miscellaneous Provisions) Act 1989
Learning and Skills Act 2000

Licensing Act 1964
Licensing Act 2003
Licensing (Young Persons) Act 2000
Live Music Act 2011
Local Land Charges Act 1975
Localism Act 2011
Lotteries and Amusements Act 1976
Lotteries Act 1993
Local Authorities (Goods and Services) Act 1970
Local Democracy, Economic Development and Construction Act, 2009
Local Government Act 1972
Local Government Act 1974
Local Government Act 1985
Local Government Act 1986
Local Government Act 1987
Local Government Act 1988
Local Government Act 1992
Local Government Finance Act 1982
Local Government Finance Act 1987
Local Government Finance Act 1988
Local Government Finance Act 1989
Local Government Finance Act 1992
Local Government Finance Act 2012
Local Government and Housing Act 1989
Local Government, Planning and Land Act 1980
Local (Contracts) Act 1997
Local Government and Rating Act 1997
Local Government Act 1999
Local Government Act 2000
Local Government Act 2003
Local Government (Miscellaneous Provisions) Act 1976 and 1982
Local Government and Public Involvement in Health Act 2007
Local Transport Act 2008

Malicious Communications Act 1988
Marine and Coastal Access Act 2009

Medicines Act 1968
Mental Health Act 2007
Mental Health Act 1983
Mobile Homes Acts 1975 and 1983
Motor Vehicles (Safety equipment for Children) Act 1991
Motor Cycle Noise Act 1987
Mock Auction Act 1961

National Assistance Act 1948
National Assistance Act 1951
National Health Service and Community Care Act 1990
National Health Service Act 1999
National Health Service Act 2006
Nationality, Immigration and Asylum Act 2002
New Roads and Streetworks Act 1991
Nurses Agencies Act 1957
Noise and Statutory Nuisance Act 1993
Noise Act 1996

Occupiers Liability Act 1957
Offices, Shops and Railway Premises Act 1963

Party Wall Etc Act 1996
Performing Animals Acts 1925 and 1968
Personal Care at Home Act 2010
Pet Animals Act 1951
Petroleum (Regulations) Acts 1928 and 1936
Pilotage Act 1987
Poisons Act 1972
Planning and Compensation Act 1991
Planning Act 2008
Planning and Energy Act 2008
Planning (Listed Buildings and Conservation Areas) Act 1990
Planning and Compulsory Purchase Act 2004
Police Act 1996
Police Act 1997

Police and Criminal Evidence Act 1984
Police and Justice Act 2006
Police Reform Act 2002
Police Reform and Social Responsibility Act 2011
Political Parties, Elections and Referendums Act 2000
Political Parties and Elections Act 2009
Powers of the Criminal Courts (Sentencing) Act 2000
Prevention of Damage by Pests Acts 1949
Private Places of Entertainment (Licensing) Act 1967
Protection of Animals Act 1911
Prices Acts 1974 and 1975
Private Security Industry Act 2001
Property Misdescriptions Act 1991
Prosecution of Offences Act 1985
Protection from Eviction Act 1977
Protection from Harassment Act 1997
Protection of Freedoms Act 2012
Public Health Acts 1907, 1936-1961
Public Health (Control of Disease) Act 1984
Public Libraries and Museums Act 1964
Public Services (Social Value) Act 2012

Race Relations Act 1976
Race Relations (Amendment) Act 2000
Racial and Religious Hatred Act 2006
Registration of Political Parties Act 1998
Regulation of Investigatory Powers Act 2000
Regulatory Enforcement and Sanctions Act 2008
Representation of the People Act 1983
Representation of the People Act 1985
Representation of the People Act 2000
Rent Act 1977
Refuse Disposal (Amenity) Act 1978
Rehabilitation of Offenders Act 1974
Registered Homes Act 1984
Riding Establishment Acts 1964 and 1970

Rights of Way Act 1990
Road Safety Act 2006
Road Traffic Acts 1971 and 1988
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Act 1974
Road Traffic Regulation Act 1984
Road Traffic Act 1991
Road Traffic (Consequential Provisions) Act 1988
Road Traffic Offenders Act 1988

Safety of Sports Grounds Act 1975
School Inspection Act 1996
School Standards and Framework Act 1998
Scotch Whisky Act 1988
Scrap Metal Dealers Act 1964
Sea Fisheries Regulation Act 1966
Sex Discrimination Acts 1975 and 1986
Slaughter Houses Act 1974
Slaughter of Poultry Act 1974
Social Security Act 1986
Social Security Act 1998
Social Security Administration Act 1992 (as amended)
Social Security Contributions and Benefits Act 1992
Social Security Fraud Act 2001
Solicitors Act 1974
Special Educational Needs Act 2008
Special Educational Needs (Information) Act 2008
Special Educational Needs and Disability Act 2001
Sports Grounds Safety Authority Act 2011
Statistics and Registration Service Act 2007
Sunday Trading Act 1994
Sunday Theatres Act 1972
Sustainable Communities Act 2007

Taxes Management Act 1970
Teaching and Higher Education Act 1998

Telecommunications Act 1984
Theatres Act 1968
Theft Acts 1968 and 1978
Timeshare Act 1992
Town and Country Planning Act 1990
Town Police Clauses Act 1847
Trade Descriptions Act 1968
Trade Marks Act 1938
Trading Representation (Disabled Persons) Acts 1958 and 1972
Traffic Management Act 2004
Transport Act 1982
Transport Act 1985
Transport Act 2000
Transport and Works Act 1992
Trade Marks Act 1994
Tribunals, Courts and Enforcement Act 2007
Trustee Act 2000
Trusts of Land and Appointment of Trustees Act 1996

Unsolicited Goods and Services Act 1971
Unsolicited Goods and Services (Amendment) Act 1975

Vehicle (Excise) Act 1971
Vehicles (Crime) Act 2001
Video Recordings Act 1984
Video Recordings Act 2010

Warm Homes and Energy Conservation Act 2000
Waste and Emissions Trading Act 2003
Water Act 1973
Water Act 1989
Water Industry Act 1991
Weights and Measures Act 1976
Weights and Measures Act 1985
Wildlife and Countryside Act 1981
Welfare Reform Act 2007

Welfare Reform Act 2012

Young Persons (Employment) Acts 1938 – 1964

Zoo Licensing Act 1981

Any amending or replacement legislation, or Statutory Instruments, Regulations, Codes of Practice, Byelaws or Orders associated with or made under these enactments.

DRAFT

Part 4

Rules of Procedure

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RULES OF PROCEDURE

Access to Information Procedure Rules	5
Budget and Policy Framework Procedure Rules	17
Contract Procedure Rules	29
Council Procedure Rules	53
Financial Procedure Rules	79
Officer Employment Procedure Rules	105
Statutory Scrutiny Procedure Rules	111

DRAFT

DRAFT

ACCESS TO INFORMATION PROCEDURE RULES

CONTENTS

		Page
Rules		
1	Scope	7
2	Additional rights to information	7
3	Rights to attend meetings	7
4	Notice of meeting	7
5	Access to agenda and reports before the meeting	7
6	Supply of copies	8
7	Access to minutes etc after the meeting	8
8	Listing of background papers	8
9	Public inspection of background papers	9
10	Summary of public's rights	9
11	Confidential information - exclusion of access by the public to meetings	9
12	Meaning of confidential information	9
13	Exempt information - exclusion of access by the public to meetings	9
14	Meaning of exempt information	10
15	Exclusion of access by the public to reports	11
16	Application of rules to Policy Committees	11
17	Procedure before taking key decisions	11
18	The forward plan	12
19	Contents of forward plan	12
20	General exception	13
21	Special urgency	14
22	Quarterly reports on special urgency decisions	14
23	Record of decisions	14
24	Access to documents – Discharge of Statutory Scrutiny Functions	14
25	Limits on rights of access to documents	15
26	Additional rights of access for Members - material relating to previous business	15
27	Nature of rights	15

DRAFT

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

These rules apply to all meetings of the Council, its Committees and Sub-Committees and Neighbourhood Forums (together called 'meetings'). They summarise the public's right to attend meetings and to inspect and be supplied with copies of documents, full particulars of which are contained within Part VA of the Local Government Act, 1972 as amended.

2. Additional Rights to Information

These rules do not affect any other rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. Notice of meeting

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Civic Centre, Victoria Road, Hartlepool, the designated office.

5. Access to Agenda and Reports before the meeting

The Council will make copies of the agenda and reports available for inspection at the Civic Centre other than those matters which contain confidential or exempt information at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

6. Supply of copies

The Council will supply copies of:

- i) any agenda and reports which are open to public inspection;
- ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- iii) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. Access to minutes etc after the meeting

The Council will make available copies of the following for six years after a meeting:

- i) the minutes of the meeting or records of decisions taken, in accordance with statutory requirements, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- ii) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- iii) the agenda for the meeting; and
- iv) reports relating to items when the meeting was open to the public.

8. Listing of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- i) disclose any facts or matters on which the report or an important part of the report is based; and
- ii) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in rules 11 to 14).

9. Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers (subject to copyright of any person other than the Council) and supply a copy or an extract on payment of such copying fee as may be required.

10. Summary of public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept and be available to the public at the Civic Centre, Victoria Road, Hartlepool.

11. Confidential information – Exclusion of access by the public to meetings

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

12. Meaning of confidential information

Confidential information means information given to the Council by a Government department on terms which forbid its public disclosure or information which cannot be publicly disclosed because of a Court order.

13. Exempt information – Exclusion of access by the public to meetings

13.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

13.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act. This includes cases where exclusion of the public is considered to be necessary for the protection of the private life of the parties.

14. Meaning of exempt information

Exempt information means information falling within the following categories (subject to any condition).

Category	Category
1. Information relating to any individual	8. Information falling within paragraph 1 adjacent is not exempt information by virtue of that paragraph if it is required to be registered under –
2. Information which is likely to reveal the identity of an individual	(a) the Companies Act 2006
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	(b) the Friendly Societies Acts 1974 and 1992
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	(c) the Industrial and Provident Societies Acts 1965 to 1978
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	(d) the Building Societies Act 1986;
6. Information which reveals that the authority proposes –	or
(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or	(e) the Charities Act 2011.
(b) to make an order or direction under any enactment.	9. Information is not exempt within any category of information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	10. Information which –
	(a) falls within any of paragraphs 1 to 7 adjacent; and
	(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,
	is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

15. Exclusion of access by the public to reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with rules 11 to 14, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

16. Application of rules to Policy Committees

16.1 All meetings of the Policy Committees or Sub-Committees must also comply with Rules 1 to 15 unless Rule 20 (general exception) or Rule 21 (special urgency) apply.

16.2 Meetings of the Policy Committees or Sub-Committees will be held in public unless exempt or confidential information would be disclosed. Members of the public attending meetings of the Council's Policy Committees or its sub-Committees may speak at the discretion of the Chair of the Committee or a Sub-Committee. (NB: separate public speaking rights apply in the case of the Council's regulatory and other Committees and Forums.)

16.3 If a Policy Committee or its Sub-Committees meet with an officer present (other than a political assistant) to discuss a key decision to be taken within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 to 15. This is not a requirement if Rule 20 (general exception) or Rule 21 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings whose sole purpose is for Officers to brief Members.

17. Procedure before taking key decisions

Subject to Rule 20 (general exception) and Rule 21 (special urgency), a key decision may not be taken unless:

- i) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- ii) where the decision is to be taken at a meeting of a Policy Committee or Sub-Committee, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

18. The Forward Plan

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

19. Contents of Forward Plan

The Forward Plan will contain matters which will be the subject of a key decision to be taken by the Council, a Policy Committee or Sub-Committee, Officers, or under joint arrangements in the course of the discharge of Council functions during the period covered by the plan. It must be published at least 14 days before the start of the period covered and will describe the following particulars, in so far as the information is available or might reasonably be obtained:

- i) the matter in respect of which a decision is to be made;
- ii) where the decision is to be taken by an officer under delegated powers, his/her name and title and where the decision taker is a body its name and details of membership;
- iii) the date on which, or the period within which, the decision will be taken;
- iv) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- v) the means by which any such consultation is proposed to be undertaken;
- vi) the steps any person might take who wishes to make representations to the Council about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- vii) a list of the documents to be submitted to the Council for consideration in relation to the matter.

19.1 The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- i) that key decisions are to be taken on behalf of the Council;
- ii) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

- iii) that the Plan will contain details of the key decisions to be made for the four month period following its publication;
- iv) that each Plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- v) that each Plan will contain a list of the documents to be submitted for consideration in relation to the key decisions on the Plan;
- vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- vii) that other documents may be submitted as part of the considerations in taking a decision;
- viii) the procedure for requesting details of documents (if any) as they become available; and
- ix) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

19.2 Exempt information need not be included in a Forward Plan and confidential information cannot be included.

20. General exception

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to rule 21 (special urgency), the decision may still be taken if:

- i) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- ii) The Chief Executive has informed and consulted with the Leader of Council or Deputy Leader in the absence of the Leader, with the Chair of the relevant Policy Committee being also informed.
- iii) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- iv) at least five clear working days have elapsed since the proper officer complied with (i) and (ii).

21. Special urgency

If by virtue of the date by which a decision must be taken rule 20 (general exception) cannot be followed, then the decision can only be taken if the agreement of the Leader of Council has been obtained following the advice of the Council's Monitoring Officer and/or Chief Finance Officer in consultation with the Chief Executive that the taking of the decision cannot be reasonably deferred (such agreement should not be unreasonably withheld or delayed). If the Leader of Council is unable to act, then the agreement of the Deputy Leader, will suffice. The Chair of the relevant Policy Committee shall thereafter be immediately informed.

22. Quarterly reports on special urgency decisions

The Leader will submit quarterly reports to the Council on the decisions taken in the circumstances set out in rule 21 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

23. Record of decisions

After any meeting of a Committee or Sub-Committee, whether held in public or private, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and details of any alternative options considered and rejected at that meeting. A record of a key decision (Article 13) taken by an Officer will also be reported to a subsequent meeting of the relevant Policy Committee.

24. Access to documents – Discharge of Statutory Scrutiny Functions

Subject to rule 31 below, the Audit and Governance Committee in the exercise of the statutory scrutiny functions (including any of its Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Council which contains material directly relating to:

- i) any business transacted at a meeting of the Council or its Committees; or
- ii) any key decision that has been made by an officer under delegated authority.

25. Limits on rights of access to documents

The Audit and Governance Committee in the exercise of its statutory scrutiny functions will not be entitled to:

- i) any document that is in draft form; or
- ii) any part of a document that contains exempt or confidential information, unless that information is directly relevant to:
 - an action or decision they are reviewing or scrutinising; or
 - any review contained in any programme of work of such a Committee or Sub-Committee of such Committee; or
- iii) the advice of a political adviser

26. Additional rights of access for Members - material relating to previous business

All Members will be entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business previously transacted at a private meeting unless either (i) or (ii) below applies.

- i) it contains exempt information falling within paragraphs 1, 2, 3 (with the exception of information relating to terms of a Council contract under negotiation), 4, 5 and 7, or
- ii) it contains the advice of a political adviser.

Members may in certain circumstances, subject to the advice of the Monitoring Officer, be able to inspect a wider range of documents on a confidential basis if it is shown by the Member to be necessary in the proper discharge of their role as a Councillor.

27. Nature of rights

These rights of a Member are additional to any other right he/she may have.

DRAFT

BUDGET & POLICY FRAMEWORK PROCEDURE RULES

CONTENTS

	Page
1. The framework for decisions	19
2. Process for developing the annual budget framework.....	19
3. Process for developing policies within the Policy Framework.....	22
4. Decisions outside the Budget or Policy Framework.....	26
5. Urgent decisions outside the Budget or Policy Framework.....	26
6. Flexibilities	27
7. In year changes to the Budget and Policy Framework.....	28

DRAFT

BUDGET & POLICY FRAMEWORK PROCEDURE RULES

1. The framework for decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or policy framework is in place it will be the responsibility of the Finance and Policy Committee or any other Policy Committee to implement.

2. Process for developing the annual budget framework

This process will be completed within the time scale set by the Finance and Policy Committee and is summarised in Figure 1.

(a) Finance and Policy Committee develops proposals for budget plan.

The Policy and Finance Committee will consult stakeholders in the manner appropriate for the matter under consideration and will then draw up initial proposals for the budget, plan or strategy.

(b) Individual Policy Committees develop detailed budget proposals

Individual Policy Committees will consider and prepare detailed budget proposals within the framework defined by the Finance and Policy Committee.

(c) Finance and Policy Committee finalises proposals for submission to Council

The Finance and Policy Committee will finalise the proposals for the Council to consider.

(d) Council debates the Finance and Policy Committee's proposals

The Council will consider the Finance and Policy Committee's proposals for the budget plan and approve them on the basis of a simple majority of Members present and voting.

(e) If the proposals are adopted unamended by Council

The proposals become effective immediately and the Council's decision will be published.

(f) If the budget plan is not approved by Council and is referred back to the Finance and Policy Committee

The Council must identify the issue(s) that it wishes the Finance and Policy Committee to reconsider and the reasons for asking it/them to be reconsidered. A further meeting of Council will be convened within 10 clear working days and at that meeting the Council will make a decision on the proposals by a simple majority of those Members voting and present. The Finance and Policy Committee will report on the issues referred to it for further consideration.

DRAFT

Figure 1 Summary of Budget Process

Medium Term Financial Strategy Update

The Corporate Management Team will present a report to the Finance and Policy Committee to provide an update on the financial position facing the Council for the period covered by the Medium Term Financial Strategy.

End of May

Prepare and approve budget framework

The Finance and Policy Committee will prepare the initial proposals for the budget, plan or strategy.

In relation to the budget this will include determining indicative Council Tax increases, corporate / department savings targets and identifying top line savings proposals

End of July

Individual Policy Committees

Develop and approve savings proposals to achieve targets set by the Finance and Policy Committee.

Mid November

Finance and Policy Committee

Consider and approve detailed savings proposal developed by individual Policy Committee and approve draft budget and policy proposals to be referred for consultation in line with agreed consultation arrangements determined by the Finance and Policy Committee (including statutory consultation).

End November

Consultation

Budget consultation will be undertaken in December and late January

Finance and Policy Committee

The Corporate Management Team will submit a report providing an update on the impact of the Provisional Local Government Finance Settlement on the Medium Term Financial Strategy.

December (timing determined on basis of date of provisional Local Government Finance Settlement).

Finance and Policy Committee

Consider consultation feedback and approve final budget proposals to be referred to full Council.

February (timing determined on basis of date of final Local Government Finance Settlement).

Council

Consider and approve the draft budget and policy proposals based on simple majority vote.

3. Process for developing policies within the Policy Framework

This process will be followed for all policies included within the Policy Framework for each Policy Committee and is summarised in Figure 2.

(a) Outline proposal developed

Officers will report to the relevant Policy Committee outlining the need and process for the development of the policy including key dates for decisions.

(b) Drafting of policy and consideration of draft policy by Policy Committee

Officers will consult the relevant stakeholders in a manner appropriate for the policy being developed and will then prepare the first draft of the policy. The first draft of the policy will then be presented to the relevant Policy Committee for discussion and approval as a draft for consultation.

(c) Consultation on first draft of policy

Officers will undertake consultation on the draft policy for a minimum of 8 weeks in accordance with the Voluntary & Community Sector Strategy, The Health and Wellbeing Strategy, Community Safety Plan and the Youth Justice Strategic Plan, as they are subject to statutory scrutiny, will be considered by the Audit and Governance Committee at this stage. The Audit and Governance Committee will have at least 6 weeks to consider the draft policy following referral from the Policy Committee.

(d) Drafting of policy and consideration by Policy Committee

Officers will draw up the second draft of the policy taking into consideration the comments made through the consultation on the first draft. The second draft of the policy will be presented to the Policy Committee for approval as a second draft for consultation. The

Officers report to this Committee will include a response to the comments made through the consultation on the first draft.

(e) Consultation on second draft of policy

Officers will undertake consultation on the second draft of the policy. The Health and Wellbeing Strategy, Community Safety Plan and Youth Justice Strategic Plan, as they are subject to statutory scrutiny, will be considered by the Audit and Governance Committee again at this stage.

(f) Drafting policy and debating the final draft of the policy

Officers will draw up the final draft of the policy taking into consideration the comments made through the consultation on the second draft. The final draft of the Health and Wellbeing Strategy, Community Safety Plan and Youth Justice Strategic Plan, as they are subject to statutory scrutiny, will then be considered by the Audit and Governance Committee again at this stage.

The final draft of the strategy will then be presented to the relevant Policy Committee for approval. The Officers report to the committee will also include a response to the comments made through the consultation on the final draft including the response from Audit and Governance Committee where appropriate.

Once approved by the Policy Committee the final draft of the policy will be presented to Council for approval. Council will consider the policy and either adopt it, amend it or refer it back to the Policy Committee for further consideration.

(g) If the policy is adopted unamended by Council

The Council will decide by a simple majority of those Members voting and present and the decision will be published with the policy becoming effective immediately.

(h) If the Council refers the policy back to the Policy Committee

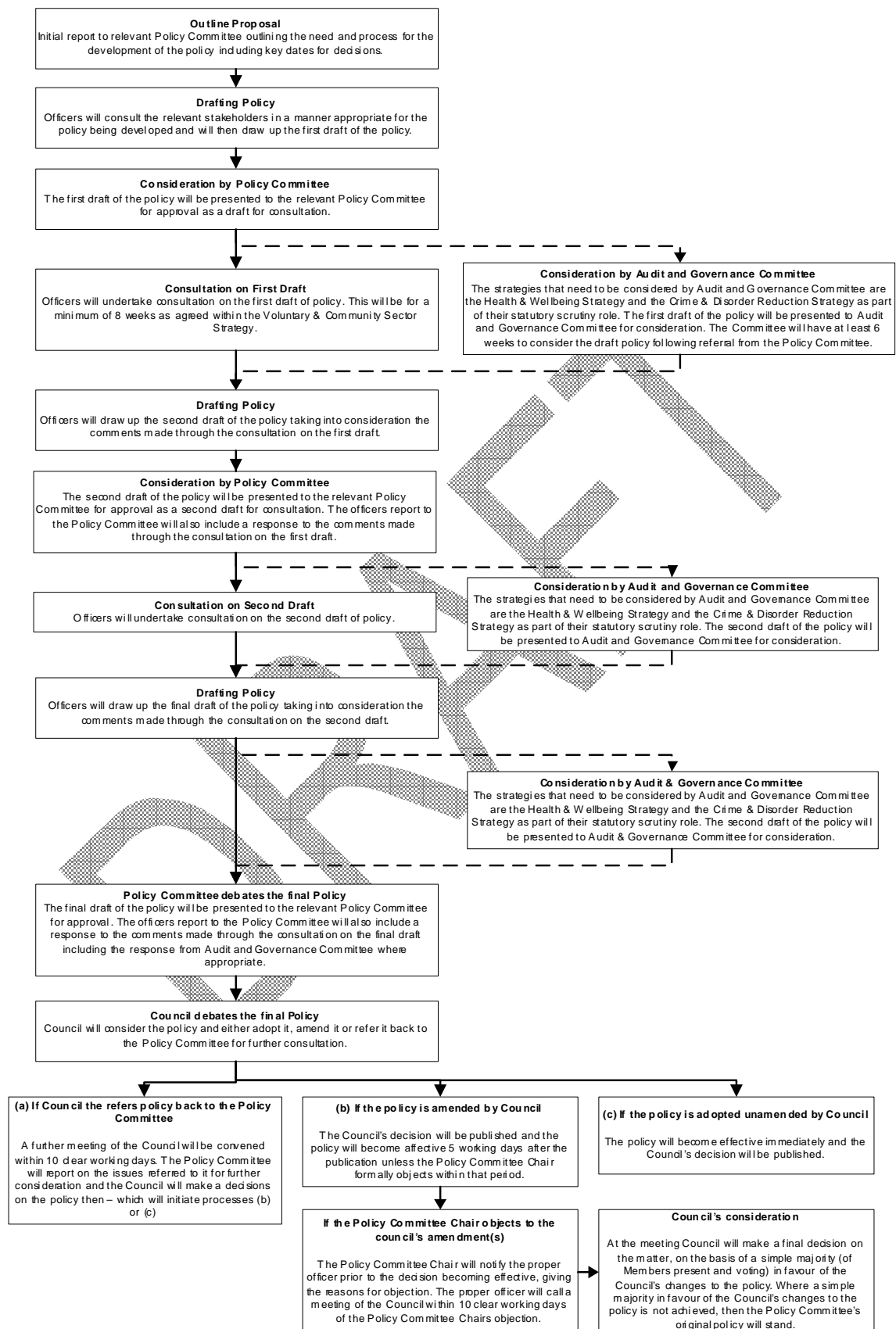
The Council must identify the issue(s) that it wished the Policy Committee to reconsider and the reasons for asking it/them to be reconsidered. A further meeting of Council will be convened within 10 clear working days and at that meeting the Council will make a decision on the proposals by a simple majority of those Members voting and present. The Policy Committee will report on the issues referred to it for further consideration.

(i) If the policy is amended by Council

The Council's decision will be published and the proposals will become effective five working days after the publication of the decision unless the Chair of the Policy Committee formally objects, within that period.

If the Chair of the Policy Committee objects to the Council's amendment(s) to the policy, the Policy Committee Chair will notify the proper officer prior to the decision becoming effective, giving the reasons for the objection. The proper officer will call a meeting of Council within 10 clear working days of the Policy Committee Chair's objection. Council will reconsider the issue in light of the objection. At the meeting Council will make a final decision on the matter, on the basis of a simple majority (of Members present and voting at the meeting) in favour of the Council's changes to the Policy Committee's proposals. Where a simple majority in favour of the Council's amendment(s) is not achieved, then the Policy Committee's original policy will stand.

Figure 2 - Summary of policy framework process



4. Decisions outside the Budget or Policy Framework

- i) Subject to the provisions of section 5 (Flexibilities), Committees or Officers exercising delegated powers, may only take decisions which are in accordance with the budget and policy framework. If any Committees or officer acting under delegated powers wishes to make a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council subject to section 4 (urgent decisions outside the budget or policy framework) below.
- ii) If a Committee or an officer exercising delegated powers is unclear as to the status of a proposed decision, they should take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of either of these Officers is that the decision would not be in accordance with the budget and/or policy framework, then the Committee or officer must amend the decision, in consultation with the statutory Officers, to comply with the budget or framework. The decision can also be referred to Council, who may amend the budget and/or policy framework to accommodate the decision. If the decision is a matter of urgency, the provisions in section 4 (urgent decisions outside the budget and policy framework) shall apply.

5. Urgent decisions outside the Budget or Policy Framework

- i) The Finance and Policy Committee or an officer acting under delegated powers may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget approved by Full Council, if the decision is a matter of urgency. However, the decision may only be taken:
 - If it is not practical to convene a quorate meeting of the Full Council; and
 - if the Ceremonial Mayor acting as Chair of the Council in consultation with the Monitoring Officer and/or Chief Finance Officer agrees that the decision is a matter of urgency. In the absence of the Chair of the Council the approval of the Vice-Chair of Council, will be sufficient.
- ii) The reason why it is not practical to convene a quorate meeting of Full Council and the Chair of Council's consent to the decision being taken as a matter of urgency, must be noted on the record of the decision.

- iii) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6. Flexibilities

The Financial Procedure Rules in Part 4 give details of flexibilities available in implementing the financial framework. Key aspects are set out below:

- i) The Council shall have the budget heads set out in the annual budget book.

Virement

- ii) Steps taken by Committees to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals should be entitled to vire across budget heads on the following basis:

- Revenue budget – The Chief Executive and Directors may approve revenue budget transfers up to £100,000 (cumulatively up to £200,000 over the financial year) and that formal approval be sought for Council for transfers over this limit.

There be no other revenue budget transfers outside of the above limits and no transfer between 'Directorates' without former Council approval.

- Capital budget - up to £10,000 for schemes up to £100,000, and for schemes over £100,000, up to 10% or £50,000, whichever is the lesser.
- Virement in accordance with the Closure Strategy be undertaken by the Chief Finance Officer.

- iii) Beyond these limits any virement across budget heads shall require the approval of Full Council.

Resources

- iv) Resources may be transferred into/out of specific reserves.
- v) Government grants or other financial support, whether or not included within the budget, may be allocated in accordance with the relevant conditions or strategies of the Council;

7. In year changes to the Budget and Policy Framework

The responsibility for agreeing the budget and policy framework lies with the Council and decisions by Committees or Officers exercising delegated powers must be in accordance with it. No changes to any policy and strategy which make up the budget and policy framework may be made by those bodies or individuals acting under delegated powers except those changes necessary to ensure compliance with the Law, Ministerial direction or Government guidance.

DRAFT

CONTRACT PROCEDURE RULES

CONTENTS

Rules

Introduction	31
Part A – Scope of Contract Procedure Rules	39
1. Application of Contract Procedure Rules	
Part B – Selected Tenderers Lists	40
2. Compilation of Selected Tenderers Lists	
Part C – Procurement Procedures.....	41
3. Note	
4. Informal Procedure - Contracts under £2,000	
5. Formal Quotations Procedure - Works Contracts £2,000 - £100,000	
Goods, Materials or Services Contracts £2,000 - £60,000	
(In-House bid contracts £2,000 - £100,000).	
Part D – Best Price Procedures.....	43
6. Tender Procedure - Works Contracts over £100,000, Goods, Materials or Services Contracts over £60,000, (In-House bid contracts over £100,000).	
7. Public Notice provisions	
8. Selected tenderers provisions	
9. Acceptance of tender	
Part E – Price/Quality Procedures	44
10. Price/Quality Contracts Provisions	
Part F – Strategic Partnerships	45
11. Strategic Partnership Contracting Provisions	
Part G – General Provisions	46
12. Opening of Tenders	
13. Tenders to be returned in sealed envelopes	
14. Agreed Marking Mechanism	
15. Contracts to be in writing	
16. Liquidated Damages and Performance Bonds	
17. Vetting and Signature of contracts	

- 18. Tenderers withdrawal
- 19. Post contract variations and negotiations
- 20. Extensions to Contracts

Part H – Glossary50

- 21. Interpretation

DRAFT

INTRODUCTION

1. Contracts covered by the rules

- i) The following procedure rules apply to contracts entered into by the Council whether under authority exercised by Full Council, a Policy Committee or a relevant officer. The contracts to which they are applicable are contracts for the acquisition of goods, materials or services or for the execution of works, with certain exceptions set out in the rules.
- ii) The rules do not represent a total procedure package – rather they stipulate a number of requirements that must be complied with within any contract letting procedures adopted. For further details of the procedures to be followed in the procurement of goods and services, reference should be made to the Procurement Guidance (Officers Guide to Procurement), which gives a wider explanation of the Council's procurement policies and practices. Where significant expenditure is contemplated, the rules establish requirements in the context of three contract-letting concepts –
 - Best Price basis - lowest price where price to be paid by Council; highest price where price to be received by Council;
 - Price/Quality – contractor to be selected on basis of combination of price and quality, buyer of goods/services to be selected on basis of combination of price and benefits to Hartlepool residents;
 - Strategic Partnerships – arrangements to be developed between the Council and its strategic partners (including other public sector organisations), to exploit common resources, potential economies of scale, support local infrastructure or to secure continuing service provision.

2. Procurement Exercises undertaken as a result of a successful challenge under the Localism Act 2011

- i) Once a decision has been made to procure a service following acceptance of a challenge submitted under the 'Community Right to Challenge' legislation, the Council's Contract Procedure Rules come into effect.
- ii) As with all other procurement activities undertaken by the Council, the procurement procedure will be selected by assessing the value of the contract to be awarded – as described later in these rules.
- iii) Given the possible nature of the services subject to challenge, care will need to be taken to ensure that evaluation criteria are utilised which reflect the Council's obligation to secure Best Value and meet the

requirements and principles laid down in the Public Services (Social Value) Act 2012, i.e. to consider how the procurement can promote or improve the social, economic or environmental well-being of the authority's area.

- iv) In addition, care will be taken to ensure that Third Sector and Voluntary & Community Sector organisations are not excluded from bidding for services as a result of the Council incorporating requirements which are not proportional to the value of the service and any associated risks relating to public safety, service delivery, service continuity etc.
- v) In addition to the above, any planned procurement activity will take into account any pre-existing contractual obligations the Council may have. This may result in decisions being required on whether to extend or terminate existing contracts.

3. Central Purchasing Contracts and Framework Agreements

- i) Where goods or services are to be acquired of a nature in respect of which a central contract or framework agreement has been established by the North East Procurement Organisation (NEPO), via a national, regional or other public sector collaborative arrangement the Council's Procurement Unit, or is a contract designated as the Council's preferred channel, such goods and services will be purchased through that contract or framework agreement unless the Chief Officer, following consultation with the Council's Corporate Lead for Procurement considers a special exemption can be made.
- ii) Goods or services for which the Council has; accepted a tender submitted to NEPO or the Council's Procurement Unit or, where they can be secured through a contract or framework agreement which has been designated as the Council's preferred channel (as detailed in 3(i) above), are outside the scope of the Contract Procedure Rules and will be obtained from the relevant supplier in accordance with the applicable procedures.

4. Select Lists

- i) Where goods, services or works are to be acquired of a nature in respect of which a Select List has been established or adopted by the Council, such goods, services or works will be purchased through that arrangement unless the Chief Officer, following consultation with the Council's Corporate Lead for Procurement considers a special exemption can be made.
- ii) Goods or services for which the Council has accepted a tender submitted via a Select list are outside the scope of the Contract

Procedure Rules and will be obtained from the relevant supplier in accordance with the procedures defined for using the Select List.

5. Strategic Partnerships

- i) Where goods or services are to be acquired of a nature in respect of which the Council has established a Strategic Partnership with another provider, such goods and services will be acquired through that Strategic Partnership. Only in exceptional circumstances and following consultation with the Council's Corporate Lead for Procurement and the Chief Solicitor, will exemptions be made.
- ii) Strategic Partnerships of the kind intended in these Contract Procedure Rules are likely to be of a lengthy duration and as a result, will typically represent a monetary value well in excess of the threshold detailed in the Public Contracts Regulations (2006) – currently £173,934 (2013).
- iii) The Public Contracts Regulations impose specific requirements in relation to the setting up of strategic partnerships (as opposed to letting contracts through the normally required competitive procurement routes) with the main considerations revolving around structural control, economic dependency, and the pursuit of objectives in the public interest.
- iv) This is a highly complex area and as such, any Council activities identified as possibly suitable for the creation of a Strategic Partnership must be referred to the Council's Legal Division for consideration.

6. The Rules and an In-house Provider

- i) These rules do not apply when a decision is taken to have work executed by an in-house provider such as Neighbourhood Services, without competitive process provided that the service is not subject to a challenge under the 'Community Right to Challenge' legislation.
- ii) Should such a challenge exist, contracts will not be awarded until the outcome, either successful or unsuccessful of the challenge has been ascertained.
- iii) In such circumstances, the provider being a department or division of the Council, there is no contract as it is a fundamental principle of contract law that a party cannot contract with itself. Even where a competitive process has taken place and the work is awarded to the in-house provider on the basis of their bid, there is no contract.
- iv) This has the consequence that, when it is necessary for the in-house provider to have some part of the work done by an outside contractor, the contract with the outside contractor is a 'contract', rather than a

'sub-contract' (requiring specific contract provision regulating the relationship between the in-house provider and the external contractor which is outside the scope of this commentary). For the purposes of their bid as part of a competitive process, the in-house provider may wish to include elements of cost for an external contractor and provision is made for a higher limit for informal/quotation procedures to be followed in such circumstances. Costs established through these informal/quotation/tender procedures can then be used as the basis of the contract with the external contractor without further tendering procedures being followed. In these rules, such contracts are referred to as "In-house Bid Contracts".

7. Recording of decision making process with regard to Procurement Strategy

- i) As part of their specification writing and tender preparations, procurers must record details of and the rationale behind the procurement strategy to be employed. As a minimum, the details must include the following:
 - Scope of the contract
 - Reasons for tender packaging and structure of lots
 - Basis of any price/quality split to be used in the evaluation process
- ii) This information is to be retained for audit purposes and in the event that the relevant Policy Committee requests a review of the procurement process followed.
- iii) Considerations which will inform decisions around the procurement strategy to be employed are likely to include: -
 - Value of contract and method of payment
 - Nature of project - e.g. is the work involved of a specialist nature where the contractor's techniques, design talents, contacts with government departments, national agencies etc are likely to be material to any choice
 - Length of contract and any extension arrangements
 - Frequency of need for services/work
 - Importance of adherence to budget and cost monitoring
 - Client input and contract management throughout the project
 - In the event of the contract arising as a result of a successful challenge under 'Community Right to Challenge' legislation the

Council will consider its obligations and stated preferences in relation to delivery of services and the opportunities the contract may provide to support and develop the Third and Voluntary Sectors in the locality.

8. Roles and Responsibilities

- i) Responsibility for decision making and action under contract letting procedures and for monitoring of the application of the contract procedures will be spread over the Council, in the interests of both efficiency and probity.

The role of Members Policy Committees or the Council

- ii) Most contracts will relate to 'policy' functions and regulations, provided that those functions may only be discharged by Full Council, a Policy Committee or a relevant officer, as the case may be. In respect of contracts relating to their policy functions, Policy Committees of the Council will have the responsibility:
- To determine the policy aims of the project, or service to be acquired
 - To establish the level of expenditure for the project or service.
 - To waive any element of the Contract Procedure Rules in the case of an individual project / service or class or group of contracts / services and to delegate such decisions to the relevant Chief Officer or the Council's Corporate Lead for Procurement where deemed appropriate.

The Finance and Policy Committee

- iii) In order to ensure monitoring in the award of contracts, the Committee will review outcomes after the completion of a tender procedure. In respect of any tender the Committee will have the responsibility:
- The same functions under 8(ii) above in its role as a Policy Committee.
 - To receive and examine quarterly reports on the monitoring and outcome of contract letting procedures including outputs, values, value for money considerations and performance (incorporating if necessary provider comparative analysis) where lowest/highest price is not payable/receivable.
 - To receive and examine reports on any exemptions granted to these Contract Procedure Rules

iv) **The Audit and Governance Committee**

To monitor contracts (at the discretion of the Committee) subject to the formal quotation and tendering procedures.

The Role of Officers - The Chief Officer/Officer Team

v) The Chief Officer/Officer Team will have the responsibility:

- To prepare the specification and procurement strategy in accordance with section 7 of this introduction.
- To approve use of selected tendering lists or frameworks, if none available, to determine the tendering list for the contract.
- To advertise/issue invitations for expressions of interest, where appropriate.
- To determine a marking mechanism for each contract or for categories of contracts.
- To select contractors for participation in contracts procedures.
- To evaluate proposals & contractors and allocate scores.
- To approve the successful contractor.
- To open all tenders in conjunction with Democratic Services and the Corporate Procurement Unit.

vi) The relevant Chief Officer must:-

Record the outcome of all tenders indicating:-

- Contract Name and Reference number;
- Description of Goods / Services being procured;
- Department / Service area procuring the Goods / Services;
- Bidders;
- Prices (separate to Bidders details to preserve commercial confidentiality);
- Identity of successful Bidder.

And report the above information to the Finance and Policy Committee on a quarterly basis.

vii) It is presumed that Officers responsible for procuring goods, works and services under these rules are familiar with the powers delegated to Officers under the Council's delegation scheme, at least to the extent that those powers enable an officer to take action without a specific authority from Members. Where an officer is given power to take action (eg to incur expenditure for which budgetary provision has been made),

that power includes the power to enter into any contract necessary to secure the goods, works or services involved. In the interests of transparency, the requirement for the outcome of a Tender letting procedure to be reported to the Finance and Policy Committee applies to contracts undertaken by an officer under delegated powers, but the responsible officer, rather than the Chief Solicitor would sign such a contract.

9. Electronic Procurement (e-Procurement)

- i) It is the Council's policy that, whenever possible, procurement shall be carried out electronically. All procurement carried out, on any e-procurement system approved by the Chief Solicitor and the Council's Corporate Lead for Procurement, is subject to these Rules.

10. The Public Services (Social Value) Act 2012

- i) The Public Services (Social Value) Act places a number of statutory obligations on the Council, in relation to certain elements of its procurement practices.
- ii) The Act applies to all contracts for services and framework agreements to which the Public Contracts Regulations 2006 ('the Regulations') apply, but not call-offs under those frameworks. In real terms this means that the Act only applies to services contracts with a value in excess of the current EU Public Procurement thresholds (currently £173,934 excl VAT).
- iii) The Act does not apply to below threshold contracts or any works or supplies contracts. However, it is likely that 'mixed' contracts involving services will be subject to similar analysis as is currently undertaken in terms of the dominant value test.
- iv) As the Act covers service contracts as defined in the Regulations the duty appears to extend to Part B service contracts since these service contracts are covered by the Regulations albeit the requirements for the procurement of such contracts are less onerous.
- v) The Act also includes an amendment to section 17 of the Local Government Act 1988 (exclusion of non-commercial considerations in the case of local and other public authority contracts) which basically enables the Council to consider non-commercial matters when awarding business, provided this is done in pursuit of the duties imposed by the Public Services (Social Value) Act 2012.
- vi) The Council confirms that it will consider the following when proposing to procure or make arrangements for procuring services and will ensure

that the Council's Key Social Values, as described in the Sustainable Community Strategy or Council Plan, are taken into account:

- How what is being proposed to be procured might improve the economic, social and environmental wellbeing of the relevant area (and this is the Authority's own area (or combined areas if it is a joint procurement) in which it 'primarily exercised its functions');
 - How, in conducting the procurement process, it might act with a view to securing that improvement (although the Act makes it clear, in order to remain inline with EU law, that anything under this limb must be relevant and proportionate in respect of the proposed contract);
 - Whether they need to undertake any consultation about the two limbs of the duty as set out above.
- vii) Where appropriate, tender documentation will include a reference to the Act and will provide the opportunity for bidders to propose the delivery of 'Social Value' as part of their submission with such proposals being considered and scored as part of the tender evaluation process.
- viii) Whilst the 'Public Services (Social Value) Act 2012' places a requirement on the Council to consider the issues described above, the Council is committed to the principles of the Act in all of its procurement activities, regardless of the value of the procurement or the nature, ie not solely service contracts to the exclusion of supply and/or works contracts, and will endeavour to apply these principles in a relevant and proportionate way.

11. General

- i) In the event of conflict between this Introduction and the following Contract Procedure Rules, the latter shall prevail.
- ii) These rules are made in pursuance of Section 135 of the Local Government Act 1972 and any statutory modification or amendment thereto.

PART A - SCOPE OF CONTRACT PROCEDURE RULES

1 Application of Contract Procedure Rules

- i) These rules apply to every contract for the supply of goods, materials or services or for the execution of works, so far as they are relevant to a contract of the type determined by Council, except as provided in (ii) below.
- ii) With the exception of (vii) below, these rules do not apply to contracts with professional persons or contractors for the execution of works or the provision of services in which the professional knowledge and skill of these persons or contractors is of the primary importance, or where the contract is for the provision of caring services to children or vulnerable persons.
- iii) No exception from any of the rules shall be made otherwise than by direction of a Policy Committee or the Council or in any case of urgency, the Chief Officer after consultation with the Monitoring Officer. A record of any exception from any of the provisions of these procedure rules shall be reported to the Finance and Policy Committee on a quarterly basis and shall specify the case or urgency by which the exception shall have been justified.
- iv) Any granted exemption to these Contract Procedure Rules shall remain valid for a maximum period of 12 months. Officers will not be able to rely upon the granted exemption beyond this point and a procurement process must be undertaken in accordance with these Contract Procedure Rules, wherever possible.
- v) For the purposes of any financial limit referred to in the rules, if the application of the rules to a particular contract cannot be identified until after opening of any tender, the value of the contract shall be as estimated by the Chief Officer.
- vi) Reference in these rules to any decision, authority or action of the Council, a Policy Committee or an officer shall be deemed to include reference to a decision approval or action of the responsible body or officer prior to as well as after the adoption of these rules.
- vii) The letting of any contract shall also comply with any legislation or regulations relevant to the contract, Health and Safety Regulations, the European Directive on public procurement and the Council's Financial Regulations.
- viii) In respect of any contract to which, for whatever reason, the procedures set out in these rules do not apply, there shall be followed a procedure which:

- ensures a level of competition consistent with the nature and value of the contract
- is transparent and auditable
- provides value for money, and
- records the reasons for choosing the successful contractor

PART B - SELECTED TENDERERS LISTS

2 Compilation of Select Tenderers Lists

- i) This rule applies where a decision has been made that a list shall be kept of persons to be invited to tender for contracts for the supply of goods, materials or services of specified categories, values or amounts, or for the execution of specified categories of work.
- ii) The list shall include, where possible, a minimum of four persons, wherever practicable two of which should be local to Hartlepool, and shall;
 - be approved by the Chief Officer;
 - contain the names of all persons included in it subject to their approval by the Chief Officer/Head of Department, the appropriate technical officer (being satisfied that they have the capacity to undertake the contracts envisaged), the Health, Safety and Wellbeing Manager or Chief Executive's nominee (being satisfied that they have adequate Health and Safety arrangements) and the Chief Finance Officer (being satisfied that they are financially sound); and
 - indicate whether a person whose name is included in it is approved for contracts for all or only some of the specified values or amounts of categories.
- iii) At least six weeks before the list is first compiled, notices inviting applications for inclusion in it shall be published:
 - a. in one or more local newspapers circulating in the district, and/or
 - b. on the procurement pages of the Council's website, and/or
 - c. in one or more newspapers or journals circulating among such persons as undertake contracts of the specified values or amounts or categories.
- iv) The list may be amended by the appropriate Chief Officer as required from time to time and shall be reviewed as follows:

- Review to be carried out at intervals not exceeding 4 years, where an update of the list is carried out and notices inviting applications for inclusion in the list shall be published in the manner provided by paragraph (iii) of this section.
- Update to be carried out at intervals not exceeding 2 years, where each person whose name appears in the list shall be asked whether s/he wishes his/her name to remain therein.

Any such amendment or update shall be approved by the Chief Officer.

3. Adoption / Development of Corporate or Collaborative framework agreements

- i) This rule applies where a decision has been made to adopt or develop a framework agreement corporately and where the agreement is to be used exclusively with no 'off-contract' purchases being made.
- ii) When developing / adopting framework agreements for corporate use, the agreement must include a number of suppliers appropriate to the nature and subject of the framework agreement.
- iii) The maximum duration of any such framework agreement is 4 years. This limit refers to the duration of the framework agreement and not any contracts implemented via the framework agreement. The duration of Framework Agreements may not be extended beyond the 4 year limit.
- iv) Procurement processes and public notice provisions for developing framework agreements are the same as those detailed in Part B section 2
- v) Any exemptions relating to the use of alternative procurement routes to approved Corporate framework agreements (for goods / works / services covered by approved Corporate framework agreements) are to be requested from the Council's Corporate Lead for Procurement and will be reported to the Finance and Policy Committee on a quarterly basis.

PART C - PROCUREMENT PROCEDURES

3 NOTE:

- i) The requirements detailed in this Part C do not apply to contracts which have been determined should be let under the Selected Tenderer or Corporate framework provisions (see Part B) or which relate to the following matters: -
 - (a) Purchase by auction;

- (b) Work to be executed, or goods materials or services to be purchased, which are a matter of urgency;
- (c) The work to be executed or the goods, materials or services to be supplied consist of repairs to or parts for existing machinery or plant;
- (d) The goods, materials or services to be purchased are such that a substantial proportion of the price is likely to be attributable to haulage;
- (e) The purchase of goods, materials or services which are obtainable only from a limited number of contractors, but in such case a reasonable number of contractors shall be invited to submit tenders.
- (f) Purchase or repair of patented or proprietary article or articles sold only at fixed price;
- (g) The goods, materials or services to be purchased are such that effective competition is prevented by government control;
- (h) The prices of the goods, materials or services to be purchased are controlled by a trade organisation or for other reasons there would be no genuine competition.
- (i) Purchase of second-hand goods.
- ii) NOTE: All quotations / tenders referred to in sections 4, 5 and 6 below are to be sought from pre-determined frameworks or existing contracts, where such arrangements exist.
- iii) Where such arrangements do not exist, a minimum of two local suppliers (where available) must be invited to submit a quotation in respect of the processes outlined in sections 4 & 5. This is not possible with section 6 (Tenders) as these are advertised however steps should be taken to communicate opportunities to local businesses.

4. Informal Procedure –

i) Contracts under £2,000

For a contract for less than £2,000, reasonable enquiries shall be made to determine that the price is fair and reasonable and records retained to evidence such reasonable enquiries.

5. Formal Quotations Procedure –

i) Works contracts £2,000 - £100,000 Goods materials or Services Contracts £2,000 - £60,000 (In-house bid contracts £2,000 - £100,000)

In respect of contracts:

- for the execution of works over £2,000 and up to £100,000 (for In-house bid contracts see 'The rules and an In-house provider' in these Contract Procedure Rules); or
- for the supply of goods materials or services over £2000 and up to £60,000 (£100,000 for In-house bid contracts)

at least three documented quotations shall wherever possible be obtained. All quotations are to be secured using the Council's prescribed system and process of quotation gathering, the default position being a requirement to use the Council's e-procurement system.

PART D – BEST PRICE PROCEDURES

6. Tender Procedure –

i) Works contracts over £100,000 Goods materials or Services Contracts over £60,000 (In-house bid contracts over £100,000)

Except for contracts described in Rule 3, no contracts which exceed £100,000 in value or amount for the execution of any works, or £60,000 (£100,000 in the case of an In-house bid contract) in value or amount for the supply of goods, materials or services shall be made unless public notice has been given in accordance with the Public Notice provisions (see Rule 7).

7 Public Notice provisions

- i) At least fourteen calendar days public notice shall be given
 - in one or more local newspapers circulating in the district, and/or
 - on the procurement pages of the Council's website, and/or
 - on the Council's chosen procurement portal and/or
 - wherever the value or amount of the contract exceeds £100,000 in the case of execution of any works or exceeds £60,000 in the case of supply of goods, materials or services, and where

deemed appropriate, in one or more newspapers or journals circulating among such persons as undertake such contracts,

expressing the nature and purpose of the contract, inviting tenders for its execution and stating the last date (not less than 21 days after appearance of the public notice) when tenders will be received.

- ii) After the date specified in the public notice, invitations to tender for the contract shall be sent to not less than four of the persons who applied for permission to tender, selected by the Chief Officer in the approved manner, either generally or in relation to a particular contract or category of contract or, if fewer than four persons have applied and are considered suitable, to all such persons.

8. Selected tenderers provisions

- i) This rule applies where it has been determined that the invitation to tender for a contract is to be limited to persons whose names appear on a Selected Tenderers list compiled under Rule 2. An invitation to tender for that contract shall be sent to at least four of those persons included in the list as being approved for a contract for that value or amount or of that category, or, if there are fewer than four such persons, to all such persons. If there are four or more such persons, the persons to whom invitations are sent shall be selected by the Chief Officer in the manner approved, either generally or in relation to a particular contract or to a category of contracts.

9 Acceptance of tenders

- i) A tender –
 - other than the lowest tender if payment is to be made by the Council or
 - other than the highest tender if payment is to be received by the Council,

shall have the reason for its acceptance recorded and notified to the Finance and Policy-Committee on a quarterly basis.

PART E - PRICE/QUALITY CONTRACTS

10. Price/Quality Contracts Provisions

- i) This rule applies when it has been determined by the Chief Officer, that the contractor shall be chosen on the basis of a combination of price and performance and for which a price/quality ratio has been determined.

- (a) Where there is a relevant Select List of Contractors or framework for the nature of work or service involved in the project, the Chief Officer shall invite the appropriate contractors from the list to indicate whether they are interested in undertaking the proposed works.
- (b) Where there is no Select List of Contractors or framework the rules defined in sections 3, 4 or 5 are to be applied.
- ii) An Agreed Marking Mechanism (see Rule 14) shall be applied to calculate the Price/quality Score of each tender.
- iii) The tender with the highest Price/Quality Score will usually be accepted.

PART F – STRATEGIC PARTNERSHIPS

11. Strategic Partnership Contracting Provisions

- i) There are a wide range of possibilities with regard to the establishment of Strategic Partnerships however care must be taken to consider the possible impact of public procurement regulations when considering any such course of action.
- ii) Examples of public-public co-operation arrangements which may be exempt from the Public Procurement regulations are:
 - a) Public tasks performed by own resources

Under the procurement rules, a contracting authority remains free to perform the public tasks conferred on it by using its own administrative technical and other resources, without being obliged to call on outside entities not forming part of its own structure. The procurement rules do not apply where a contracting authority performs a public task by using its own resources in such a way that no contract for financial interest is concluded, because the situation is internal to one and the same legal person.

The possibility of performing public tasks using own resources may also be exercised in co-operation with other contracting authorities provided this does not involve remuneration or any exchange of reciprocal rights and obligations, there is no service provision within the meaning of EU public procurement law.

However, where contracting authorities conclude contracts for financial interest with one another, the case law indicates that this may in certain circumstances (despite the general principle) fall outside the scope of the procurement rules. Where

contracting authorities co-operate with a view to jointly ensuring the execution of public interest tasks, then this may involve the award of contracts without triggering the obligation to apply EU public procurement law.

- iii) Clearly the possibilities for establishing Strategic Partnerships without undertaking a competitive procurement exercise do exist, although, as stated earlier, this is a very complex area and any such proposals must initially be passed to the Council's legal Division for consideration.

G - GENERAL PROVISIONS

12. Opening of tenders

- i) Written tenders shall be opened at one time and only in the presence of: -
 - The relevant Chief Officer or representative
 - An Officer from Democratic Services
 - An officer from the Corporate Procurement Unit
- ii) Electronic tenders shall be opened at one time and only in the presence of: -
 - The relevant Chief Officer or representative
 - An Officer from Democratic Services
 - An officer from the Corporate Procurement Unit
- iii) Paragraph (i) and (ii) of this Provision shall not apply to tenders obtained for the In-house Provider for the purpose of compiling a bid as tender for submission by the In-house Provider, which tenders shall be opened by the relevant Chief Officer or their nominated Officers.
- iv) Paragraph (i) and (ii) of this Order shall not apply to tenders which are received through the execution of an e-auction. In such an event, the following will take place:
 - a) The relevant Chief Officer and Democratic Services representative will be advised of the e-auction event dates and times by the Corporate Procurement Unit and arrangements made to accommodate relevant Officers at the live auction event should they wish to attend.
- v) The outcomes of all (written and electronic) tenders are to be recorded indicating:-

- Contract Name and Reference number
- Description of Goods / Services being procured
- Department / Service area procuring the Goods / Services
- Bidders
- Prices (separate to Bidders details to preserve commercial confidentiality)
- Identity of successful Bidder

This information will be reported to the Finance and Policy Committee on a quarterly basis.

13 Tenders to be returned in sealed envelopes (except in the event of the Council's approved e-procurement system being used)

- i) Every notice of invitation to tender shall state that no tender will be received except in a plain sealed envelope which shall bear the word "Tender" - followed by the subject to which it relates - but shall not bear any name or mark indicating the identity of the sender. Envelopes shall be returned to the Chief Executive and once received shall remain in the custody of the Chief Executive or his/her nominee until the time appointed for their openings.
- ii) The Chief Executive or the Chief Officer of the In-house Provider (as the case may be) shall keep a record of all tenders received.

14. Agreed Marking Mechanism

- i) No Price/Quality procedure shall be commenced unless there has been an Agreed Marking Mechanism developed.

Bidders shall be informed of the elements to be marked and of the comparative importance of each element as a percentage of the available marks.

15. Contracts to be in writing

- i) Every contract, other than those for goods / services which are classified as exempt, shall be the subject of a Council purchase order and shall specify:
 - (a) the work, materials, matters or things to be furnished, had or done;
 - (b) the price to be paid, with statement of discounts or other deductions; and
 - (c) the time or times within which the contract is to be performed.
- ii) Where the value of the contract exceeds the financial limits which require a tender process to take place (see Rule 6) the contract must

be the subject of a formal written contract signed in accordance with Rule 17.

16. Liquidated Damages and Performance bonds

Every contract which exceeds £100,000 in total value or total amount over its lifetime and is either for the execution of works or for the supply of goods, materials or services, shall, unless the Chief Officer otherwise decides after consultation with the Chief Solicitor, provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed, and the Council shall also require and take sufficient security for the due performance of any such contract. In the case of any such contract for the execution of works such security shall be provided by requiring the retention of a proportion of the contract sums payable until the work has been satisfactorily completed and maintained and, unless the Chief Officer, after consultation with the Chief Solicitor considers it unnecessary in any particular case, additional provision of a bond for due performance.

17. Vetting and Signature of contracts

i) Contract Vetting

- a) Contracts which are subject to the requirements of Part D – TENDER PROCEDURES are to be referred to the Corporate Procurement Unit for vetting.
- b) The Corporate Procurement Unit must refer all contracts which are subject to the requirements of Part D – TENDER PROCEDURES and which incorporate additional terms and conditions to those contained in the Council's approved standard contractual documentation to the Council's Legal Services Department for vetting.

ii) Contract Signature

- a) Except for contracts entered into by an officer in exercise of delegated powers, the Chief Solicitor shall be the agent of the Council to sign on behalf of the Council all contracts agreed to be entered into by or on behalf of Policy Committees or the Council.
- b) Contracts which are for a value of £100,000 or more shall be either-
 - executed by the Chief Officer and the Chief Solicitor or the Chief Finance Officer or
 - executed under the Council's seal (to be affixed in the presence of the Chief Solicitor (or in his/her absence, some other person authorised by him/her)).

18. Tenderers withdrawal

- i) In the event of any person or firm withdrawing a tender, or declining to sign a form of contract upon being called on to do so after his/her or their tender has been accepted (whether accepted subject to the Council's approval or not), no further tender from such a person or firm shall, unless the Finance and Policy Committee or the Council otherwise resolve, be considered for a period of three years.

19 Post contract variations and negotiations

- i) Except for a variation –
 - (a) which does not substantially affect the nature of the works services goods, materials or services to be supplied to the Council and does not increase the payment to be made by the Council, or
 - (b) is made in accordance with paragraph (ii)

a contract shall not without the authority of the relevant Policy Committee or the Council depart from the description of the works, goods, materials or services for which the quotation or tender was received.
- ii) This paragraph applies where all of the tenders received exceed the budget allocated for the project and the Chief Officer and the Head of Service relevant to the contract consider that amendments may be made to the specification or procurement process which would result in a price in accordance with the budget. All Tenderers shall each be provided with a schedule of variations / revised instructions and invited to submit a revised bid.
- iii) Apart from discussions with contractors for the purpose of clarification of any element of a tender, or for the correction of arithmetic or other details, (but NOT the resolution of any qualified bids) negotiations following receipt of tenders shall only take place in the following circumstances: -
 - (a) where a single tender has been received and the Chief Officer considers that negotiation may lead to more favourable terms to the Council, or
 - (b) when tenders cannot readily be evaluated and compared without discussion with the tenderers or
 - (c) with the approval of the Chief Finance Officer and the Chief Solicitor and the Monitoring Officer (if different) and any negotiations shall be conducted in accordance with paragraph (iv)

- iv) Discussion with tenderers for the purpose of negotiations under paragraph (iii) shall
- be attended by not less than 2 Council Officers
 - be at a pre-determined time during normal office hours
 - be the subject of a comprehensive written record, signed by the Council Officers in attendance and submitted to the Council's Corporate lead for Procurement for approval

20 Extensions to contracts

- i) Extensions to contracts are limited to no more than 12 months following conclusion of the original contract period (such period to include all extensions already allowed for in the original contract). In the event that an extension in excess of 12 months is required, the decision to implement such an extension must be approved by the relevant Chief Officer and the Council's Corporate Lead for Procurement.
- ii) In the event that a contract extension, as described above, represents a value greater than the applicable EU procurement threshold, then the available extension period will be limited to a time period which represents a level of expenditure below the applicable EU procurement threshold.

PART H - GLOSSARY

21. Interpretation

Unless the context otherwise indicates, the following terms used in these rules have the meanings stated: -

“Agreed Marking Mechanism” is the mechanism which (before the issue of any invitation to tender or attend interview) has been agreed between the Chief Officer and the Council's Chief Internal Auditor for the allocation of marks making up the Price/quality Score (see also Rule 14).

“Chief Officer” is the Chief Officer of the Council who is responsible for letting and supervising the completion of a contract or of contracts of a particular nature. (Director or Assistant Director)

“Electronic Procurement (e-Procurement)” is a fully electronic procure-to pay process from initial requisition and ordering through to invoicing and payment, and can include e-Auctions, e-Purchasing, e-Tendering and Procurement Cards.

“e-Auctions” is the means of carrying out purchasing negotiations via the Internet. A real time event that occurs online allowing multiple

suppliers in different geographic locations to place and modify bids simultaneously.

“e-Tendering” is systems or solutions to enable the tendering process to be conducted via the Internet. Including advertisement of requirement, documentation production, supplier registration, electronic exchange of documents between supplier and buyer, opening of tenders, evaluation of submissions, contract award and publication.

“Policy Committee” is a Committee of the Council acting together in accordance with the Council's Delegation Scheme currently applicable.

“Price/quality Score Matrix” is a matrix showing in respect of all contractors each element of their Price/performance Score and their total scores.

“Price/quality Contract” is a contract for which the contractor is to be chosen on the basis of a combination of price and performance.

“Price/quality Ratio” is the comparative importance of price and performance of the product or service expressed as a percentage ratio.

“Procurement Cards” are charge cards which work in a similar way to credit cards and can be used to purchase goods and services. Can be open to use by any suppliers or have controls placed upon them by the issuer to limit their use to certain suppliers and/or commodities. They are usually used to process low-value, high-volume transactions.

“Public Services (Social Value) Act 2012” is an Act which places a number of statutory obligations on the Council, in relation to certain elements of its procurement practices, specifically to consider:

- How what is being proposed to be procured might improve the economic, social and environmental wellbeing of the relevant area (and this is the Authority's own area (or combined areas if it is a joint procurement) in which it 'primarily exercised its functions')
- How, in conducting the procurement process, it might act with a view to securing that improvement (although the Act makes it clear, in order to remain inline with EU law, that anything under this limb must be relevant and proportionate in respect of the proposed contract);
- Whether they need to undertake any consultation about the two limbs of the duty as set out above.

DRAFT

COUNCIL PROCEDURE RULES

CONTENTS

Rules	Page
1. Annual meeting of the Council	55
2. Ordinary meetings of the Council	56
3. Extraordinary meetings	57
4. Appointment of a Leader	58
5. Appointment of substitute Members of Committees and Sub-Committees	58
6. Time and place of meetings	59
7. Notice of and summons to meetings	59
8. Chair of meeting	60
9. Quorum	60
10. Duration of meeting	60
11. Questions from the public	60
12. Questions by Members	62
13. Motions on notice	65
14. Motions without notice	65
15. Rules of debate	66
16. Previous decisions and motions	70
17. Voting	71
18. Minutes	72
19. Record of attendance	72
20. Exclusion of public	72
21. Members' conduct	73
22. Disturbance by public	73
23. Interests of Members in contracts and other matters	74
24. Suspension, amendment and interpretation of Council Procedure Rules	74
25. Committees and Sub-Committees of the Council	75
26. Application of Procedure Rules	76
27. Reference to Council	76

DRAFT

COUNCIL PROCEDURE RULES

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing of Annual Meetings

In a year when there is an ordinary election of Councillors, the Annual Meeting of Council will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May on a date to be determined by Council.

An Ordinary meeting of Council will be held to make appointments outside of those matters specifically reserved to the Annual meeting, on a date to be agreed by Council and held prior to the Annual meeting. Those appointments will cover Committees, Sub-Committees, Forums, Outside Bodies and Organisations including appointments to Joint Committees.

1.2 Order of Business of Annual Meetings

The order of business at any Annual meeting will be:

- i) To elect a person to preside at the meeting if the Chair is not present;
- ii) To receive apologies from absent Members;
- iii) To elect the Ceremonial Mayor for the coming municipal year;
- iv) To elect the Deputy Ceremonial Mayor of Council for the coming municipal year;
- v) To receive suitable presentations from the newly elected Ceremonial Mayor;
- vi) To receive any declarations of interest from Members;
- vii) To approve the minutes of the last meeting;
- viii) To receive any announcements from the Chair and/or Head of the Paid Service;
- ix) To elect the Leader of the Council if required (and a Deputy Leader of the Council (see Rule 4);
- x) To approve a programme of ordinary meetings of the Council for the year; and

1.3 Variation of Order of Business

Business falling under items (i) to (iv) of rule 1.2 shall not be displaced, but subject thereto the order of business of the Annual Meeting may be varied by the Ceremonial Mayor acting as Chair (hereinafter referred to as 'Chair' for the purposes of these procedure rules).

2. ORDINARY MEETINGS OF THE COUNCIL

2.1 Order of Business at Ordinary Meetings

Unless otherwise provided under rule 2.2 the order of business at every ordinary meeting will be:

- i) To elect a person to preside if the Chair and Vice-chair are not present;
- ii) To receive apologies from absent Members;
- iii) To receive any declarations of interest from Members;
- iv) To deal with any business required by statute to be done before any other business;
- v) To receive questions from and provide answers to the public in relation to matters of which notice has been given under Rule 10;
- vi) To approve the minutes of the last meeting of the Council as the correct record;
- vii) To answer questions from Members of the Council on the minutes of the last meeting of Council;
- viii) To answer questions of Members of the Council under Rule 11;
 - a) Questions to the Chairs of Committees and Forums
 - b) Questions on Police and Crime Panel and Fire Authority issues to the appropriate Members
- ix) To deal with any business required by statute to be done;
- x) To receive any announcements from the Chair, or the Head of Paid Service;
- xi) To dispose of business (if any) remaining from the last meeting and to receive the report of any Committee to which such business was referred for consideration;

- xii) To consider reports from the Council's Committees and to receive questions and answers on any of those reports;
- xiii) To consider any other business specified in the summons to the meeting, and to receive questions and answers on any of those items;
- xiv) To consider reports from the Policy Committees:
 - (a) proposals in relation to the Council's approved budget and policy framework; and
 - (b) proposals for departures from the approved budget and policy framework;
- xv) To consider motions in the order in which notice has been received; and
- xvi) To receive the Chief Executive's report and to pass such resolutions thereon as may be deemed necessary.

2.2 Variation of Order of Business

Business falling under items (i) to (viii) of rule 2.1 shall not be displaced, but subject thereto the order of business of an Ordinary Meeting may be varied:-

- i) by the Chair, or
- ii) by a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings

The persons listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- iii) the Chair, or, in his/her absence, the Vice-Chair;
- iv) the Council's Chief Executive or monitoring officer; and
- v) any five Members of the Council if they have signed a requisition presented to the chair of the council and s/he has refused to call

a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

An extraordinary meeting shall conduct no business other than that for the purpose of which it was called.

4. APPOINTMENT OF A LEADER

The Council may at the Annual Meeting from amongst its Elected Members appoint a Leader of the Council. If the Council does not appoint a Leader of the Council, the Leader of the majority political group on the Council will be the Leader of the Council. Council may also appoint a Deputy Leader of the Council, if the Council does not appoint a Deputy Leader, then the majority political group will so appoint.

“Political Group” is defined in the Local Government (Committees and Political Groups) Regulations 1990.

5. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

5.1 Allocation

As well as allocating seats on Committees and Sub-Committees, the Council at the Annual Meeting will allocate seats in the same manner for substitute Members.

5.2 Designation of Substitutes

A substitute may be designated for each Member appointed to a Committee or Sub-Committee:

- i) by the Council, if so requested by the Member, or
- ii) by the Member, by notification to the Chief Executive (which designation as a substitute shall take effect immediately after notification to the Chief Executive for the specific meeting or until such later time as shall be specified by the Member).

and, in respect of a Member appointed to more than one Committee or Sub-Committee, a different substitute may be designated for each appointment.

A Member designated as a substitute shall undergo such training as required, or as otherwise deemed necessary, in accordance with any

direction or instruction through the Chair of the relevant Committee, any procedural or best practice guidance in the better governance of the Council.

A Member may, by written notification to the Chief Executive, terminate the appointment of a substitute with immediate effect.

5.3 Powers and duties

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

5.4 Substitution

At the commencement of a meeting at which a substitute is to attend as substitute s/he shall identify the Member for whom s/he substitutes who shall be excluded from participating in that meeting and for whom there shall be no further substitution at that meeting.

6. TIME AND PLACE OF MEETINGS

6.1 Annual and extraordinary meetings

The annual meeting and extraordinary meetings of the Council shall unless otherwise directed or determined by the Council be held at the Civic Centre, Hartlepool, commencing at 7.00 p.m.

6.2 Ordinary meetings

The Ordinary meetings of the Council shall, unless otherwise directed or determined by the Council, be held at the Civic Centre, Hartlepool commencing at 7.00 pm in the evening.

7. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting (otherwise than in cases of unavoidable urgency), the Chief Executive will send a summons signed by him/her by post to every Member of the Council or leave it at their usual place of residence or other duly notified address. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

8. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

9. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members (rounded up) 9. During any meeting if the Chair or Chief Executive at the request of any Member counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

10. DURATION OF MEETING

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted until 9.30 pm shall adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

11. QUESTIONS FROM THE PUBLIC

11.1 General

During a period of 45 minutes, or a longer period at the discretion of the Chair, residents of Hartlepool may raise questions of, Chairs of Committees and Sub-Committees at ordinary meetings of the Council in accordance with these procedure rules.

11.2 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon on the Thursday of the week before the meeting (or in the case of a meeting held otherwise than on a Thursday, on the expiry of the fifth clear working day before the meeting). Each question must give the name and address of the questioner and must name the Chair of Committee or Sub-Committee to whom it is to be put (if the questioner is under 16 years of age, the notice must include the name, address and signature of the parent or guardian of the questioner).

Questions may be submitted at a later time than the deadline stated above if, in the opinion of the Chair of the Council, the question relates to an urgent issue that has arisen after the deadline.

11.3 Order of questions

- i) Not later than the day before the commencement of any meeting in respect of which more than one notification has been received under rule 10.2 and not rejected under rule 10.5, the order in which the questions shall be asked shall be determined in a manner of random selection to be stipulated by the Chief Executive. The determination of the order shall take place at the Civic Centre and shall be open to the public.
- ii) There shall be excluded from the process described in rule 11.3(i) the question of any person whose question was dealt with at the immediately preceding ordinary meeting of the Council which shall be placed at the end of the order of questions. If there is more than one question to which this paragraph applies, they shall be asked in the order in which they were asked at the preceding meeting.

11.4 Number of questions

At any one meeting no person may submit more than 2 questions but a question may consist of a number of parts.

11.5 Scope of questions

The Chief Executive in consultation with the Chair of the Council, may reject a question if:-

- i) it is not about a matter for which the Local Authority has a responsibility or which affects the Borough; or
- ii) it is defamatory, frivolous or offensive; or
- iii) it is substantially the same as a question which has been put at a meeting of the Council in the past six months and since when there has been no change of circumstances justifying the resubmission of the question ; or
- iv) it requires the disclosure of confidential or exempt information; or
- v) it is unreasonably excessive because of its length or its number of parts; or
- vi) the name of the person wishing to ask the question is not on the Register of Electors

11.6 Record of questions

- i) The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.
- ii) The Chief Executive shall notify the questioner in writing addressed to the questioner at the address at which s/he is registered that his/her question has been accepted or rejected under rule 11.5 (the letter will be copied to the parent or guardian identified in the notice if the questioner is under 16 years of age)
- iii) Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

11.7 Asking the question at the meeting

- (i) The Chair will invite the Chief Executive to read the submitted question to the Member named in the notice.
- (ii) Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by way of a written answer.
- (iii) Once the question has been put, the Chair of the Committee to whom the question has been put will answer the question.
- (iv) Once the Chair of the Committee has answered the question, Members of the Council may, at the discretion of the Chair of the Council, make comment upon and discuss the issue raised by the question under rule 11.1 or move that the issue raised by the question be referred to a Council Committee.
- (v) A Chair of the Committee answering a question will have a maximum of five minutes to put his or her answer to the question.

12. QUESTIONS BY MEMBERS

12.1 Questions about recent decisions of Council Committees

- (i) A Member of the Council may ask a Chair of a Committee about a decision published and approved for implementation in the period since the last ordinary meeting of the Council. Questions under this rule may be asked without notice. However, the

questioner must identify the Committee who made the decision and the title of the decision taken by the Committee.

- (ii) Once the question has been answered by the Chair of the Committee, at the Chair of Council's discretion discuss the issue or move that the issue be referred to a Council Committee.
- (iii) A Member asking a question will have a maximum of one minute to put his/her question at the meeting. A Chair of a Committee answering a question will have a maximum of five minutes to put his or her answer to the question.

12.2 Questions on notice at full Council

i) A Member of the Council may ask:

- the Chair;
- the Chair of any Committee or Forum

a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Hartlepool and of which s/he has given notice by delivering it in writing or by electronic mail to the Chief Executive no later than noon on the Thursday of the week before the meeting (or in the case of a meeting held otherwise than on a Thursday, on the expiry of the fifth clear working day before the meeting) (or, if the question relates to urgent matters, and the consent of the Member to whom the question is to be addressed has been given, notice may be given to the Chief Executive not later than 1 hour before the time of commencement of the meeting). A Member who submits more than one question shall place the questions in a numbered order of priority and shall indicate whether, in the event that the question is not asked at the meeting of Council for which it is submitted, s/he wishes that the question be asked at the next ordinary meeting of Council or be answered in writing.

ii) A Member may, if a notice in writing has been given to the Chief Executive no later than noon on the Thursday of the week before the meeting (or in the case of a meeting held otherwise than on a Thursday, on the expiry of the fifth clear working day before the meeting) and such notice is signed by a Member before the commencement of the meeting ask:-

- a Member of the Police and Crime Panel any question on any matter in relation to the discharge by the Panel of its functions; or
- a Member of the Cleveland Fire Authority any question on any matter in relation to the discharge by the Fire Authority of its functions.

A Member who submits more than one question shall place the questions in a numbered order of priority

- (iii) Questions of which notice has been given under (i) or (ii) above shall be asked in the order in which notice of the questions was given save that all questions of one priority shall be dealt with before questions of the next priority.
- (iv) Members of the Council may, at the discretion of the Chair of Council, make comment upon and discuss the issue raised by the questioner under (i) or (ii) above and/or move that the issue is referred to a Council Committee.
- (v) (a) A Member asking a question will have a maximum of one minute to put his/her question at the meeting. The relevant Member answering a question will have a maximum of five minutes to put his or her answer to the question

(b) Not more than 1 hour 30 minutes shall be devoted by Council to the answering of questions under this rule provided that the Chair of Council may in his/her discretion extend the time. Any questions remaining unanswered shall (unless the member who gave notice of the question has indicated that the question should be answered in writing) be dealt with at the next ordinary meeting of Council. The first unanswered question of each Member being accorded priority no 1 and subsequent questions accorded priority in the sequence allocated by the Member.

12.3 Reports of the Committees

A Member of the Council may ask the Chair of a Committee any question without notice upon an item within the report of the Committee when that item is under consideration by the Council.

12.4 Response

An answer under Rules 12.2 and 12.3 may take the form of:

- i) a direct oral answer which will be open to further debate in Council;
- ii) where the reply cannot conveniently be given orally, a written answer will be circulated to all Members of the Council. At the discretion of the Chair of Council, the questioner may ask an additional question in accordance with Rule 12.2 at the next ordinary meeting of Council about issues raised in the written answer.

13. MOTIONS ON NOTICE

13.1 Notice

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by at least five Members, must be delivered to the Chief Executive during normal office hours at least 7 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

13.2 Motion set out in agenda

Motions for which due notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.

13.3 Withdrawal of motion not moved

If a motion set out in the agenda is not moved either by a Member who gave notice of it or some other Member on his/her behalf shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

13.4 Remission to committee

If the subject matter of any motion comes within the province of any Committee or Committees it shall, upon being moved and seconded, stand referred without discussion to such committee or committees or to such other Committee or Committees as the Council may determine, for consideration and report. Provided that the Chair may, if s/he considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting of the Council.

13.5 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Borough of Hartlepool.

14. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- i) to appoint a chair of the meeting at which the motion is moved;
- ii) in relation to the accuracy of the minutes;

- iii) subject to rules 1.3 and 2.2, to change the order of business in the agenda;
- iv) to refer a matter to an appropriate body or individual;
- v) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (vi) To consider reports from Committees and Officers, and any resolutions flowing from them.
- vii) to withdraw a motion;
- viii) to amend a motion;
- ix) to extend the time limit for speeches
- x) to proceed to the next business;
- xi) that the question be now put;
- xii) to adjourn the debate;
- xiii) to adjourn the meeting;
- xiv) that the meeting continue beyond the time specified by rule 10 for termination of the meeting;
- xv) to suspend a particular procedure rule;
- xvi) to exclude the public and press in accordance with the Access to Information Rules;
- xvii) that a Member named under Rule 21.3 be not further heard or be excluded from the meeting under Rule 21.4;
- xviii) requesting a Member to leave under rule 23; or
- xix) to give the consent or decision of the Council where its consent or decision is required by these procedure rules.

15. RULES OF DEBATE

15.1 Moving and seconding the motion

- i) Except as provided by this rule, no speeches may be made on a motion until it has been moved and seconded.

- ii) A Member proposing to move a motion shall, on rising, move the motion by stating the terms of the motion without further comment.
- iii) The motion may then be seconded without further comment.
- iv) The Chair shall state the terms of the motion.
- v) The mover of the motion shall open the debate on the motion and subject to rule 15.4 the seconder may reserve their right to speak to later in the debate.

15.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

15.3 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech by the mover of a motion or an amendment may exceed 10 minutes, and no other speech may exceed 4 minutes without the consent of the Council.

15.4 When a Member may speak again

Except under rule 15.1(v) a Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- i) to speak once on an amendment moved by another Member;
- ii) to move a further amendment if the motion has been amended since s/he last spoke;
- iii) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which s/he spoke was carried);
- iv) in exercise of a right of reply;
- v) on a point of order; and
- vi) by way of personal explanation.

15.5 Amendments to motions

- i) An amendment to a motion must be relevant to the motion, will be moved in accordance with the procedure set out in rule 15.1 and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words.

as long as the effect of an amendment is not to negate the motion.

- ii) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- iii) If an amendment is not carried, other amendments to the original motion may be moved.
- iv) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- v) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote as the substantive motion.

15.6 Alteration of motion

- i) A Member may alter a motion of which s/he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- ii) A Member may alter a motion which s/he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- iii) Only alterations which could be made as an amendment may be made.

15.7 Withdrawal of motion

A Member may withdraw a motion which s/he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

15.8 Right of reply

- i) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- ii) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- iii) The mover of the amendment has no right of reply to the debate on his or her amendment but if that amendment becomes the substantive motion s/he has the right of reply at the close of the debate on that motion.

15.9 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- i) to withdraw a motion;
- ii) to amend a motion;
- iii) to proceed to the next business;
- iv) that the question be now put;
- v) to adjourn the debate;
- vi) to adjourn the meeting;
- vii) that the meeting continue beyond the time specified by rule 10 for termination of the meeting;
- viii) to exclude the public and press in accordance with the Access to Information Rules; and
- ix) to not hear further a Member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

15.10 Closure motions

- i) A Member may move, without comment, the following motions at the end of a speech of another Member:
 - (a) to proceed to the next business;
 - (b) that the question be now put;
 - (c) to adjourn the debate; or

- (d) to adjourn the meeting.
- ii) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, s/he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- iii) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, s/he will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- iv) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, s/he will put the procedural motion to the vote without giving the mover of the original motion the right of reply on that occasion.

15.11 Point of order

A Member may raise a point of order at any time and shall be heard immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the Chair on the matter will be final.

15.12 Personal explanation

A Member may make a personal explanation at any time and shall be heard immediately. A personal explanation may only relate to some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood. The ruling of the Chair on the admissibility of a personal explanation will be final.

16. PREVIOUS DECISIONS AND MOTIONS

16.1 Motion to rescind a previous decision

A motion or amendment to rescind, or having the effect of rescinding, a decision made at a meeting of Council within the past six months cannot be moved.

16.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved.

Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16.3 Motions recommended by Council Committee or Sub-Committee

But rules 16.1 and 16.2 shall not apply to motions moved in pursuance of a recommendation of a Council Committee or Sub-Committee (see rule 24.3).

17 VOTING

17.1 Majority

Unless the Council's Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

17.2 Chair's casting vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

17.3 Show of hands

Unless 17.5 applies, the Chair will take a vote by a show of hands, or if there is no dissent, by the affirmation of the meeting. The Chair shall confirm, in the absence of dissent, that this is the unanimous decision of Council.

17.4 Ballot

A ballot shall be taken, if the Council decides, before the vote is taken on any question. The Chair will announce the numerical result of the ballot immediately the result is known.

17.5 Recorded Vote

For Council decisions, other than where the Chair proceeds with the agreement of the meeting through a show of hands under rule 17.3, the Chair shall ensure that recorded votes are taken. The Proper Officer of the Council shall take the vote by calling the names of Members and recording whether they voted for or against the motion or amendment thereto, or did not vote. The minutes will show whether a Member voted for or against the motion or any amendment or abstained from voting.

17.6 Voting on appointments

Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken and so on until a majority of votes is given in favour of one person.

18. MINUTES

18.1 Signing the minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will sign the minutes of the previous meeting following agreement by the Council that they are a correct record. The only part of the minutes that can be discussed is their accuracy which shall be raised only by motion.

18.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

18.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chair put them.

19. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

20. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

21. MEMBERS' CONDUCT

21.1 Standing to speak

- (a) When a Member speaks at full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.
- (b) A Member shall answer any questions under Rules 11 and 12 from the lectern and shall then resume his/her seat.

21.2 Chair standing

When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

21.3 Member not to be heard further

If, in the opinion of the Chair, a Member misconducts him/herself by persistently disregarding the ruling of the Chair, or by behaving improperly or offensively or by deliberately obstructing business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

21.4 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

21.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as s/he thinks necessary.

22. DISTURBANCE BY PUBLIC

22.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If that person continues to interrupt, the Chair will order his/her removal from the meeting room.

22.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

23. INTEREST OF MEMBERS IN CONTRACTS AND OTHER MATTERS

If any Member has any pecuniary or other prejudicial interest, within the meaning of the Council's Code of Conduct for Members, in any contract, proposed contract, or other matter under consideration, that Member shall withdraw from the meeting while that item of business is dealt with unless:-

- i) the Member has been granted a dispensation under Section 33 of the Localism Act 2011 (in which case the Member shall declare the interest and indicate the benefit of the dispensation granted), or
- ii) the contract, proposed contract or matter is under consideration as part of the report of a body or committee and is not itself the subject of debate

24. SUSPENSION, AMENDMENT AND INTERPRETATION OF COUNCIL PROCEDURE RULES

24.1 Suspension

All of these Council Rules of Procedure except Rule 17.6 and 18.2 may be suspended by motion on notice or without notice if

- i) at least one half of the whole number of Members of the Council are present, and
- ii) the Chair agrees, and
- iii) the Monitoring Officer has provided his/her advice on whether or not the rules should be suspended.

Suspension shall only be for the duration of the meeting.

24.2 Amendment

Any motion to add to, vary or revoke these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council unless the proposed addition, variation or revocation is for the purpose of compliance with any statutory provision.

24.3 Interpretation of Procedure Rules

- i) The Interpretation Acts shall apply to these Procedure Rules.
- ii) The ruling of the Chair as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall be final, after advice from the Monitoring Officer.
- iii) In these Procedure Rules, unless the context otherwise indicates:-

any reference to a statutory provision, regulations or code of conduct shall be construed as a reference to it as amended, substituted or extended from time to time;

“committee” includes any panel or forum appointed by the Council pursuant to s.101(1) Local Government Act 1972.

25. COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL

25.1 Appointment of sub-committees

Every Committee of the Council may appoint Sub-Committees for purposes to be specified by the Committee and may appoint substitutes for Members of any Sub-Committees in the manner provided by the Council Procedure Rules.

25.2 Special Meetings of Council Committees and Sub-Committees

- i) The Chair of the Council or the Chair of a Committee or Sub-Committee of the Council may call a special meeting of that Committee or Sub-Committee at any time.
- ii) The summons to the special meeting shall set out the business to be considered at the meeting and no business other than that set out in the summons shall be considered at the meeting.

25.3 Mover of motion may attend Council Committee or Sub-Committee

A Member who has moved a motion which has been referred to any committee or sub-committee of the Council shall have notice of the meeting of the body at which it is proposed to consider the motion. S/he shall have the right to attend the meeting and speak on the motion (unless to do so would be in breach of the Code of Conduct for Members) but not, by operation of this rule, be entitled to vote.

25.4 Attendance of Members at Council Committee meeting

Unless to do so would be in breach of the Code of Conduct for Members, any Member may attend meetings of any Committee of the Council of which s/he is not a member, but s/he may not

- i) speak at the meeting without the permission of the Committee or vote on any decision.
- ii) continue to attend the meeting when:-

a resolution to exclude the press and public from the meeting has been passed, and

the Committee is dealing with an item of business for the purposes of which information of a description for the time being falling within categories 1,2 and 3 (with the exception of information relating to terms of a council contract under negotiation) 4, 5 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972 will be disclosed and the explanation for initiating non-attendance is presented to the Committee.

25.5 Quorum of committees and sub-committees

In all cases where it is not otherwise specifically provided, 3 Members shall form a quorum in all Committees and 3 Members shall form a quorum in all Sub-Committees

26. APPLICATION OF PROCEDURE RULES

- 26.1** All of the Council Procedure Rules apply to meetings of full Council.
- 26.2** Only Rules 6-10, 13-15, 16–25 (but not Rule 21.1) apply to meetings of Committees and Sub-Committees, subject to any variation approved by a Committee for regulating its own proceedings.
- 26.3** These Procedure Rules apply to those meetings as stated in rule 26.1. Where there is any inconsistency between these Rules and the Budget and Policy Framework Procedure Rules, the Council Procedure Rules will prevail.

27. REFERENCE TO COUNCIL

- 27.1** A Key Decision (as defined in Article 13.03) taken by a Policy Committee will be referred to Council following a requisition on notice to the Chief Executive as Proper Officer in accordance with the provisions set out below.

- 27.2** This reference to Council shall not apply to day to day management and operational decisions taken by Officers nor to any decision which in the opinion of the Chair of the relevant Policy Committee, the subject of the referral considers in consultation with the Proper Officer to be urgent. A decision will be urgent if any delay caused by a referral would seriously prejudice the Council's or the public's interest. The decision and notice of its publication shall state whether the decision is an urgent one and therefore not subject to the referral process.
- 27.3** Any reference to Council should only be used in exceptional circumstances where the requisitioning Members have evidence to suggest that a key decision taken by a Policy Committee was not in accordance with the Principles of Decision Making set out in Article 13 (Decision Making) or the decision falls outside the Budget and Policy Framework. In the consideration as to whether a matter falls outside the Budget and Policy Framework, the advice of the Chief Finance Officer and/or the Monitoring Officer should be sought. To alleviate the need for a referral to Council by way of a formal requisition, there is the expectation that the Chair of the relevant Policy Committee would consider representations being made (between the period of the decision and its publication) referring the matter to Council with the consent of the Chair of Council as an item of business at the next Ordinary meeting of Council or in accordance with Council Procedure Rule 3.1 (Calling Extraordinary Meetings). Such requests and the receipt of any formal notice of requisition for a reference to Council shall collectively be limited to 6 during any Municipal year.

(i) Mechanism for Referral

Not less than half of the whole number of elected Members (17 Members or more) of the Council may requisition by notice to the Proper Officer the calling of a Council Meeting to reconsider a decision taken but not yet implemented by a Policy Committee. The notification shall contain and identify the reasons why it is believed the decision was not taken in accordance with the principles of Decision Making or otherwise outside the Budget and Policy Framework as set out in the Council's Constitution. The notice shall contain the advice of the Chief Finance Officer and/or the Monitoring Officer as to whether in his/her opinion the matter is outside the Budget and Policy Framework.

Notification of the referral must be given to the Proper Officer not later than 3 working days after the publication of the decision (the 'specified period'). For the avoidance of doubt, the publication of the decision should not take place on a Saturday, Sunday or a Bank Holiday. If a valid notice for the requisitioning of a meeting is made within the specified period all action to implement the decision will be suspended until the meeting of Council considering the referral.

(ii) Meeting to discuss the Referral

The Council will meet to consider the referral no later than 14 working days after the notice of requisition has been received by the Proper Officer, or such later date falling within the period of 28 days from receipt of the notice of requisition that the Proper Officer shall determine in consultation with the Chair of Council.

(iii) Outcomes of the Referral

At the Council meeting to consider the business of the referral, Council will proceed to debate and determine the referral in accordance with these Council Procedure Rules as contained in Part 4 of the Constitution and shall decide as follows:-

- Reaffirm or modify the decision of the Policy Committee and the decision will then become implementable, or
- Decide not to reaffirm or modify, in which case the matter the subject to the referral will be referred in turn back to the relevant Policy Committee for further consideration at its next meeting.

A matter that has been subject to a previous notice of requisition shall not be so subject to any future notice in the absence of the expressed consent of the relevant Policy Committee Chair and the approval of the Chair of Council.

FINANCIAL PROCEDURE RULES

Financial Procedure Rules are those rules that the Council must have to govern all its financial affairs. These rules are required by law to ensure that large sums of public money are spent properly and wisely.

Financial Procedure Rules apply to all parts of the Council, to Members and employees. Together with Standing Orders, the Scheme of Delegation and roles of Committees they form an integral part of the Council's Constitution.

The Chief Finance Officer is responsible for issuing and reviewing Financial Procedure Rules and advising upon their implementation and interpretation.

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CONTENTS

1. INTRODUCTION AND GUIDANCE

1.1	Purpose.....	83
1.2	Format.....	84

2. SAFEGUARDING PUBLIC MONEY/ASSETS

2.1	Overview – Control Requirements – Statutory Basis	84
2.2	Internal Audit.....	85
2.3	External Audit.....	86
2.4	Banking Requirements	87
2.5	Cash Arrangements	88
2.6	Income and Recovery.....	89
2.7	Ordering and Paying for Goods and Services.....	90
2.8	Paying Staff and Members.....	91
2.9	Preventing Financial Irregularities.....	92
2.10	Assets, Stocks and Stores.....	93
2.11	Gifts and Hospitality	95

3. CORPORATE GOVERNANCE

3.1	Overview	95
3.2	Revenue Financial Plans	96
3.3	Monitoring of Revenue Income and Expenditure.....	96
3.4	Capital Financial Planning.....	97
3.5	Monitoring of Capital Income and Expenditure.....	98
3.6	Treasury Management.....	99
3.7	Risk Management and Insurance.....	100

4. FINANCIAL ADMINISTRATION

4.1	Overview	101
4.2	Financial Systems	101
4.3	Format of Accounts.....	101
4.4	Taxation	102
4.5	Budget Transfers and Contingencies.....	102

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1. INTRODUCTION AND GUIDANCE

1.1 Purpose

- 1.1.1 Hartlepool Borough Council spends millions of pounds of public money. By law it is required to ensure that it has sound financial management policies, practices and controls in place which are strictly monitored. Financial Procedure Rules are an essential part of this control process.
- 1.1.2 The Financial Procedure Rules clarify responsibilities, accountabilities and powers of individuals, named Officers and Members of Policy Committees in relation to financial administration. The Financial Procedure Rules are part of and inextricably linked with the Council's Constitution, e.g. Standing Orders, Delegation Scheme, and the Officer/Member Protocol.
- 1.1.3 All Members and Officers have a general responsibility to protect the assets of the Council under their control and ensure the proper use of those assets. The Chief Finance Officer is responsible for the financial administration arrangements within the Council which includes a continuous review of Financial Procedure Rules and the issue of advice and guidelines to underpin those rules which Members, Officers and others acting on the Council's behalf are required to follow. Directors and Chief Officers are responsible for ensuring that all staff are aware of their responsibilities under Financial Procedure Rules and other internal regulatory controls.
- 1.1.4 Staff in schools should apply these rules in conjunction with LMS rules on financial administration and management.
- 1.1.5 Failure to comply with Financial Procedure Rules could give rise to disciplinary action and employees have a duty to report apparent breaches of Financial Procedure Rules to an appropriate senior manager and also to the Chief Finance Officer and the Council's Monitoring Officer.
- 1.1.6 In any case of doubt about the appropriate application of Financial Procedure Rules or any action required, Officers should consult with their senior manager in the first instance. Advice can also be obtained from Internal Audit particularly if you require information on financial administration which is not included within these rules.

1.2 Format

- 1.2.1 The rules are in three parts. They cover the safeguarding of public money/assets, the Corporate Governance of the Council and the Financial Administration arrangements of the Council.
- 1.2.2 Under each section the key controls are outlined which are then followed by the responsibilities of the Chief Finance Officer and other Directors and Chief Officers.
- 1.2.3 Whilst these rules apply to all Officers and Members of the Council, Directors and Chief Officers have an overall responsibility to ensure that all staff are aware of and comply with their responsibilities under these rules.

2. SAFEGUARDING PUBLIC MONEY/ASSETS

2.1 Overview - Control Requirements – Statutory Basis

- 2.1.1 The Council is a complex organisation and requires internal controls to ensure that it manages and monitors its progress towards the strategic objectives it sets.
- 2.1.2 A range of internal control arrangements are established to provide assurance that:
 - i) operations are efficient and effective;
 - ii) financial information and reporting is reliable;
 - iii) there is compliance with laws and regulations.
- 2.1.3 Managerial control systems exist to define policies, set objectives and plans, monitor financial and other performance indicators and to take appropriate action.
- 2.1.4 Financial and operational control systems and procedures include physical safeguards for assets, segregation of duties, authorisation and approval arrangements.
- 2.1.5 Internal Audit is responsible for independently evaluating organisational systems of internal control and undertaking effective reviews of systems and procedures on a regular basis.
- 2.1.6 In addition to the methods of internal control the Council is also subject to External Review in terms of its service delivery and also in its financial arrangements through its External Audits.

2.1.7 Chief Finance Officers responsibilities:

- i) Proper administration of the Council's financial affairs;
- ii) To set financial standards and monitor compliance;
- iii) Prepare, review and amend Financial Procedure Rules and inform Members and staff of the content and implications.
- iv) Provide guidance on the development of the Medium Term Financial Strategy, Local Council Tax Support Scheme and Treasury Management Strategy.

2.1.8 Responsibilities of Directors and Chief Officers:

- i) Ensure new systems for maintaining financial records are agreed with the Chief Finance Officer;
- ii) Ensure that the financial implications of new proposals, including the development of new services, changes to existing services and savings/efficiency proposals are agreed with the Chief Finance Officer;
- iii) Ensure that Financial Procedure Rules are known to all staff;
- iv) Secure compliance with Financial Procedure Rules and promote financial management standards set by the Chief Finance Officer.

2.2 Internal Audit

2.2.1 The Chief Finance Officer has a statutory responsibility for the overall financial administration of the Council's affairs and is responsible for maintaining an adequate and effective internal audit.

2.2.2 Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

2.2.3 In undertaking its work, Internal Audit is independent in planning and operation and carries out its activities in accordance with the Public Sector Internal Audit Standards (PSIAS) and any other relevant guidance.

2.2.4 In carrying out the internal audit function the Chief Finance Officer, or their authorised representative, has authority, subject to any statutory limitations, to:

- i) Enter at all times any Council land or premises;
- ii) Have access to all documents, correspondence and other records relating to the finances of the Council and apply any test or check deemed necessary;
- iii) Require and receive from employees, Members or other persons, information and explanations concerning any matter under examination;
- iv) Require any employee of the Council to produce any cash, stores or other property of the Council under the employee's control.

2.2.5 Chief Finance Officer's responsibilities:

- i) Maintain Strategic and Annual audit plans taking account of relative risk and in consultation with the Chief Executive, Directors and Chief Officers;
- ii) Ensure that Internal Audit have access at reasonable times to all Council premises, records, documents and staff for information and explanations;
- iii) Where appropriate report to the Audit Committee on any audit actions the Chief Executive, Directors and Chief Officers have formally stated they will not implement or have not been implemented within six months of agreement;
- iv) Report annually to the Audit Committee on the main issues raised by Internal Audit during the year;
- v) Investigate promptly any fraud or irregularity brought to their attention and report to the Head of Paid Service.

2.2.6 Responsibilities of Directors and Chief Officers:

- i) To ensure that Internal Auditors are given access at all reasonable times to premises, records, documents and staff for the purposes of their work and liaise and co-operate with Internal Auditors on service specific issues;
- ii) To consider and respond promptly to risks identified by Internal Audit, providing an action plan to mitigate risks identified and to confirm in writing when actions have been implemented.
- iii) Notify the Chief Finance Officer immediately of any suspected fraud or irregularity. Take all necessary steps to prevent further loss and secure records for any investigation.

2.3 External Audit

- 2.3.1 Given the special accountabilities attached to public money and the conduct of public business, external audit in local government is characterised by three distinct features:

- i) auditors are appointed independently from the bodies being audited for the period up to 2016/17, thereafter the Council will appoint its own external auditors;
- ii) external audit covers not only the audit and opinion on financial statements, but also the financial aspects of corporate governance and aspects of performance management;
- iii) the external audit approach is defined in a statutory Code of External Audit Practice.

2.3.2 External auditors are responsible for following the Code of External Audit Practice which sets out the National Audit Office view of what constitutes best professional practice and covers the standards, procedures and techniques that auditors should adopt.

2.3.3 Chief Finance Officer's responsibilities:

- i) Liaise with the external auditor in relation to time-tabling audits and working procedures;
- ii) Ensure that external auditors have reasonable access to premises, records, documents and staff for the purposes of their work;
- iii) Follow up on recommendations made by external audit to ensure their implementation and report to Council on actions taken to address recommendations made in the Audit Management Letter.

2.3.4 Responsibilities of Directors and Chief Officers:

- i) To ensure that external auditors are given reasonable access to premises, records, documents and staff for the purposes of their work and liaise and co-operate with External Auditors on service specific issues;
- ii) To ensure that all systems and records are up to date and available for inspection;
- iii) Respond to recommendations and reports from external audit and take appropriate action.

2.4 Banking Requirements

2.4.1 Being a complex organisation the Council has varied banking requirements. This section sets out the procedures to be followed in the operation of those Bank Accounts.

2.4.2 Key Banking Controls are:

- i) All Banking Arrangements in relation to the Council's business are made through the Chief Finance Officer. The Chief Finance Officer or his/her representative is authorised to pay or collect all monies due to or by the Council by whatever means he/she deems appropriate;

- ii) All Bank Accounts will have an official title and in no circumstances will accounts be opened in the name of an individual excepting the Returning Officer's Account;
- iii) All Bank Accounts must be reconciled regularly in accordance with any timescale and procedure note that the Chief Finance Officer may issue.
- iv) All cheques should be held securely.

2.4.3 Chief Finance Officer's responsibilities:-

- To make all overall arrangements to secure the Council's Banking needs.

2.4.4 Responsibilities of Directors and Chief Officers :-

- i) To agree all arrangements for the opening, closing or operation of specific bank accounts relating to the Council as guardian with the Chief Finance Officer;
- ii) Ensure as far as is practicable the separation of duties to ensure that a single member of staff does not complete all procedures in connection with transactions through bank accounts;
- iii) Ensure that accounts are reconciled regularly and appropriate action taken in regard to any discrepancies identified;
- iv) Ensure that cheques are securely stored.

2.5 Cash Arrangements

2.5.1 Effective cash collection and control arrangements are essential to ensure that all monies received by the Council are receipted, effectively reconciled, securely controlled and banked properly.

2.5.2 The key controls within the Council's arrangements are:

- i) the arrangements for the receipt and control of all monies received by the Council will be subject to the control and approval of the Chief Finance Officer;
- ii) all monies received must be acknowledged, recorded and either paid over to the Chief Finance Officer or banked in the Council's name without delay;
- iii) All receipts forms will be ordered and controlled by the Chief Finance Officer and only official receipts will be issued for monies received on behalf of the Council;
- iv) Cash and receipt forms will at all times be kept in a safe place;
- v) Only official receipts will be issued for money received on behalf of the Council;
- vi) Personal cheques may not be cashed, nor payments made, out of money held on behalf of the Council;
- vii) Every transfer of official monies from one Officer to another must be evidenced by the signature of the receiving officer;

- viii) Sums may be advanced to employees receiving cash income for the purpose of giving change. The employee is personally responsible for such sum and must sign for its receipt.

2.5.3 Chief Finance Officer's responsibilities:

- i) Approve all arrangements, procedures and systems for the collection of income;
- ii) Order and supply all forms of receipts, tickets etc. and be satisfied with the arrangements for their control.

2.5.4. Responsibilities of Directors and Chief Officers:

- i) To ensure that all receipts, tickets etc. and other records of income are held securely and kept for the appropriate length of time;
- ii) Ensure adequate security arrangements are in place to safeguard income against loss or misappropriation, and to ensure the security of cash handling;
- iii) Ensure adequate separation of duties as far as practicable so that cash received is properly identified and recorded;
- iv) Ensure that all income is promptly paid into an appropriate account of the Council and is recorded to provide an audit trail;
- v) Ensure income is not used to cash personal cheques or make other payments;
- vi) Maintain a record of all transfers of official money between employees.

2.6 Income and Recovery

2.6.1 The recovery of all sums due to the Council is subject to the control of the Chief Finance Officer. Whenever practicable, departments are required to obtain payment in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts and eliminates the risk of bad debts.

2.6.2 The key controls within the Council's arrangements are:

- i) all monies billed and collected should be in accordance with the scales of rents, fees and charges approved by Council, Policy Committees or delegated to specific Officers;
- ii) effective action must be taken to pursue non payment of debt within defined timescales;
- iii) no debt, once correctly established and due to the Council, can be written off except if approved under delegated powers or by the Policy and Finance Committee. The Chief Finance Officer is responsible for developing and reviewing appropriate recovery strategies;

- iv) appropriate accounting adjustments will be made following write-off action within defined timescales;
- v) all appropriate income documents must be retained for the defined period in accordance with the "Guidelines on the Retention of Records", issued from time to time
- vi) appropriate credit checks should be carried out in accordance with guidance to be issued by the Chief Finance Officer.

2.6.3 Chief Finance Officer's responsibilities:

- i) To approve all systems and arrangements for the raising, collection and recovery of all sums due to the Council;
- ii) To establish a recovery strategy and ensure appropriate action in consultation with the appropriate Director/Chief Officer is taken to recover debts, which are not paid promptly;
- iii) To agree the write-off of debts within the approved limit of £1,000;
- iv) To refer unpaid debts above £1,000, in consultation with the appropriate Director/Chief Officer, to the Finance and Policy Committee for approval to write-off;
- v) Set a corporate framework within the Medium Term Financial Strategy for charging policies of the Council;
- vi) Ensure appropriate accounting adjustments are made in relation to write-off action;
- vii) Ensure regular review and maintenance of adequate Bad Debt provisions by departments.

2.6.4 Responsibilities of Directors and Chief Officers:

- i) Review charging policy in line with corporate policies;
- ii) Take appropriate action to minimise increasing and persistent debt;
- iii) Ensure an adequate separation of duties as far as practicable for identifying and billing sums due and collection of monies;
- iv) To maintain records on debts raised sufficient to enable recovery action to be taken for debts unpaid within a reasonable time;
- v) Notify the Chief Finance Officer of all outstanding income relating to the previous year as soon as possible after the 31 March in line with the timetable determined by the Chief Finance Officer.
- vi) Review and maintain, in consultation with the Chief Finance Officer, an adequate departmental Bad Debt provision.

2.7 Ordering and Paying for Goods and Services

- 2.7.1 The ordering and paying for goods and services is critical to the Council's ability to deliver services. It is essential that the Council's controls are adequate to demonstrate probity and good practice. Accordingly the following controls exist:

- i) Budget provision is required for all expenditure prior to ordering;
- ii) Budget provision confers authority to spend within that budget;
- iii) All payments other than from payment cards, petty cash or specifically approved bank accounts (primarily Schools) must be made by the Chief Finance Officer from the Council's Bank Account in the manner deemed most appropriate by the Chief Finance Officer;
- iv) All instructions for payment must be authorised by the appropriate budget holder or other person duly approved. This should only be done after acceptable receipt of the goods or services in accordance with the order;
- v) Expenditure must be allocated to the correct heading.

2.7.2 Responsibilities of the Chief Finance Officer:

- i) To make payments in accordance with the above Council rules;
- ii) To maintain and issue detailed payment instructions;
- iii) To maintain a list of budget holders or their nominees authorised to incur expenditure;
- iv) To store, or issue instructions in relation to the storage of source documents to support the accounts and taxation responsibilities.

2.7.3 Responsibilities of Directors and Chief Officers:

- i) To ensure that rules and instructions in relation to the authorisation of orders and payments are followed within their service area;
- ii) To ensure that the Chief Finance Officer is informed of all budget holders and their nominees entitled to authorise expenditure.

2.8 Paying Staff and Members

2.8.1 Staff costs form the largest single element of the Council's expenditure and appropriate controls are necessary to ensure that payments are only made in accordance with the appropriate terms and conditions. Accordingly the Council has the following controls:

- i) The calculation of all payments to staff/Members must be done by the Chief Finance Officer supported by appropriate Personnel/Legal advice;
- ii) All appointments must be made in accordance with appropriate terms and conditions;
- iii) All appointments must have adequate budget provision;
- iv) All prime documents used to calculate pay must be signed by the individual and authorised by an appropriate budget holder or their nominee;

- v) All payments to Members must be in accordance with the approved scheme of allowances;
- vi) The Chief Executive authorises all changes in Chief Officer pay.

2.8.2 Responsibilities of the Chief Finance Officer:

- i) To make payments in accordance with the above Council rules;
- ii) To maintain and issue detailed payment instructions;
- iii) To maintain a list of budget holders or their nominees authorised to incur expenditure;
- iv) To store, or issue instructions in relation to the storage of source documents to support the accounts and taxation responsibilities.

2.8.3 Responsibilities of Directors and Chief Officers:

- i) To ensure that rules and instructions with regard to appointments and authorisation of payments are followed within their service area;
- ii) To ensure that the Chief Finance Officer is informed of all budget holders and their nominees entitled to authorise expenditure;
- iii) To inform the Assistant Chief Executive promptly of any changes affecting payments to staff;
- iv) Assistant Chief Executive to notify the Chief Finance Officer of any changes affecting the calculation of pay within a timescale to be agreed with the Chief Finance Officer.

2.9 Preventing Financial Irregularities

2.9.1 In administering its responsibilities, the Council is committed to the prevention of financial irregularities and in its Anti Fraud and Corruption Strategy, issued from time to time, Council makes it clear that the Council will not tolerate fraudulent or corrupt acts committed either by its Officers, Members, or those companies or organisations with which it does business.

2.9.2 The Council's expectation on propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to rules, procedures and Codes of Conduct.

2.9.3 The Council has in place a network of systems and procedures to cover its stewardship of public funds responsibilities and it maintains a continuous overview of the adequacy of its corporate governance arrangements through its Internal and External Auditors.

2.9.4 The Council's "Whistleblowing Arrangements" issued from time to time, provide the opportunity for issues to be raised in a confidential manner. In addition, the Council operates defined protocols, such as the procedures to comply with the Proceeds of Crime Act, setting out

individual responsibilities for reporting and the subsequent investigation of irregularities.

2.9.5 Chief Finance Officer's responsibilities:

- i) Maintain adequate and effective audit arrangements;
- ii) Periodically review the Council's policies on Fraud and Corruption;
- iii) Ensure irregularities are appropriately investigated and are reported to the Head of Paid Service to determine what further action should be instigated.

2.9.6 Responsibilities of Directors and Chief Officers:

- i) Ensure all staff are aware of the Council's Anti Fraud and Corruption Strategy;
- ii) Ensure that all suspected irregularities are reported to the Chief Finance Officer and if appropriate, the Monitoring officer.

2.10 Assets, Stocks and Stores

2.10.1 The Council holds assets in the form of property, vehicles, equipment, furniture and other items of significant value. The Council's arrangements seek to ensure that such assets are safeguarded and used efficiently in the delivery of services.

2.10.2 Each Chief Officer is responsible for the security of assets under his control. Where practicable, each asset should be marked as the property of the Council.

2.10.3 Inventories must be maintained by Departments/Establishments of all assets other than land having a value of £500 or more covering plant, equipment, furnishings, fittings, machinery, vehicles and other non-consumable items. The inventory must record:

- i) description of item including make, model, serial number;
- ii) date of purchase and purchase price;
- iii) whether asset is leased;
- iv) security tag reference (where applicable);
- v) location of asset.

2.10.4 The disposal of surplus or obsolete items will be undertaken in accordance with the "Guidelines for the disposal of assets and IT equipment", issued from time to time. An annual physical asset inventory check should be undertaken and any discrepancies identified and reported to the relevant Head of Service. All items loaned to Officers and Members e.g. laptop computers should be recorded and a signature obtained.

- 2.10.5 The Director of Regeneration and Neighbourhoods has corporate responsibility for maintaining an Asset Register of all land and buildings owned by the Council and will ensure appropriate valuations and re-valuations are carried out. The Chief Solicitor is responsible for the safe custody of all deeds. The Council's assets must not be used for any purpose other than the discharge of the Council's functions. Any unauthorised or misuse of Council assets will result in appropriate disciplinary action.
- 2.10.6 All stock received, transferred, issued or returned must be recorded in a manner approved by the Chief Finance Officer. In stores, deliveries must be checked for quantity and quality and goods should only be issued from the stores on production of a valid requisition, properly certified.
- 2.10.7 Stores levels must be reviewed by Chief Officers at regular intervals to ensure that stores are not held in excess of reasonable requirements and to prevent the holding of obsolete stores.
- 2.10.8 The responsible Head of Service will ensure that arrangements are made for a system of continuous stock checking or an annual stock check is made. A certificate of stockholding at 31 March every year must be made available on demand to the Chief Finance Officer.
- 2.10.9 Adjustments of deficiencies or surpluses on stocks or disposal of surplus, obsolete or damaged stock should not be made without the agreement of the Chief Finance Officer with whom the method of disposal must also be agreed prior to disposal.
- 2.10.10 Chief Finance Officer's responsibilities:
- i) Ensure inventories and asset registers are maintained in accordance with good practice and these procedure rules;
 - ii) Advise on best practice for the disposal of assets, stocks and stores.
- 2.10.11 Responsibilities of Directors and Chief Officers:
- i) Ensure the maintenance of inventories in accordance with Financial Procedure Rules;
 - ii) Carry out annual checks on inventories and take appropriate action in regard to surpluses and deficiencies;
 - iii) Make suitable arrangements for the care and custody of assets stocks and stores;
 - iv) Agree disposal of assets with the Chief Finance Officer;
 - v) Pass all title deeds to the Chief Solicitor;
 - vi) Carry out regular stock checks and supply stockholding certificates as required by the Chief Finance Officer.

2.11 Gifts and Hospitality

- 2.11.1 The Council's policy for Gifts/Hospitality is included in the Staff Information and Personal Development Pack which is provided to all current and new employees.
- 2.11.2 Employees and Members must be careful not to accept any gift or hospitality, which might interfere with or be perceived as impacting on Council business or services. This does not include gifts of minor value, which are used at work i.e. diaries, pens, calendars etc. However, any other gifts or hospitality offered should be reported to the appropriate Director or Chief Officer who will then determine the action to be taken. In the case of gifts, these may be then returned or donated for the Chairman's charity use. Where a gift is not returned the donor will be advised of the use to which it has been put.
- 2.11.3 Employees and Members should not accept personal gifts from contractors and outside suppliers.
- 2.11.4 Employees and Members should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be declined, unless they are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded.
- 2.11.5 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 2.11.6 When receiving hospitality, employees and Members should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality. When visits to inspect equipment etc are required, employees should ensure that the Council meets the cost of such visits to avoid compromising the integrity of subsequent purchasing decisions.
- 2.11.7 Responsibilities of Directors and Chief Officers:
- i) To ensure compliance with the Councils' policy and Codes of Conduct in respect of gifts, hospitality and personal interests;
 - ii) To maintain a register of staff interests, gifts and hospitality.

3. CORPORATE GOVERNANCE

3.1 Overview

- 3.1.1 This section sets out those arrangements that the Council needs to make to ensure that it makes proper plans to achieve its objectives.

It covers the setting of revenue and capital expenditure plans, the monitoring of those plans through to how the Council plans to manage risks and its treasury functions. It is predominantly concerned with how the Council works at a strategic level and from a financial perspective what it needs to consider and decide.

3.2 Revenue Financial Plans

3.2.1 Each year the Council must set an annual budget for the coming year. This budget needs to be considered as part of a wider Medium Term Financial Strategy covering the following three years that considers the level of resources available to the Council, the expenditure needs of the Council and the level of Council Tax. The Council's corporate objectives and Community Plan need to be addressed in the consideration of the expenditure needs of the Council in the Medium Term Financial Strategy.

3.2.2 Chief Finance Officer's responsibilities:

- i) Preparation of three year forecasts of resources and expenditure for the consideration of the Policy and Finance Committee;
- ii) Identification of risks inherent in the forecasts;
- iii) Development of a medium term financial strategy;
- iv) Development, in conjunction with the Policy and Finance Committee, of an appropriate annual budget within the Medium Term Strategy compliant with all relevant legislation for submission to Council.

3.2.3 Responsibilities of Directors and Chief Officers:

- i) Provision of information to the Chief Finance Officer in relation to expenditure changes outside of their control within their services for the life of the forecast;
- ii) Preparation of detailed budgets within the resources allocated by the Medium Term Financial Strategy to nominated budget holders;
- iii) Responsibility for subsequent expenditure from those detailed budgets to meet the objectives of the service.

3.3 Monitoring of Revenue Income and Expenditure

3.3.1 Having determined budgets that set out how the Council intends to achieve its objectives it is important to monitor the performance of actual income and expenditure against those budgets. This is a continuous process to ensure that resources are used to their best effect. In relation to income it is important to ensure that all income is accounted for and in relation to expenditure that differences are explained and understood. The analysis of differences should enable budget holders to ensure that appropriate action to bring budgets back

on track is taken. Often at the detail level this may not be possible within the financial year and the relevant Director will need to consider transfers from other budgets within their control.

3.3.2 Responsibilities of the Chief Finance Officer:

- i) To ensure that monitoring reports are available to budget holders;
- ii) To ensure that corporate level budgets are monitored;
- iii) To determine the format of monitoring reports for the Finance and Policy Committee and individual Policy Committees;
- iv) To report on major differences or trends that have a significant impact on the overall finances of the Council;
- v) To operate and maintain an effective Financial Management system;
- vi) To provide Directors and Chief Officers with appropriate advice and guidance.

3.3.3 Responsibilities of Directors and Chief Officers:

- i) To ensure that adequate budget provision exists for all expenditure prior to it being incurred;
- ii) To ensure that each detailed budget has a nominated budget holder and to provide the Chief Finance Officer with a schedule of nominated budget holders;
- iii) To monitor budgets within their service areas;
- iv) To ensure that where the approved budget for a service area under a single Directors control is anticipated to be insufficient to meet forecast commitments, to transfer resources between service areas in accordance with the budget transfer rules detailed in section 4.5 and where appropriate to seek approval of transfers within the quarterly monitoring reports submitted to the Policy and Finance Committee to ensure transparency.
- v) To inform the Chief Finance Officer of any major differences of actual from planned income or expenditure.

3.4 Capital Financial Planning

3.4.1 Capital Financial Planning involves the acquiring or enhancing of an asset with a long-term value to the Council or the Town. The planning of capital expenditure is essential for a number of reasons:

- i) Being major items of expenditure they are a key means for the Council to directly achieve its objectives in shaping service delivery;
- ii) They create long term financial commitments in both financing and running costs;
- iii) Varied funding sources are often available, each with differing requirements;

- iv) Strict controls are imposed upon the Council's ability to incur capital expenditure;
- v) The Council's ability to attract external funding is often dependent upon its proven track record of delivering projects on time and budget.

3.4.2 Responsibilities of the Chief Finance Officer:

- i) To prepare a detailed annual statement of likely commitments and resources for both revenue and capital within a three-year medium term framework for consideration by the Executive;
- ii) To submit details of potential schemes to the Council or relevant Policy Committee for inclusion in the Capital Programme for the year;
- iii) To determine the format of project appraisals for inclusion within the Capital Programme in conjunction with Directors.

3.4.3 Responsibilities of Directors and Chief Officers:

- i) With the Director of Regeneration and Neighbourhoods, or his representative, to prepare and maintain an Asset Management Plan to assist in the planning of capital schemes;
- ii) To consider proposals and with the appropriate officer/s prepare costings for future project appraisals for submission to the Council or relevant Policy Committee for consideration;
- iii) To ensure that no contracts are entered into for which budget provision within the Capital Programme has not been made;
- iv) To prepare bid submissions to appropriate funding bodies.

3.5 Monitoring of Capital Income and Expenditure

3.5.1 Having set a Capital Programme to achieve its Capital Strategy it is important to monitor the performance of actual physical progress, income and expenditure against the Programme. This is a continuous process to ensure that resources are used to their best effect and not lost, as some external funding is limited to specific financial years. In relation to Capital income, which can take the form of grants or other contributions, it is important to ensure that all income is received and accounted for within the right financial year. Physical progress should be monitored, as this is a leading indicator of real expenditure on schemes. The analysis of differences between expected spends and actual should enable budget holders to ensure that appropriate action to bring budgets back on track is taken. If this is not possible then the relevant Director will need to consider transfers to or from other budgets within their control. If this is not possible then the Chief Finance Officer should be informed to enable the programme to be rebalanced.

3.5.2 Responsibilities of the Chief Finance Officer:

- i) To ensure that monitoring reports are available to budget holders;
- ii) To report on major differences or trends that have a significant impact on the overall finances of the Council;
- iii) To ensure so far as possible the overall Programme is balanced and that the Council suffers no loss of resources;
- iv) To provide Directors and Chief Officers with appropriate advice and guidance.

3.5.3 Responsibilities of Directors and Chief Officers:

- i) To ensure that adequate budget provision exists for all expenditure prior to it being incurred;
- ii) To ensure that each detailed budget has a nominated budget holder;
- iii) To monitor projects and their budgets within their service areas;
- iv) To ensure that where the approved budget for a specific scheme is anticipated to be insufficient to meet forecast commitments, to transfer resources in accordance with the budget transfer rules detailed in section 4.5 and where appropriate to seek approval of transfers within the quarterly monitoring reports submitted to the Finance and Policy Committee and individual Policy Committees to ensure transparency.
- v) To inform the Chief Finance Officer of any major differences of actual from planned income or expenditure.

3.5.4 Responsibilities of Director of Regeneration and Neighbourhoods:

- i) To manage the contracting process for building works;
- ii) To monitor projects physical and financial performance and take action as necessary;
- iii) To manage the disposal of surplus land and buildings in accordance with the Capital Strategy and any target set in the Medium Term Financial Strategy.

3.6 Treasury Management

3.6.1 The Council is responsible for very significant cash flows arising from its capital and revenue activity. These require investments and borrowings totalling in excess of £100m. The Council must therefore adopt the highest standards in the management of these sums and flows. The Chartered Institute of Public Finance and Accountancy maintains a Code of Practice, which meets these requirements and is adopted by the Council.

3.6.2 Responsibilities of the Chief Finance Officer:

- i) To ensure that the CIPFA Code of Practice is adopted and maintained;
- ii) To propose to the Policy and Finance Committee, Audit and Governance Committee and full Council a Treasury Management Strategy within the Code of Practice;
- iii) To implement the Treasury Management Strategy;
- iv) To make administrative decisions within the Treasury Management Strategy;
- v) To administer all leasing arrangements for goods.

3.7 Financial Risk Management and Insurance

3.7.1 All organisations face risk to people, property and continued service delivery, which can result in injury, damage and loss. Where the Council is culpable this can result in a financial claim. The Council also has Health and Safety duties, which need to be considered. This requires a Risk Management Strategy to be developed.

3.7.2 Insurance historically has been the main way of protecting against loss. With the advent of significant excesses the level of risk transferred is no longer as great and the Council is faced with a greater certainty of loss. An effective insurance strategy is therefore required which protects the Council.

3.7.3 Responsibilities of the Chief Finance Officer:

- i) To develop and submit to the Finance and Policy Committee a Financial Risk Management Strategy for consideration
- ii) To monitor the Financial Risk Management Strategy;
- iii) To develop and submit to the Finance and Policy Committee an Insurance Strategy for consideration;
- iv) To implement the Insurance Strategy and make administrative decisions within the Strategy.

3.7.4 Responsibilities of Directors and Chief Officers:

- i) To assist, develop and submit a Financial Risk Management Strategy
- ii) To identify and take action to minimise financial risks within their service areas;
- iii) To inform the Chief Finance Officer of new financial risks;
- iv) To investigate incidents that arise;
- v) To deal with any claims that arise with the Chief Finance Officer speedily and effectively.

4 FINANCIAL ADMINISTRATION

4.1 Overview

- 4.1.1 This section deals with the administrative issues of the Council's financial affairs.

4.2 Financial Systems

- 4.2.1 The Council needs to have in place sound financial systems. The complexity of the Council will often mean that specialist systems are required for specific service areas. Equally the Council needs to prepare financial accounts based upon its detailed accounting information and records. This requires a corporate financial system to ensure that probity is achieved.

- 4.2.2 Responsibilities of the Chief Finance Officer:

- i) To operate and maintain a corporate financial accounting system;
- ii) To monitor and approve all subsidiary financial systems.

- 4.2.3 Responsibilities of Directors and Chief Officers:

- i) To operate those financial systems within their service areas in accordance with the procedures agreed with and notified by the Chief Finance Officer;
- ii) To maintain adequate supporting information where applicable within their service area.

4.3 Format of Accounts

- 4.3.1 The Council is required by law to compile annual accounts complying with the relevant Accounting Code of Practice.

- 4.3.2 Responsibilities of the Chief Finance Officer:

- i) To ensure that accounts are prepared on time and in accordance with the necessary legal and professional requirements;
- ii) To ensure that suitable accounting policies are in place and applied consistently;
- iii) To ensure that professional judgements are made in preparation of the accounts which are prudent and reasonable in light of the information available at the time of preparation;
- iv) To ensure that all practicable steps have been taken to identify fraud;
- v) To submit and authorise grant claims subject to external audit;

- vi) To issue detailed instructions on accounting records or procedures necessary to meet the Council Statutory requirements.

4.3.3 Responsibilities of Directors and Chief Officers:

- i) To provide the Chief Finance Officer with information sufficient to enable him to prepare the accounts and submit grant claims within the appropriate timescales;
- ii) Maintain appropriate records and ensure they are up to date.

4.4 Taxation

4.4.1 The Council is subject to Tax and as such needs to ensure that its taxation affairs are efficient. Taxation of Local Authorities is complex and there is significant scope for penalties, which need to be minimised.

4.4.2 Responsibilities of the Chief Finance Officer:

- i) To ensure that the Council's taxation affairs are maintained on a timely basis, with due regard to the complex and changing legislation;
- ii) To liaise with the relevant Government Departments and Agencies in relation to Taxation;
- iii) To provide Directors with advice in relation to Taxation issues;
- iv) To ensure that the corporate payroll and accounting systems deal correctly with taxation.

4.4.3 Responsibilities of Directors and Chief Officers:

To ensure the Chief Finance Officer is informed of any changes, which can materially affect the Council's Taxation position.

4.5 Budget/Reserves Transfers and Contingencies

4.5.1 The Council sets budgets for both Revenue and Capital expenditure; equally the Council holds reserves for earmarked purposes. Circumstances can and do change that result in those detailed budgets becoming outdated. It is necessary, to ensure good financial management, that flexibility exists to allow transfers of resources.

All transfers must be notified to the Chief Finance Officer for their agreement prior to those transfers being actioned in the Accounting System. All transfers must leave the originating budget with sufficient funds to meet its commitments for the provision of that service at the level approved by Council within the budget and policy framework within the current financial year and not affect the sustainability of the service in future financial years.

4.5.2 These rules should be interpreted for both budget and reserve transfers and cover:

- i) Detailed transfers between service areas within a Director's/Chief Officer's control;
- ii) Transfers from Revenue to Capital;
- iii) Transfers of managed revenue underspends to the following financial year;
- iv) Transfers of resources into and from Specific Reserves;

4.5.3 For Capital these rules cover:

- i) Transfers between projects;
- ii) Transfers from Capital to Revenue, which are subject to specific rules.

4.5.4 Revenue Transfers

In relation to budget transfers the following rules apply:

- i) Changes to staffing structures need to be approved in accordance with the relevant Council policy and be approved by the relevant Director, the Chief Executive, Assistant Chief Executive and Chief Finance Officer and must be wholly sustainable. No permanent staffing changes can be funded from reserves without Policy and Finance Committee and Council approval. Approval to fill all vacant posts must be granted by the Monitoring of Vacancy Panel prior to the commencement of the recruitment process.
- ii) The Chief Executive and Directors may approve revenue budget transfers up to £100,000 (cumulatively up to £200,000 over the financial year) and that formal Council approval be sought for transfers over this limit.
There be no other revenue budget transfers outside of the above limits and no transfer between 'directorates' without formal Council approval.

4.5.5 Transfers from Revenue to Capital are allowed subject to continued service delivery as determined in 4.5.1.

4.5.6 Transfers of managed revenue underspends from one year to the following are allowed subject to the transfer not exceeding 10% or £500,000, whichever is the lower, of the Departmental budget. Details of contributions to managed revenue underspend must be reported to Cabinet within the annual outturn report.

4.5.7 In addition, transfers into and from Specific Reserves and technical budget adjustments necessary to allocate grant resources and comply with grant conditions are allowed. Details of contributions to Specific

Reserves must also be reported to Cabinet within the annual outturn report.

4.5.8 Capital Transfers

In relation to Capital, transfers of resources from one project to another subject to a maximum of:

- Up to £10,000 for schemes up to £100,000 and for schemes over £100,000 up to 10% or £50,000 whichever is the lesser.

The Council must approve budget transfers in excess of the above limits.

4.5.9 Transfers between capital and revenue are allowed subject to the continued delivery of the capital program and compliance with capital accounting regulations and specific funding arrangements and approved by the Chief Finance Officer, Internal Audit and reported to the Policy and Finance Committee.

4.5.10 Any additional favourable outturn must be allocated to the Council's General Fund. This will ensure that any further allocation of said monies is subject to Full Council approval.

4.5.11 Responsibilities of the Chief Finance Officer:

To maintain and administer the scheme of budget transfers and contingencies.

4.5.12 Responsibilities of Directors and Chief Officers:

To ensure the Chief Finance Officer is informed of any changes, which require a budget transfer.

OFFICER EMPLOYMENT PROCEDURE RULES

CONTENTS

	Page
Rules	
1 Declarations	107
2 Seeking support for appointment.....	107
3 Recruitment of Head of Paid Service, Directors, and Chief Officers (reporting directly to them).....	107
4 Appointment of Head of Paid Service.....	108
5 Appointment of Directors and of Chief Officers reporting directly to the Head of Paid Service or a Director	108
6 Pay Policy Statement.....	109
7 Appointment of assistant to political groups.....	109
8 Other officer appointments.....	109
9 Disciplinary action relating to the Head of Paid Service, Monitoring Officer and Chief Finance Officer	110
10 Disciplinary action relating to other Officers.....	110
11 Dismissal.....	110

DRAFT

OFFICER EMPLOYMENT PROCEDURE RULES

1. Declarations

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they have a close personal relationship with a Councillor or a Manager of the Authority as set out in the Council's Recruitment and Selection Policy.
- 1.2 No candidate so related to a Councillor or Manager will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

2. Seeking support for appointment

- 2.1 Subject to paragraph 5, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor, employee of the Council, Council representative and/or any other person directly involved in the recruitment decision making process. The content of this paragraph will be included in any recruitment information.
- 2.2 Subject to paragraph 5, no Councillor, employee of the Council, Council representative and/or any other person will seek support for any person for any appointment with the Council.
- 2.3 Nothing in paragraphs (2.1) and (2.2) above will preclude a Councillor, employee of the Council, Council representative and/or any other person directly involved in the recruitment decision making process from giving a written reference for a candidate for submission with an application for appointment.

3. Recruitment of Head of Paid Service, Directors and Chief Officers Reporting Directly to them

- 3.1 Where Council proposes to recruit internally only or internally/externally to a vacant post of Chief Executive, Director or other Chief Officer the Council will establish an Appointments Panel. This will not apply when the role, responsibilities, terms and conditions of an officer covered by the Officer Employment Procedure Rule are revised as a result of organisational change in accordance with the Council's reorganisation procedures. There is presumption that all staff are treated fairly and equally. The Council will:-

- a) make arrangements for a statement to be drawn up specifying:
 - the duties of the post concerned; and
 - any qualifications or qualities to be sought in the person to be appointed;
- b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

4. Appointment of Head of Paid Service

4.1 The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee of the Council. That Committee will consist of:

- the Chair of the Council
- the Leader
- six other Members of the Council selected by the Council

4.2 The Committee will select its own Chair and its membership should be in accordance with political balance requirements. The membership should reflect both the make-up of the Council in terms of gender and age, and the different areas of responsibility within the Council's political management arrangements.

5. Appointment of Directors and of Chief Officers reporting directly to the Head of Paid Service or a Director

5.1 A Committee of the Council will make these appointments. That Committee will consist of:

- the Chair of the Council
- the Leader
- six other Members of the Council selected by the Council

5.2 The Committee will select its own Chair and its membership should be in accordance with political balance requirements. The membership should reflect both the make-up of the Council in terms of gender and age, and the different areas of responsibility within the Council's political management arrangements.

6. Pay Policy Statement

- 6.1 The Council's pay policy statement is published annually in compliance with Section 38 of the Localism Act, 2011. The statement sets out, amongst other matters, the remuneration of the Council's Chief Officers as defined in Section 43 and has regard to the guidance issued by the Secretary of State under Section 40 of the Act.

7. Appointment of assistants to political groups

- 7.1 Appointment of an assistant to a political group shall be made in accordance with the following:
- (a) In this paragraph a post of assistant to political group means a post to which Section 7 of the Local Government and Housing Act 1989 applies and any words or expressions also used in that Section shall be interpreted as they would be for the purposes of this Section;
 - (b) No appointment to a post of assistant to a political group shall be made unless the Council shall have resolved to allocate a post of professional assistant to each of the political groups of the Council which qualify for one;
 - (c) No allocation of a post as assistant to a political group shall be made to a political group which does not qualify for one;
 - (d) Not more than one post of political assistant to a political group shall be allocated to any one political group;
 - (e) Any decision required to be taken in the appointment process shall be taken by the Chief Executive or his/her nominee after consultation with the Leader of the Group to which the post is allocated (or his/her nominee) who shall be entitled to attend any interviews relating to the appointment.

8. Other officer appointments

- 8.1 Appointment of all other Officers (other than those specified in Paragraphs 3-5) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.

9. Disciplinary action relating to the Head of Paid Service, Monitoring Officer and Chief Finance Officer

9.1 The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months from the day on which the suspension takes effect.

9.2 No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person. Such a process will be in accordance with the relevant regulations and the appropriate conditions of service.

10. Disciplinary action relating to other Officers

Disciplinary action against other Officers will be in accordance with the relevant conditions of service and the Council's disciplinary procedure.

11. Dismissal

Dismissal of Officers will take place in accordance with the relevant regulations and conditions of services and the Council's disciplinary procedure.

STATUTORY SCRUTINY PROCEDURE RULES

CONTENTS

	Page
Rules	
1 Arrangements For The Conduct Of Statutory Scrutiny Functions.....	113
2 Statutory Health Scrutiny Responsibilities.....	113
3 Statutory Crime And Disorder Scrutiny Responsibilities.....	114
4 Membership.....	115
5 Co-Optees	115
6 Meetings To Consider Statutory Scrutiny Issues	116
7 Work Programme	116
8 Agenda Items.....	117
9 Referrals	117
10 Consultations with 'Responsible Persons'.....	118
11 The Councillor Calls for Action	119
12 Statutory Scrutiny Reports	120
13 Request For Information To Facilitate The Statutory Scrutiny Function.....	121
14 Rights Of Statutory Scrutiny Members To Documents.....	121
15 Participation In The Council's Statutory Scrutiny Activities.....	121
16 Officer Support.....	122
17 Research Resource.....	122

DRAFT

STATUTORY SCRUTINY PROCEDURE RULES

1. Arrangements for the Conduct of Statutory Scrutiny Functions

1.1 The Council will delegate responsibility for the following statutory scrutiny functions to the Audit and Governance Committee:-

- (a) The functions of the Councils Crime and Disorder Committee for the purposes of the Police and Justice Act 2006;
- (b) The scrutiny powers under the Health and Social Care Act 2012 in considering the provision of health services at both local and regional levels;
- (c) To consider, where requested, referrals from the Policy Committees and Full Council and consider referrals from Members under the 'Councillor Call for Action mechanism' in accordance with the Local Democracy, Economic Development and Construction Act 2009;
- (d) In the exercise of these functions the Committee will:
 - Participate in, and develop, the Tees Valley Joint Health Scrutiny Committee and other joint arrangements with neighbouring authorities. This includes nominating members from the Committee to serve on the Tees Valley Joint Health Scrutiny Committee and other joint bodies formed with neighbouring authorities for health scrutiny exercises; and
 - Make reports and recommendations to the Council or to the appropriate Policy Committee on any local government matter (as defined by section 21A of the Local Government and Public Involvement in Health Act 2007) which has been referred to it by a Member of the Council as a Councillor Call for Action.

2. Statutory Health Scrutiny Responsibilities

2.1 The Council has a statutory responsibility to review and scrutinise matters relating to the planning, provision and operation of health services as provided for by the Health and Social Care Act 2012. In doing this, local authorities have a responsibility to not only look at themselves, but also at all health service providers and any other factors that affect people's health.

In fulfilling this responsibility, the Audit and Governance Committee will review and scrutinise and make reports with recommendations to

the Council (and / or Finance and Policy Committee where appropriate), a 'responsible person' (that being relevant NHS body or health service provider) and other relevant agencies about possible improvements in service in the following areas:-

- (i) health issues identified by, or of concern to, the local population;
- (ii) proposed substantial development or variation in the provision of health services in the local authority area (except where a decision has been taken as a result of a risk to safety or welfare of patients or staff);
- (iii) the impact of interventions on the health of local inhabitants;
- (iv) an overview of delivery against key national and local targets, particularly those which improve the public's health;
- (v) the development of integrated strategies for health improvement; and
- (vi) the accessibility of services that impact on the health of local people to all parts of the local community.

Additional Responsibilities -

- (i) to recommend to Council that a referral be made to the Secretary of State where there are concerns over insufficient consultation on major changes to services. Further details of this provision are outlined in the regulations that support the Health and Social Care Act 2012.
- (ii) to produce an Annual Health Scrutiny Work Programme.

3. Statutory Crime and Disorder Scrutiny Responsibilities

3.1 The Council has a statutory responsibility to establish a Crime and Disorder Scrutiny Committee (under the Police and Justice Act 2006) with the power to review or scrutinise decisions made or other action taken by the Crime and Disorder Reduction Partnership (CDRP), which will be fulfilled through the Audit and Governance Committee. The role of the committee in relation to this function is:

- a. Scrutinise the work of the partners insofar as their activities relate to the partnership itself;
- b. Review or scrutinise decisions made or other action taken in connection with the discharge, by responsible authorities, of their crime and disorder functions (in this context responsible authorities means the Council, the Police, the Fire Authority and

the Health Bodies) and make reports or recommendations to the Council or the appropriate Policy Committee with regard to the discharge of those functions. Key areas for review or scrutiny being:

- Policy development – including in-depth reviews;
 - Contribution to the development of strategies;
 - Holding to account at formal hearings; and
 - Performance management.
- c. Make reports and recommendations to the Council or to the appropriate Policy Committee on any local crime and disorder matter (as defined by section 19 of the Police and Justice Act 2006) which has been referred to it by a Member of the Council as a Councillor Call for Action.

4. Membership

- 4.1 The membership of the Audit and Governance Committee will consist of 7 Elected Members, with the ability to co-opt representatives from outside bodies to assist in the conduct of its crime and disorder statutory scrutiny function (as detailed in Section 5 below).

5. Co-Optees

- 5.1 In fulfilling the Council's statutory scrutiny responsibilities, the Audit and Governance Committee will be entitled to appoint local people as non-voting co-optees.
- 5.2 The Audit and Governance Committee, as the Council's designated Crime and Disorder Committee, will also be entitled to co-opt:-
- a. Specialists in particular areas who can add value to the Committee's work (either an employee, officer or member of a responsible authority or a co-ordinating person or body); and
 - b. Police Authority representation and in doing this, guidance suggests three potential options:
 - The full co-option of additional persons (employee, Officer or member of a responsible police authority or of a co-operating person or body); or
 - A standing invitation for additional police authority representatives as 'expert witnesses'; or
 - Co-option of a Police Authority member when policing matters are being considered.

6. Meetings to Consider Statutory Scrutiny Issues

- 6.1 Meetings to fulfil the Councils statutory scrutiny responsibilities will be held on an 'ad hoc' basis, called as and when required. Should it be required to facilitate consideration of a specific issue, the Audit and Governance Committee can create, time limited, task and finish / working groups.
- 6.2 As the Councils statutory scrutiny responsibilities sit within the remit of the Audit and Governance Committee, meetings to consider relevant scrutiny issues may be called by the chair of the Audit and Governance Committee or by the Proper Officer if he/she considers it necessary or appropriate. Access to information arrangements in relation to statutory scrutiny functions are outlined in Part 4 of the Constitution.
- 6.3 In fulfilling its statutory scrutiny functions, the Committee shall consider the following business:
- (i) Any matter referred from or to the Committee in the conduct of its statutory scrutiny functions; and
 - (ii) Responses of the Council, Committees of the Council and outside organisations / partner to reports produced.
- 6.4 When the Committee asks people to attend to discuss issues including the public, Members, officers and representatives of other bodies or companies, meetings are to be conducted in accordance with the relevant codes and protocols and the following principles:
- i) that the discussions will be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees and to contribute and speak;
 - ii) that those assisting the Committee in its work, be treated with respect and courtesy; and
 - iii) that each enquiry be conducted as to maximise the efficiency of the discussion or analysis.

7. Work Programme

- 7.1 The Audit and Governance Committee will be responsible for setting the statutory scrutiny work programme at the beginning of each municipal year. The work programme may be subject to referrals received from other bodies and Councillor Calls for Action.

8. Agenda Items

- 8.1 Any Member shall be entitled to give notice to the Proper Officer that he/she wishes an item related to the Council's statutory scrutiny functions to be included on the agenda for a future meeting of the Audit and Governance Committee (under the Councillor Call's for Action mechanism). All such requests will be considered by the Committee, taking into consideration the Councillor Call for Action criteria, the work programme of the Committee and the views of the Member making the request. Alternatively where appropriate, with the agreement of the Member making that request, to refer the issue to the appropriate Policy Committee or Council.
- 8.2 A Member making a request for items to be considered by the Committee must complete the relevant notice which is available from the Proper Officer and the Democratic Services Team. The information required to be provided by the Member making the request will include the reasons for referring the issue and the objectives of an inquiry.

9. Referrals

9.1 Referrals from Council, Policy and other Council Committees

- 9.1.1 The Council, Policy and other Committees of the Council may refer items related to the Council's statutory scrutiny functions to the Audit and Governance Committee for consideration. When an item is referred to the Audit and Governance Committee, the referring body must provide the following information when agreeing to refer the item to statutory scrutiny:-

- (i) the reasons for referring the issue;
- (ii) the objectives of statutory scrutiny process;
- (iii) any statutory requirements that the referring body is working within/towards; and
- (iv) timescales for reporting back to the referring body.

- 9.1.2 When the Audit and Governance Committee receives the referral it will either:

- (i) consider the item itself; or
- (ii) create a time limited task and finish group / working group to examine the issue.

- 9.1.3 The bodies that can refer items to the Audit and Governance Committee and the criteria for such referrals are set out in Appendix

A. This also identifies the extent to which the referring body can require an issue to be examined.

9.2 Referrals from Healthwatch or a local Healthwatch contractor

9.2.1 Healthwatch, or a local Healthwatch contractor, may refer items relating to the planning, provision or operation of health service (including care services) in the area. In considering such a referral, the Council is required acknowledge receipt of the referral within 20 working days and keep the referrer informed of any action taken in relation to the matter.

10. **Consultations With ‘Responsible Persons’**

10.1 Where a responsible person (that being relevant NHS body or health service provider) has under consideration any proposal for a substantial development, or variation of the health service in a local authority area they are required to consult the authority. The process for this as follows

The Responsible Person is required to:

- i) Provide the authority with a date by which it intends to make the decision as to whether to proceed with the proposal and the date by which any comments from the authority are required;
- ii) Inform the authority of any changes to these dates and publish these dates; and
- iii) Where the requirement to consult does not apply, as a result of the decision being taken as a result of a risk to the safety or welfare of patients or staff, the responsible person must notify the authority immediately of the decision taken and the reason why no consultation has taken place.

The Council (authority):

- i) Where required, make comment / recommendation on the proposal by the date requested by the responsible person;
- ii) Where the responsible person disagrees with a recommendation from the authority, they must notify the authority and both parties take such steps as reasonably practicable to reach an agreement.
- iii) Where the authority's response did not include a recommendation the authority must advise the responsible person of the date by which it intends to make the decision to

refer the proposal to the secretary of state, and if applicable the date by which it intends to do so.

11. The Councillor Calls For Action

- 11.1 Subject to the selection criteria outlined in Appendix A, any Councillor can submit a Councillor Call for Action:-

Referral of 'Any Local Government Matters' - In accordance with the provisions of the Local Government and Public Involvement in Health Act, 2007 any Member of the Council may refer a local government matter affecting their ward to the Audit and Governance Committee for consideration. A 'local government matter' is one which:-

- (i) Relates to the discharge of any function of the authority;
- (ii) Affects all or part of the Member's ward or any person who lives or works in the ward; and
- (iii) Is not an excluded matter*.

*'Excluded matters' are defined as any matter which is a local crime and disorder matter (as defined by section 19 of the Police and Justice Act 2006, and subject to paragraph (c) below); any matter relating to a licensing decision or a planning decision; a matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman); or a matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the committee. However, a matter which consists of an allegation of systematic failure of an authority to discharge a function for which the authority is responsible may be referred to the Committee, notwithstanding the fact that the allegation specifies matters which would otherwise come within the excluded definition above.

Referral of 'Crime and Disorder Matters' - In accordance with the provisions of the Police and Justice Act 2006 any Member of the Council may refer a local crime and disorder matter affecting their ward to the Crime and Disorder Committee for consideration. Under Hartlepool's governance arrangements this responsibility sits within the remit of the Audit and Governance Committee. A "local crime and disorder matter" is one concerning:-

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

- (ii) 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.
- 11.2 The Committee, having considered a local government matter or a local crime and disorder matter referred to it under these provisions, can make a report or recommendations to the Council, appropriate Committee(s), the responsible authority or co-operating person / body on the matter in question.
- 11.3 Details of the procedure for the consideration of councillor call's for action are provided at Appendix B.
- 12. Statutory Scrutiny Reports**
- 12.1 When recommendations are formulated at the conclusion of a statutory scrutiny inquiry, the Audit and Governance Committee will agree a formal report which will be submitted to the Proper Officer for consideration by the appropriate body as set out in Appendix C.
- 12.2 If the Committee cannot agree on one single final report to the appropriate body, then one minority report may be prepared and submitted for consideration by the appropriate body with the majority report. Notice of intention to produce a minority report must be given at the meeting at which the draft report is considered. At least one third of the total Membership of the Committee, who must be not solely from one political group, must give notice. A minority report must be agreed by all Members who gave notice. It must identify a lead Member for the purpose of the presentation to the appropriate body.
- 12.3 The body to which a report is referred shall consider it within the timescales specified in Appendix A.
- 12.4 Where a report and its recommendations impact on community safety / Crime and Disorder issues, the following should occur:-
 - i) Copies of report and recommendations should be sent to the responsible authorities or co-operating bodies as are affected by the report or recommendations, or as otherwise appropriate in accordance with section 19(8) of the Police and Justice Act 20016;
 - ii) The relevant partner(s) should submit a response within a period of 28 days from the date of the report or recommendations are submitted (or if not possible as soon as reasonably possible); and

- iii) Following the receipt of responses, the committee will need to agree with the relevant partner(s) how progress in implementing the recommendations will be monitored.
- 12.5 Where a report and its recommendations impact on health issues, the following should occur:-
- (i) The report should include an explanation of the matter reviewed or scrutinised; a summary of the evidence considered; a list of the participants involved in the review or scrutiny; and any recommendations on the matter reviewed or scrutinised; and
 - (ii) Where the Committee within which the statutory scrutiny responsibilities sit requests a response from a relevant NHS body or relevant health service provider to whom it has made a report or recommendation, that body shall respond in writing to the Committee within 28 days of the request.

13. Request for Information to Facilitate the Statutory Scrutiny Function

- 13.1 As part of the statutory scrutiny process, the Committee will from time to time request further information in relation to the planning, provision and operation of services in the area, so far as might be reasonably require to undertake effective scrutiny, from either the Community Safety Partnership or NHS bodies. These organisations have a responsibility to provide this information within a reasonable time, which can be agreed locally.

14. Rights of Statutory Scrutiny Members to Documents

- 14.1 In addition to their rights as Councillors, Members in the conduct of their statutory scrutiny responsibilities have additional rights to documents and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. Procedure rules in relation to access to confidential and exempt information do, however, also apply to the provision of information in relation to the conduct of statutory scrutiny activities.

15. Participation in the Council's Statutory Scrutiny Activities

- 15.1 In fulfilling its statutory scrutiny functions, the Audit and Governance Committee may invite people or organisations from outside the Council to address it, discuss issues of local concern and/or answer questions. It may for example, wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

- 15.2 As part of the statutory scrutiny process, the Committee will from time to time request the attendance of a representative from either the Community Safety Partnership or NHS bodies. These organisations will be obliged to send a representative to attend, providing sufficient notice has been given.

16. Officer Support

- 16.1 It is important that the statutory scrutiny process is properly supported on a departmental and corporate basis. In supporting the process, departments are responsible for the production of briefing papers and other documentation, provision of specialist knowledge and, as and when required, attendance at relevant meetings of the Committee.

- 16.2 On a corporate basis, advice and support is provided to:

- ensure that the conduct of statutory scrutiny business meets the requirements of the Council's constitution and the Government's guidance;
- process and provide advice on referrals and Councillor Call's for Action for scrutiny;
- provide policy advice, research to the Committee;
- review and evolve the development of the statutory scrutiny function;
- advise who might be asked to give evidence, advice or opinion;
- liaising with departments about their input;
- brief people giving evidence;
- assist the Committee to write and present Final Reports; and
- monitor the implementation of scrutiny recommendations.

17. Research Resource

- 17.1 In addition to the work undertaken by departments the support available to the statutory scrutiny function will include the use of outside experts; for buying in expertise where not available within the Council or providing research tailored to needs of the Committee when necessary.

PROCESSING REFERRALS IN RELATION TO STATUTORY SCRUTINY RESPONSIBILITIES

BODY	STATUS OF REFERRAL	TIMESCALES AND OTHER ISSUES
Council	Consideration mandatory	Must be considered within the timescale prescribed
Policy Committees	Consideration mandatory	Must be considered within the timescale prescribed

Selection Criteria – Dealing with Councillor Call's for Action

The Audit and Governance Committee would assess the appropriateness of investigating Councillor Calls for Action against the following selection criteria:-

- (i) Clear evidence that reasonable attempts have been made to resolve the issue with relevant partners/Council departments;
- (ii) Affects a group of people living within the Hartlepool area;
- (iii) Relates to a service, event or issue in which the Council has direct responsibility for, significant influence over or has the capacity to act as public champion;
- (iv) Not be an issue which scrutiny has considered during the last 12 months;
- (v) Not relate to an ongoing service complaint or petition (including the ability to exclude any matter which is vexatious, discriminatory or not reasonable); and
- (vi) Not relate to matters dealt with by another Council Committee, unless the issue deals with procedure and policy related issues.

PROCESSING STATUTORY SCRUTINY REFERRAL REPORTS

Council and Policy Committees

Type of report – on items referred from Council in relation to Statutory Scrutiny issues

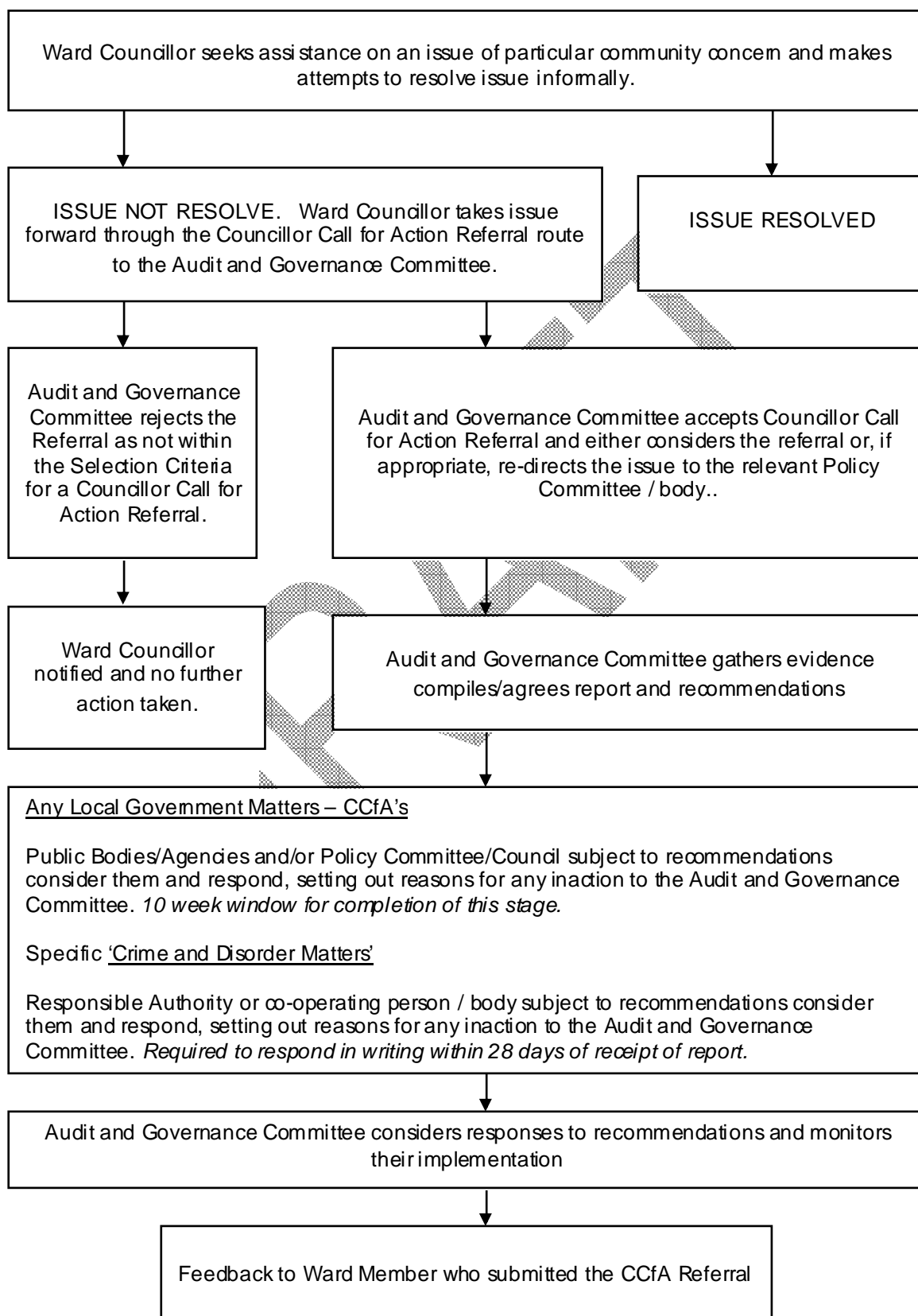
Presentation – the report will be presented by the Chair of the Committee or his/her nominated Member of the Committee. In the case of minority reports those submitting the report should agree a spokesperson from their Membership of the Committee.

Timescale for consideration – if not specified in a referral the report should be considered not later than 10 weeks after being agreed by the Committee.

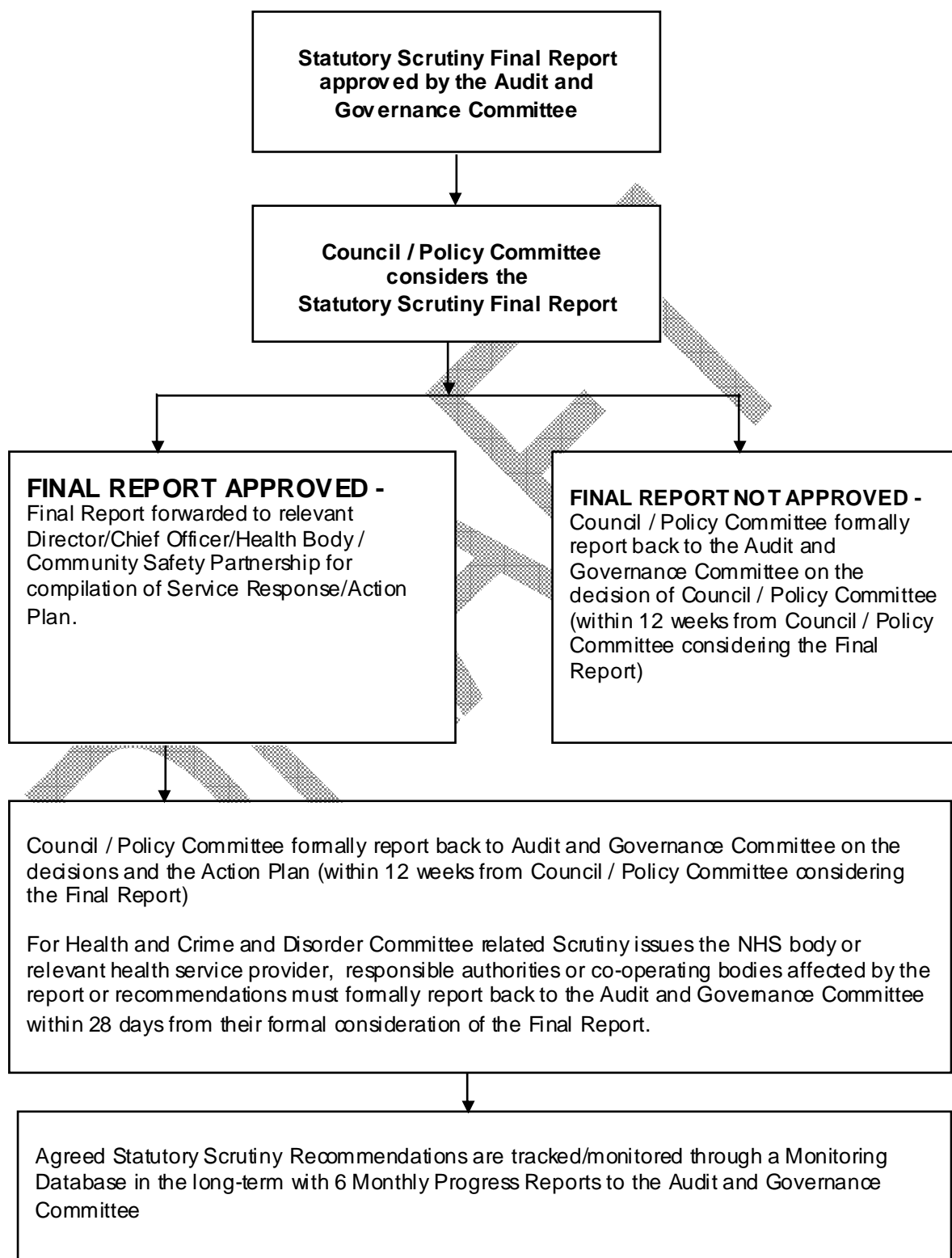
Reporting back to the Audit and Governance Committee – the relevant minute of the Council / Policy Committee meeting will be reported back to the Committee.

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PROCEDURE FOR THE CONSIDERATION OF COUNCILLOR CALL'S FOR ACTION



PROCEDURE FOR THE DECISION MAKING ROUTE FOR STATUTORY SCRUTINY FINAL REPORTS



Part 5

Codes and Protocols

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CODES AND PROOCOLS

CONTENTS

	Page
Code of Conduct for Councillors and Co-opted Members	5
Code of Conduct for Officers.....	17
Officer/Member Protocol.....	19
Planning Code of Practice	35
Code of Corporate Governance.....	71
Guidance for Members and Officers Serving on Outside Organisations and Other Bodies	85
Public Questions to Council Meetings.....	99

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CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

INTRODUCTION

This code applies to you as a Member of Hartlepool Borough Council and when you act in your role as a Member it is your responsibility to comply with the provisions of this code. The code will also have application to voting co-opted members and to those Independent Persons appointed to Standards Committee.

You are a representative of this Authority and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code is adopted through the requirement for Hartlepool Borough Council to promote and maintain high standards of conduct by its Members, under Section 27 of the Localism Act, 2011. The Code has application to those “principles of public life” as set out below under paragraphs (i) – (vi) as specified under the Localism Act, 2011 and the Council has decided to incorporate the additional principles as set out within paragraphs (viii) – (x).

PRINCIPLES OF PUBLIC LIFE

(i) SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

(ii) INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

(iii) OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holder of public office should make choices on merit.

(iv) ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(v) OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

(vi) HONESTY

Holders of public office have a duty to declare any private interest relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

(vii) LEADERSHIP

Holders of public office should promote and support these principles by leadership and example, and should act in a way that secures or preserves public confidence.

(viii) RESPECT FOR OTHERS

Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's Statutory Officers and its other employees.

(ix) DUTY TO UPHOLD THE LAW

Members should uphold the law and, on all occasions act in accordance with the trust that the public is entitled to place in them. This principle (which is to have general application) is intended to apply through a Member's election and their acceptance of the office of Councillor and following the appointment of a Co-opted Member to the Authority.

(x) PERSONAL JUDGEMENT

Members may take account of the view that others, including their political groups, but should reach their conclusion on the issues before them and act in accordance with those conclusions.

As a Member your conduct will in particular address the statutory principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me – and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a Member/co-opted member of this Authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional Officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other Members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public and engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

[Extracted from the Local Government Association 'Template Code and Guidance Note on Conduct'.]

Interpretation

In this Code;

"Disclosable Pecuniary Interest" has the meaning and description as detailed in the Schedule to this Code of Conduct.

“Meeting” means any meeting of;

- (a) the Authority;
- (b) any of the Authority’s Committees, Sub-Committees, Joint Committees or Area Committees;
- (c) whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.

“Member” includes a co-opted Member and any appointed Member.

GENERAL OBLIGATIONS

1. When acting in your role as a Member of the Authority

- 1.1 You must treat others with respect.
- 1.2 You must not conduct yourself in a manner which is contrary to the Authority’s duty to promote and maintain high standards of conduct amongst its Members.
- 1.3 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe or are reasonably aware, is of a confidential nature, except where –
 - (i) you have the consent of the person authorised to give it;
 - (ii) you are required by law to do so
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Authority; and
 - (c) you have consulted with the Authority’s Monitoring Officer prior to its release.
- 1.4 You must not prevent any other person from gaining access to information to which that person is entitled by law.

2. When using or Authorising the use by others of the resources of the Authority –

- 2.1 You must act in accordance with the Authority’s reasonable requirements including the requirements of the Authority’s applicable information technology policy and those related policies, copies of which have been provided to you and which are deemed to have been read;
- 2.2 You must ensure that such resources are not used improperly for political purposes (including party political purposes); and

- 2.3 You have regard to any applicable Code of Recommended Practice on local authority publicity issued under Section 4 of the Local Government Act, 1986.

INTERESTS

3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests. However when performing your public role as a Member, you should act solely in terms of the public interest and should not act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
4. You are required to register “pecuniary” and such other interests as directed. A failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly provide false or misleading information about a pecuniary interest this will also be a criminal offence.
5. There will be a requirement for you to formally declare or register any gifts and hospitality to the Monitoring Officer over £25. Further, you should also have regard to the following considerations;
 - *you should not accept any gift or hospitality which might interfere with or be perceived as impacting on Council business or services,*
 - *you should not accept significant personal gifts from any contractor and/or outside suppliers or agents thereof,*
 - *you should only accept hospitality if there is a genuine need to impart information or to represent the Council (or a body to which you are appointed by Council) in the community*
 - *you should also be particularly sensitive to receiving gifts and/or hospitality which may relate to the timing of a decision which the Council may be taking which affects those from whom the gift and/or hospitality was received,*
 - *the advice of the Council’s Monitoring Officer should be obtained where necessary or desirable.*

(i) Notification of Interests

- (1) You must, within 28 days of –

- (a) this Code being adopted by or applied to your Authority; or
- (b) your election or appointment to office (where that is later),

notify the Monitoring Officer of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and The Relevant Authorities

(Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests, and

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

- (2) You have a personal interest in any business of your Authority where either –
 - (a) it relates to or is likely to affect –
 - (i) any body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by your Authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1) above, or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

(ii) Disclosure of interests

- (1) Subject to sub-paragraphs (2) to (5) below, where you have a personal interest described in paragraph (2) above or in paragraph (2) below in any business of your Authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your Authority

- (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or
 - (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.
- (B) In sub-paragraph (2)(A) (i), a *relevant person* is –
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in paragraph (i) (2)(a)(i) or (ii).
- (3) Where you have a personal interest in any business of your Authority which relates to or is likely to affect a person described in paragraph (i) (2)(a)(i) or (i) (2)(a)(ii)(aa) above, you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest but, by virtue of paragraph (iv), sensitive information relating to it is not registered in your Authority's Register of Members' Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have a personal interest in any business of your Authority and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(iii) Register of interests

Any interests notified to the Monitoring Officer will be included in the Register of Interests.

A copy of the Register will be available for public inspection and will be published on the Authority's website.

(iv) Sensitive interests

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the Register, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

(v) Non participation in case of pecuniary interest

(1) Where you have a personal interest in any business of your Authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business –

- (a) affects your financial position or the financial position of a person or body described in paragraphs (i) (2) or (ii) (2) ;or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.

(2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority –

- a) You may not participate in any discussion of the matter at the meeting.
- b) You may not participate in any vote taken on the matter at the meeting.
- c) If the interest is not registered, you must disclose the interest to the meeting.
- d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note : In addition Council Procedure Rule 23 requires you to leave the room where the meeting is held while any discussion or voting takes place.

(3) Where you have a pecuniary interest in any business of your Authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and

you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your Authority in respect of –
- (i) housing, where you are a tenant of your Authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to Members;
 - (v) any ceremonial honour given to Members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
- (5) Where, as an Executive Member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

PRE – DETERMINATION OR BIAS

6. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
7. When making a decision, you need to consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.
8. In any business before Statutory Scrutiny Committee of your Authority (or of a Sub-Committee of such a Committee) where –

- (a) that business relates to a decision made (whether implemented or not) or action taken by the authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
- (b) at the time the decision was made or action was taken, you were a member of a Committee, Sub-Committee, Joint Committees or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the Statutory Scrutiny Committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room thereafter, if requested to do so by the Statutory Scrutiny Committee.

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SCHEDULE

A “disclosable pecuniary interest” is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licenses	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 M's 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 securities of a body where –

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either –

(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.

[Extract from 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, 2012']

CODE OF CONDUCT FOR OFFICERS

CONTENTS

Page

To follow.

DRAFT

OFFICER/MEMBER PROTOCOL

1 INTRODUCTION

1.1 All Councils are required to have an Officer/Member protocol included in the written Constitution. The matters which the protocol must cover are set out in the statutory framework and are therefore not within the discretion of the Council. The relevant matters to be addressed are set out below.

- Principles underlying Member/Officer relations.
- Roles of Members.
- Roles of Officers.
- Relationships between Chairs/Members of the Policy and other Committees including Audit & Governance, Licensing, Planning Committees and Neighbourhood Forums and Officers.
- Officer relationships with party groups.
- Members in their ward role and Officers.
- Council access to documents and information.
- Other individuals who are members of Council bodies.
- Media relations and press releases.
- Correspondence.

1.2 Although Councils have discretion as to the exact nature of the provisions which they make under each of these headings, they must be in line with national requirements included in other codes, such as the Member Code of Conduct. Protocols are also expected to reflect accepted good practice e.g. in relation to promoting and maintaining high ethical standards and courteous behaviour.

1.3 The protocol combines relevant topics covered in existing guidance for Members and Officers and statutory advice on the production of new Constitutions. It recognises and is consistent with other procedures/protocols included elsewhere in the Constitution, particularly the Articles in Part 2 and the Responsibility for Functions in Part 3 which define particular roles for Members and Committees and the Rules of Procedure in Part 4, and provides a written statement of current practice and convention. Given the variety and complexity of Officer/Member relations, it does not seek to be comprehensive, but gives specific advice on issues which may arise and is intended to provide guidance on the approach to dealing with other issues of a similar nature. This protocol also applies where relevant to co-opted Members of the Council.

2 PRINCIPLES UNDERLYING MEMBER/OFFICER RELATIONS

2.1 The following principles are drawn from the existing national code and focus on those elements particularly relevant to the Member/Officer relationship. They underpin the detail contained in individual sections which deal with specific aspects of Member/Officer relations.

- i) Members and Officers will treat each other with courtesy and respect at all times in both formal and informal situations.
- ii) Council Officers will give impartial advice to the whole Council including all political groups, Committee and non-Committee Members. Formal recommendations will only be made to the body empowered to take the decision in question.
- iii) Members and Officers will not seek to use their positions to exercise inappropriate influence e.g. to secure an improper advantage for themselves or any other person.
- iv) Members and Officers will at all times observe the requirements of the Council's Constitution.

2.2 Amongst other things, this means that both Officers and Members will refrain from shouting, aggression, threats (either explicit or implied), and references which could reasonably be perceived as insulting. Formal and informal situations encompass: formally constituted meetings either inside or outside of the Council, telephone conversations, personal contact, e-mail, letters or references in the media. It does not mean that Members and Officers may not hold or express differences of view, but that they should do so in accordance with accepted standards of courteous behaviour. Additionally, in relation to issues within an Officer's area of responsibility, Members should recognise and respect the Officer's expertise and professionalism – failure to do so may place the Council at risk of a formal legal challenge and/or damage to its reputation. Officers' professional advice should not be ignored and should only be rejected for valid reasons. This does not mean that an Officer's recommendations are not open to question or examination, but an Officer's advice should not be rejected arbitrarily or for other than good reasons relevant to the issue in question. What amounts to a valid basis to reject advice cannot be generally defined other than as a reasonable belief based on adequate grounds that the judgement of the Officer is flawed in some way material to the decision to be taken. The adequacy of the grounds will vary according to the nature of the issue and the degree of expertise involved in making the relevant judgement. Providing an outcome which is satisfactory to an individual constituent or group of constituents does not, of itself, constitute a valid reason for rejecting professional advice – the decision must be based on an objective assessment of the issues relevant to the matter

in question, public approval only being a determining factor when the merits and demerits are finely balanced.

3 ROLES OF MEMBERS

3.1 All Councillors will:

- i) Collectively be the ultimate policy-makers and determine the budget and policy framework operating at all times in accordance with the principles of decision making set out in Article 13 of the constitution;
- ii) Represent their communities and bring their views into the Council's decision-making process, ie become the advocate of and for their communities;
- iii) Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- iv) Effectively represent the interests of their ward and of individual constituents;
- v) Be available to represent the Council on other bodies; and
- vi) Maintain the highest standards of conduct and ethics;
- vii) Members may also belong to a political party and/or group represented on the Council;
- viii) Members in positions which include the chairing of meetings, will seek to ensure that relevant codes are adhered to and all meeting participants, both Council and non-council, behave courteously at all times.

3.2 The role of Councillors is fundamentally different to that of Officers. In addition to a decision making role as part of the Council and, where relevant, as part of a Committee or Sub-Committee, Councillors also have a responsibility to represent the interests of their ward and of individual constituents. This representative role may be carried out in a number of ways, and Officers will offer assistance to Councillors acting in a ward capacity. However, individual Councillors are not empowered to instruct Council Officers to take a particular course of action unless they are exercising properly authorised decision making powers, as set out in the Council's delegation scheme.

4 ROLES OF OFFICERS

4.1 The Council's Senior Management Team (set out in Parts 3 and 8 of the Constitution) will:

- i) Provide professional, impartial advice to the Council and all of its constituent bodies as set out in Part 3 of the Constitution and subject to the Access to Information Procedure Rules in Part 4 of the Constitution.
- ii) Report to the Council or any of its constituent bodies on any matter judged to be in the Council's interests
- iii) Undertake day to day and operational management of the services and functions for which the Council has given them responsibility and take any other decisions as allocated in this Constitution.
- iv) Determine when the constitution requires decisions to be taken by Councillors and refer matters as required.
- v) Exercise the statutory responsibilities placed upon statutory and Proper Officers where the post held includes such responsibilities.
- vi) Provide informal support and assistance to Councillors within the scope of legislative requirements and this protocol.
- vii) Determine the detailed arrangements which will apply within their Departments for the provision of advice and support to Members by other Officers.
- viii) Authorise other Officers within their management control to act on their behalf as appropriate.
- ix) Respect the role that all Members play within the Council with particular consideration for the roles of Leader, Ceremonial Mayor and Chairs of Committees.
- x) In all matters, Officers will give advice in accordance with their professional expertise and any relevant professional codes of conduct. Officers will not be required to reduce options, withhold information, or make recommendations which they cannot professionally support, to any body of the Council.

4.2 Officers have a statutory responsibility to undertake day-to-day decision making and operational management of services within their area of responsibility. They also have additional decision making powers as set out in the delegation scheme contained in Part 3 of the Constitution. Officers are able to provide informal support and

assistance to all Councillors. However both legislation and the Council's protocol place some limit on the support which may be provided, in order to take account of matters such as resource limitations and confidentiality issues. These limits are dealt with further in the following sections and elsewhere in the Constitution, particularly in Part 4 - Rules of Procedure.

5 RELATIONSHIPS BETWEEN CHAIRS/MEMBERS OF THE POLICY AND OTHER COMMITTEES INCLUDING AUDIT & GOVERNANCE, LICENSING, PLANNING AND NEIGHBOURHOOD FORUMS AND OFFICERS

5.1 Relationships between Chairs/Members of Committees and Officers will operate in line with the relevant codes of conduct and the principles contained in the protocol.

5.2 POLICY COMMITTEES

In making their decisions, Members of the Policy Committees must seek and have regard to the professional advice given by Officers. Members must at all times pay due regard to the advice given by Statutory Officers and be aware of, and take account of, their statutory responsibilities.

5.3 Members should respect the principle that Officers serve the full Council and therefore have responsibilities to its Policy, Regulatory and other Committees.

5.4 Members should at all times take full responsibility for their political decisions within the Council and as representatives on other agencies or bodies.

5.5 Members must follow all of the statutory and constitutional requirements governing the decision making process.

5.6 Members, Officers and representatives of outside bodies providing information to a Committee will be treated courteously at all times and will treat such individuals with courtesy and respect. Councillors asking questions will act in accordance with the member Code of Conduct and the Contract Procedure Rules. It will be the responsibility of the Chair to ensure that members of the public and other non-Council attendees behave appropriately.

5.7 Directors and Chief Officers may be required to attend the Committee and may be asked questions as to policies and decisions. They may be required to explain advice given to members and the objectives of policies. Comment should however, be consistent with the requirement for Officers to be politically neutral and Officers may not be held accountable for decisions taken by Members. Other Officers

may attend the Committee at the discretion of their Director/Chief Officer in order to provide information which will assist. The Committee should not be used to address issues of the individual performance of employees. It will not be the purpose of any Committee to require Officers to personally account for their actions in circumstances where general management provisions including the appraisal and disciplinary processes may apply.

- 5.8 Although professional advice on Council services will generally be provided to a Committee from within the existing Officer structure, circumstances may arise where specific experience is unavailable in-house. Appropriate expertise may then be commissioned subject to budgetary provision being available.
- 5.9 At the request of another Committee a Policy Committee Chair may attend meetings to explain the objectives of policies and the reasons for their Committee's decisions, relevant to their remit.
- 5.10 A Committee may commission independent advice on matters outside of the Council's direct responsibility where budgetary provision exists and where it is either required or advisable and the Council's statutory Officer has been duly committed.
- 5.11 A Committee may invite, but not require, the attendance of representatives from other Councils or agencies.

5.12 **REGULATORY AND OTHER COMMITTEES**

(i) Audit and Governance

The Audit and Governance Committee may require a variety of information and advice in order to carry out their work effectively (particularly that relating to the undertaking and discharge of their statutory scrutiny functions) and mechanisms to ensure this is achieved are addressed in detail in other sections of the Constitution. However in planning their work the Audit and Governance Committee must recognise that Officers and outside agencies providing information and Members, Officers and outside agencies requested to attend Committee meetings, may have other commitments which may restrict their ability to meet the requests of the Committee within specified timescales. This is particularly the case where very detailed/complex information is requested or where a number of individuals are requested to attend a Committee meeting. The Committee should be conscious of such circumstances and plan, consider and programme their work accordingly.

5.13 **(ii) Planning and Licensing Committees**

Particular issues arise in relation to the Planning and Licensing Committees, when Members are determining applications for

permissions, licences etc. Although Members act in an administrative role in the Planning Committee and a quasi-judicial role in the Licensing Committee, similar issues arise regarding the status of Officers' recommendations on the merits of an application.

5.14 When acting in a quasi-judicial capacity (for example in relation to licensing), Members will pay particular regard to the requirements of natural justice and the procedural advice issued by the Monitoring Officer.

5.15 The Planning Committee through the Planning Code of Practice have endorsed the following principles:-

"Members are entitled to reject the Officer's advice but they should only do so on the basis of an objective consideration of the planning issues. Planning is not a defined science and frequently involves decisions based on judgements relating to a wide variety of issues – traffic, appearance, character of the area, environmental impact etc. Members are entitled to bring their local knowledge into play in weighing considerations that often compete with each other. Their judgement on a particular issue may be different from that of the Planning Officer.

"However, the Committee must recognise the importance of factors such as:-

- the local planning scene as set out in the Local Plan;
- the national planning regime as set out in legislation and planning decisions and case law;
- the Council's own guidance to developers;
- previous decisions of the Committee.

5.16 The Planning Officer's advice will reflect these factors. Whenever Members depart from the Officer's advice and recommendation they increase the potential for undermining the integrity of the local planning scene and the ability of the Committee as the Local Planning Authority to require and enforce relevant standards of development – in the interests of the community as a whole."

5.17 The Licensing Committee in their licensing statement have endorsed the following principles: -

The role of the Officer in the context of the Licensing Committee's consideration of applications presented to it for determination is to provide the information available to the Council to enable the Members to form their own judgement of the issues relevant to the application. The factual content of the information comprises the evidence presented on behalf of the Council. It is the practice for the Officer to make a recommendation whether the application should be granted or

refused. The recommendation represents the Officer's opinion, in the light of the information available in advance of the hearing and with the benefit of his/her professional training and experience.

- 5.18 However, as the proceedings of the Committee are quasi-judicial, the Committee would be acting improperly if it failed to pay due regard to information and evidence presented by the parties (applicant and/or objectors). The Committee are required to make a determination by reference to all the evidence presented to them at the hearing, and they are required to take note also of the evidence submitted by or on behalf of the parties (applicants and objectors). The Committee are entitled, and should, form a view as to the weight they attach to the evidence presented.
- 5.19 In assessing the weight to be given to the evidence, the Committee are also entitled to recognise that information presented by the Officer and the Officer's recommendations have the particular merit of being: -
- Objective;
 - based on a knowledge of the local licensing scene as a whole
 - informed by the previous decisions of the committee
 - aimed towards the benefits to the community as a whole and not influenced by the benefits to the applicant, or his/her business or an objector or a section of the community.

5.20 **(iii) Neighbourhood Forums and other Committees**

Members and Officers providing information to Neighbourhood Forums will be treated courteously at all times and will treat the Forum with courtesy and respect. It will be the responsibility of the Forum chair to ensure that members of the public and other non-Council attendees behave appropriately.

- 5.21 Members and Officers attending Neighbourhood Forums (and Face the Public Events) will seek to assist Forums by providing information about Council policy and activities. It will not however, be the purpose of a Forum to address issues of individual performance of employees of the Council. Officers may not be held accountable for decisions taken by Members.
- 5.22 Policy Committee Members who accept invitations to attend Neighbourhood Forums, will, upon request, seek to explain the objectives of Council policies and actions insofar as they are relevant to their Policy Committee.

5.23 **THE CEREMONIAL MAYOR**

The Ceremonial Mayor will act as the Council's first citizen attending civic and ceremonial events and carrying out the role and function as

established in Part 2, Article 5 - The Ceremonial Mayor. In fulfilling the duties of the role, the Ceremonial Mayor:

- i) shall expend civic funds reasonably and within financial limits, subject to the advice of the Proper Officer.
- ii) shall have priority in use of the civic vehicle, but at all other times this should be made available for other council duties, subject to the agreement of the Chief Executive.
- iii) will be entitled to wear the chain of office.
- iv) will, where more than one civic function is occurring at the same time, determine which function if any, should be accepted/carried out by the Deputy Mayor.
- v) shall seek to ensure that the business of the Council is conducted effectively and that any procedural difficulties are discussed with the Chief Executive and the Council's Monitoring Officer.

6 OFFICER RELATIONSHIPS WITH PARTY GROUPS

- 6.1 No officer of the Council shall attend any party political group as an employee of the Council without the agreement of the Chief Executive and party political groups will not have the power to require attendance of individual Officers unless agreed by the Chief Executive.
- 6.2 No officer shall attend any party political group meeting without that attendance being made known to the leaders of all other political groups on the Council.
- 6.3 Officers attending any group meetings, shall not divulge to other groups the contents of any discussion or debate which takes place.
- 6.4 No reports should be produced by Officers specifically for party groups without the express permission of the Chief Executive and Officers shall not conduct research for party political purposes.
- 6.5 Officers will provide publicly available attendance details relating to individual Councillors to group officials from the same party or in the case of other parties (or independents) with the authorisation of the Member concerned. Members will always be notified that such information is being provided.
- 6.6 Officers are not permitted to allow the use of Council resources for party political purposes, other than where such use has been properly

authorised and where relevant, the appropriate charge has been made.

7 MEMBERS IN THEIR WARD ROLE AND OFFICERS

- 7.1 All Members are entitled to raise matters of local concern, either as representatives of the Council or on behalf of individuals or groups of constituents. Specific departmental protocols for dealing with such approaches may be introduced by the relevant Director or Chief Officer in order to facilitate an appropriate response to such enquiries.
- 7.2 Members will receive advice and assistance in their pursuit of local matters which is consistent with their responsibilities as elected Members and local representatives. Individual Members may not however, seek to obtain a disproportionate amount of Officer time in dealing with ward matters. This provision is intended to avoid a situation in which the demands of a small number of Councillors become so great that the interests of other Councillors, or the Council as a whole, may be compromised or damaged. There are provisions in the protocol for discussing and resolving differences of view about how much input can reasonably be required from Officers in responding to issues raised by Ward Councillors. If a Director or Chief Officer feels that the demands of Members in these circumstances are unreasonable, and this cannot be resolved informally, he/she will set out in writing the reasons, together with proposals for resolving matters. If agreement cannot be reached the matter will be referred to the Chief Executive to determine.
- 7.3 Consultation meetings with residents to discuss matters of local interest may be convened in a number of circumstances, for example by Members, Officers or residents themselves. Officers shall only attend such meetings with the agreement of the appropriate Director or Chief Officer. When Officers convene such meetings, they will ensure that all Ward Members and any other Councillors who might reasonably have an interest in the subject (e.g. relevant Policy Committee Chair) will be advised of the meeting and invited to attend.
- 7.4 Ward Members and others with a particular interest will be invited as a matter of course to any public meetings called by Officers to discuss local issues. They may also ask to be kept informed of key developments relating to local issues in which they have a particular interest. Such requests must be reasonable and not conflict with Officers' day to day management and decision making responsibilities. Members are not entitled to insist that they be invited to all meetings which Officers convene in order to discharge their responsibilities.
- 7.5 When members or local residents convene local meetings, Officer attendance will be at the discretion of the relevant Director or Chief Officer and will take account of the purpose of the meeting as stated by the convenor.

- 7.6 In all circumstances, the role of Officers at such meetings is to provide information on the topic under consideration and any decision making process which might be relevant, but not to offer or share judgements. Officers will seek to assist in the effective engagement of the community in the consultation process but will be mindful at all times of the integrity of the formal decision making process.
- 7.7 Members attending local consultation meetings, which may on occasion give rise to heated debate, should be mindful of the restrictions on the responses available to Officers and both Officers and Members should act at all times in accordance with their respective codes of conduct.
- 7.8 Officers may not permit the use of Council resources on ward matters unless authorised to do so for all Members. The only basis upon which the Council can lawfully provide support services (e.g. stationery, postage, typing, printing, photocopying, transport etc) to Members, is to assist them in discharging their role as Members of the Council. Such support services must therefore be used on Council business only. They should never be used in connection with party political or campaigning activity or for private purposes.
- 7.9 Councillors and Officers will be mindful and have regard to any applicable Code of Recommended Practice on Local Authority publicity as issued by the Secretary of State under section 4 of the Local Government Act 1986.

8 COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION

- 8.1 Officers will follow the Access to Information Procedure Rules as set out in Part 4 of the Constitution and will make available to Members any information to which a statutory right of access exists as soon as practicable.
- 8.2 Members will also be provided with non-statutory information in accordance with the agreed policy.
- 8.3 Where there is uncertainty as to the statutory position, the matter will be referred to the Council's Monitoring Officer for determination.
- 8.4 Non-statutory information requests from Members will be met within a reasonable timescale taking into account the scale of the request, providing that the information is not confidential, does not constitute party political research or require an unreasonable amount of officer time. Where an Officer considers the request is likely to require an unreasonable amount of Officer time, and the matter cannot be resolved informally, it should be referred to the Chief Executive (or Monitoring Officer).

- 8.5 Members are entitled as of right to a wide range of information but not to everything that they may wish to see. All Members have rights of access to documentation relating to business transacted at meetings of the Council, Committees' etc. The statutory provisions entitle Members to access documents such as reports, files and accounts, which are relevant to the business in question and are identifiable. They do not entitle an individual Member to require an Officer to undertake research on the Member's behalf or to extract information from records – though in some circumstances an Officer may judge that extraction of information is more efficient than providing access to documents. Beyond those statutory rights, Members' entitlement to information is determined to some degree by the particular role which they carry out. A Member who is on a particular Committee will have access rights which are different from a non-decision making Councillor, owing to the matter being categorised either as being 'exempt' under statute or being otherwise confidential.
- 8.6 Officers who are asked for information will sometimes need to take advice from colleagues, in particular the Monitoring Officer, as to whether or not the Member concerned is entitled to see information which they have asked for. Sometimes they will need to explore whether the information is available at all. It is important to bear in mind, that if a Member is not automatically entitled to information, then equally, the Officer is not at liberty to provide it unless satisfied that there is some valid justification for doing so, and that disclosure does not infringe any law (e.g. Data Protection Act), Council policy or confidentiality. Where Officers seek further information from Councillors before making a response to a request for information, this is in order that the position can be checked. Members should not see this as Officers being unhelpful. Where Members feel they have not been given the correct response to a request, they are encouraged to refer the matter to the Monitoring Officer for determination as the Statutory Officer responsible.

9 OTHER INDIVIDUALS WHO ARE MEMBERS OF COUNCIL BODIES

- 9.1 All representatives or other individuals invited or appointed to serve on Council bodies will have the relevant Codes of Conduct, procedures and protocols drawn to their attention and be required to observe them.

10 PUBLICITY MATERIAL, MEDIA RELATIONS AND PRESS RELEASES

- 10.1 The Council's Public Relations Unit will follow the same principles as other Officers of the Council in serving Members impartially. They will

also follow the Local Authority Code on Recommended Practice for Local Authority Publicity.

- 10.2 Appropriate Press Releases and publicity material will be prepared and distributed. Where any conflict exists publicity will incorporate a balanced and accurate account of the outcome of the formally constituted meetings
- 10.3 Public Relations Officers will observe the provisions of the code of recommended practice on Local Authority publicity. One of the key provisions of the code is that the opinions of individual Councillors cannot be promoted unless they are speaking on behalf of the Council. Public Relations Officers will therefore continue to incorporate in press releases only the views of individuals holding posts, which authorise them to speak on behalf of the Council.
- 10.4 Public Relations Officers will however, offer informal advice to all Councillors on media relations.
- 10.5 In accordance with the general provisions on confidentiality, both Officers and Members will refrain from making confidential information available to the media.
- 10.6 Draft press releases will be finalised following consultation with any Councillor who is to be quoted.
- 10.7 Photographic services will be available for major civic events and at other events where budgetary provision has been identified.
- 10.8 Members communicating with the media by letter or otherwise, will not make references to Officers which are personal in nature or could be construed as offensive. Any matters relating to individual performance by an Officer of the Council should be raised through the appropriate mechanisms and not in the media. Officers who are in communication with the media in the course of their employment, will similarly refrain from any such references to Councillors. Members are encouraged to check the factual accuracy of any media submissions with the appropriate Officer. Factually inaccurate statements mislead the public and may damage the reputation of anyone who is the subject of, or associated with, such inaccuracies.

11 CORRESPONDENCE

- 11.1 Correspondence between an individual Member and Officer should not normally be copied by the Officer to another Member, unless the Member has him/herself sent copies to other Members, in which case Officers may copy the response to the same Members.

- 11.2 Where copies of correspondence are sent to other Members, this should be made clear to the original Member. In other words, a system of “silent” or “blind” copies should not be used.
- 11.3 In all matters relating to the copying of correspondence, access to information legislation and the Council policy on access will be observed.
- 11.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representation to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should be sent out by the relevant Officer.

12 BREACHES OF THE PROTOCOL

- 12.1 Potential breaches of the protocol may come to light in a number of ways. They may, for example, be raised by Members, Officers, non-Council officials, groups or individual members of the public.

Alleged Breaches of the Protocol by Officers

- 12.2 The matter should be raised with the relevant member of the Council's Corporate Management Team who will investigate the circumstances.
- 12.3 If it is judged that the alleged breach may be a disciplinary matter or come within the scope of any other existing Council procedure (e.g. for dealing with potentially criminal acts) then the appropriate procedure will be initiated and followed in the usual way.
- 12.4 Where it is not appropriate to use an existing procedure, the investigating officer will report back to the person making the allegation with a suggested course of action.
- 12.5 If matters cannot be resolved, they will be referred to the Chief Executive for consideration, who will in any event be advised of all alleged breaches of the code.

Alleged Breaches of the Code by Councillors or Co-optees

- 12.6 Details of the allegation should be reported to the Chief Executive, via a Departmental manager if appropriate.
- 12.7 The Chief Executive will consider what, if any further action is appropriate in the circumstances, having regard to any existing

procedures such as the Council's complaints procedure or the procedure for dealing with allegations of criminal conduct.

12.8 Options may include:

- Invoking an existing procedure.
- Informal discussions with the individual who is the subject of the allegation to arrive at an agreed response.
- Referring the matter to the relevant Group Leader with a recommendation for action.
- Referring the matter to the Council's Monitoring Officer to consider action under the code of conduct.
- Referring the matter to an appropriate body or agency.

13. CONCLUDING COMMENTS

- 13.1 The Officer/Member protocol is not intended to deal with every situation that might arise. It does however contain a significant amount of material which can act as a pointer to how to deal with a wide range of issues. For example, it is clear in the sections covering the role of Members and the role of Officers, that strategic decision-making is undertaken by Members and not Officers. On the other hand, day to day choices on the action necessary to implement Member decisions are the responsibility of Officers not Councillors. This is made very clear in statutory guidance to Councils. In Hartlepool, Officer/Member relations have traditionally been very strong and constructive, based on mutual respect for the different roles of each, together with a recognition of the need to work together for the good of the community. It is the joint responsibility of both Officers and Members to maintain that tradition into the future.

DRAFT

HARTLEPOOL BOROUGH COUNCIL

PLANNING CODE OF PRACTICE

Currently Under Review

**Hartlepool Borough Council
Civic Centre
Victoria Road
HARTLEPOOL
TS24 8AY**

DRAFT

CONTENTS

	PAGE
1. INTRODUCTION	4
2. THE NEED FOR A CODE	4
3. SCOPE OF THE CODE	4
4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS	5
5. WHAT PLANNING DECISIONS ARE BASED ON	7
6. DUTIES AND SANCTIONS	8
7. THE DECISION MAKING PROCESS	9
8. LOBBYING OF AND BY COUNCILLORS	10
9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS	12
10. REGISTRATION OF INTERESTS	13
11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE	13
12. PARISH OR TOWN COUNCIL MEMBERSHIP	15
13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL	15
14. OFFICER REPORTS TO COMMITTEE	16
15. COMMITTEE PROCEDURES	16
16. COMMITTEE SITE VISITS	17
17. DECISIONS DELEGATED TO OFFICERS	18
18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN	18
19. DECISIONS CONTRARY TO OFFICER ADVICE	19
20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED	20
21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS	20
22. THE COUNCIL'S OWN DEVELOPMENTS	21
23. THE MEDIA	21
24. RECORD KEEPING AND COMPLAINTS	21
25. TRAINING	22
26. LEARNING FROM PAST DECISIONS	23
27. HOSPITALITY	23

28. RACIST COMMENTS	23
APPENDICES - 1, 2, 3, 4, ,	24-34

The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.

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1. INTRODUCTION

1.1 The Local Government Act 2000 introduced a new ethical framework to local government, including a Model Code of Conduct for Councillors. Previously the Nolan Committee Report on Standards in Public Life (1997) issued advice to Local Planning Authorities to frame Local Codes of Conduct or Good Practice to cover the question of Probity in Planning. The Code complements and expands on the Model Code and is an annex to it. The Model Code is essentially concerned with the conduct of individual councillor's duties, while the Planning Code is concerned with the integrity of the Planning System and its procedures. The Code of Practice is based on guidance from, eg The Nolan Committee, the Local Government Association, the Royal Town Planning Institute, the Standards Board for England, the Audit Commission and others. The Code sets out practices and procedures designed to avoid allegations of malpractice in the operation of the planning system. The aim is to protect the integrity of the planning system as open and fair to all parties.

1.2 The Code will be enforced by the Council's Standards Committee. The Code will be a consideration in any investigation of maladministration by the Local Government Ombudsman. The Code refers mainly to the actions of a Planning Committee as the main decision making body, but it applies especially to other forms of decision making, eg Council where planning issues may be discussed. The Code applies to both Councillors and Officers.

1.3 In terms of Article 6 of the Human Rights Act 1998, (right to a fair trial), the Code, together with the availability of an appeal procedure will meet the requirements of the Article. Ensuring that decisions are properly recorded and supported by adequate reasons. The fundamental basis of the Code is that the Planning System operates in the public interest and therefore decisions affecting

private and public interests have to be made openly, impartially, with sound judgement and for justifiable reasons.

1.4 In addition, the role of elected Councillors on a Planning Committee involves balancing/representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals which give rise to great tensions.

2. THE NEED FOR A CODE

2.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.

2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that decisions have been taken in an impartial, unbiased and well-founded way.

3. SCOPE OF THE CODE

3.1 This guidance note sets out the practices which Hartlepool Borough Council follows to ensure that its planning

system is fair and impartial, and explains the conduct expected of Borough Council Officers and Members on planning matters.

3.2 It applies to both Councillors and Officers who are involved in operating the planning system - it is not, therefore restricted to professional town planners or to Members in Committee meetings. The successful operation of the planning system relies on mutual trust and an understanding of each other's roles. It also relies on each ensuring that they act in a way which is not only fair and impartial but is also clearly seen to be so.

3.3 Both Councillors and Officers are guided by codes of conduct. The statutory code of conduct, supplemented by guidance from the Standards Board, provides standards and guidance for councillors. Employees will be subject to a statutory Employees' Code of Conduct. Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. However, not all Planning Officers are members of the RTPI, and parts of the Code of Professional Conduct are incorporated into this Code. The Council also has a Code of Conduct for Employees, by which all employees are required to abide. In addition to these Codes, the Council's Rules of Procedure govern the conduct of Council business.

3.4 Whilst this Code, and the others referred to above, attempt to be as clear as possible, ***if in doubt about how the guidance applies in particular circumstances seek advice.*** Officers should seek advice from the Chief Solicitor, who also acts as the Council's Monitoring Officer under the Local Government and Housing Act 1989. Members can seek advice from the Development Control Manager or from a Solicitor within the Legal Services Division as appropriate.

3.5 Appendix 1 also contains a list of other guidance on planning which is available from the Council.

3.6 This guidance is mainly about planning applications, but also applies to the ways in which the Council handles all applications, planning enforcement matters and also how the Council prepares a Local Plan and the successor Local Development Frameworks. References to applicants and objectors should therefore generally also be taken to refer to complainants and alleged contraveners in enforcement cases, and to landowners, developers and objectors involved in plan proposals. The guidance applies to planning matters on which a decision will be taken by the Borough Council.

4. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

4.1 Councillors and Officers have different, but complementary, roles. Both serve the public. Councillors are responsible to the electorate, and are elected to represent all people of the Borough. Officers are responsible to the Council as a whole. They advise the Council and its committees, and carry out the Council's work. They are employed by the Council, not by individual Councillors, and it follows that instructions may be given to Officers only through a Council or Committee decision. Any other system which develops is open to question. A successful relationship between Councillors and Officers can only be based upon mutual trust, respect and an understanding of each others roles and positions. This relationship, and the trust which underpins it, must never be abused or compromised.

4.2 Therefore:

- ***Individual Councillors should not give instructions to Officers on planning matters.***
- ***Officers' actions will follow Council policy and Committee decisions.***
- ***Political group meetings should not be used to decide how Members***

should vote on applications and enforcement cases and Councillors are not mandated on these matters by a political group.

4.3 The Model Code sets out the requirements on councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests (see next section), but also appropriate relationships with other members, staff and the public, which will impact on the way in which councillors participate in the planning process. Of particular relevance to councillors who become involved in making a planning decision is the requirement that a member

“must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.” (Paragraph 6(a) Model Code of Conduct).

4.4 The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on a planning committee.**

4.5 Officers must always act impartially. The RTPI Code of Conduct says planners:

- shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions;
- shall act with competence, honesty and integrity;

- shall fearlessly and impartially exercise their independent professional judgement to the best of their skill and understanding;
- shall discharge their duty to their employers, clients, colleagues and others with due care and diligence; and
- shall not discriminate on grounds of race, sex, sexual orientation, creed, religion, disability or age, and shall seek to eliminate such discrimination by others and to promote equality of opportunity.

These guidelines should apply to all Planning Officers. More detailed guidance and requirements are in the Council's own Code of Conduct for Employees. Through the Local Government and Housing Act 1989, restrictions are placed on the outside activities of senior staff, such as membership of political parties and serving on another Council.

4.6 Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Model Code. Members are placed under a requirement by the Model Code to:

- treat others with respect; and
- not to do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.

4.7 The principles from the Relevant Authorities (General Principles) Order 2001 (as embodied within the preamble to the Council's Code of Conduct) should guide the conduct of all Councillors. These principles are as follows:

- Selflessness
- Honesty and Integrity
- Objectivity
- Accountability
- Openness
- Personal Judgement
- Respect for Others
- Duty to Uphold the Law
- Stewardship

- Leadership

The actions and conduct of Councillors and Officers should be such as would seem appropriate and above suspicion to an impartial outside observer. Decisions should be taken in the interests of the Borough as a whole, and should not be improperly influenced by any person, company, group or Parish/Town Council. The key is to demonstrate that each Council and Councillor's decision was taken on the facts alone, without any undue outside pressure.

5. WHAT PLANNING DECISIONS ARE BASED ON

5.1 Planning decisions are based on planning considerations and cannot be based on immaterial considerations. The Town and Country Planning Act 1990, as amended, together with Government guidance and cases decided by the courts, define what matters are material to planning decisions.

5.2 *It is the responsibility of Officers in preparing reports and recommendations to Members, and in advising Committees, to identify the material planning considerations and to ensure Members are aware of those matters which are not material to planning decisions.*

5.3 Section 70 of the Town and Country Planning Act 1990, provides that Members have a statutory duty when determining planning applications, to have regard to the provisions of the development plan where material to the application, and to any other material consideration.

Under Section 38 (6) of the Planning & Compulsory Purchase Act 2004 'if regard is had to the development plans the determination must be made in accordance with the plans unless material considerations indicate otherwise'

The development plan consists of:

- The North East of England Plan, Regional Spatial Strategy (Issued 2008)
- The Hartlepool Local Plan (including Minerals & Waste Policies) (April 2006).

After April 2009 a limited number of Hartlepool Local Plan Policies not specifically saved by the Direction of the Secretary of State will cease to have statutory weight.

The Hartlepool Local Plan will in due course be superseded by the Hartlepool Local Development Framework.

5.4 Other material planning considerations include:

- Government guidance contained, for example, in Planning Policy Guidance notes (PPGs), Planning Policy Statements (PPSs), Regional Planning Guidance, Regional Spatial Strategies (RSS), Circulars and Ministerial announcements;
- planning briefs and other 'supplementary planning guidance' approved by the Council following public consultation;
- statutory duties in relation to conservation areas and listed buildings;
- representations made by statutory consultees and other people making comments, to the extent that they relate to planning matters;
- the environmental qualities of the surrounding area or the visual character of a street (this includes the scale, design and materials of buildings and the landscaping of a site);
- the amenity and privacy of dwellings;
- the character of an area in other senses (in terms of noise or other forms of pollution);
- road safety (both directly as in the case of a dangerous access or indirectly in terms of car parking and traffic generation);
- public services, such as drainage;

- public proposals for using the same land; and
- legitimate planning gain/community benefit.

5.5 There is much case law on what are, and are not material planning matters.

Planning matters must relate to the use and development of land. For example, the following are ***not*** normally planning matters and ***cannot be taken into account in planning decisions:***

- personal and financial considerations;
- private property rights and boundary disputes;
- covenants;
- effects on property and land values;
- developers' motives;
- public support or opposition, unless it is founded on valid planning matters;
- the fact that development has already begun (people can carry out development at their own risk before getting permission and the Council has to judge development on its planning merits);
- the fact that an applicant has carried out unauthorised development in the past;
- "trade objections" from potential competitors;
- moral objections such as activities likely to become addictive, for instance betting shops, lottery kiosks or amusement arcades;
- the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value;
- the loss of an attractive private view (for instance when development is proposed on the opposite side of the road to or at the rear of an objector's house);
- the fear that an objector's house or property might be devalued;
- the fact that the applicant does not own the land to which his application relates (this can be overcome by agreement with the owner and, if it is not, the development cannot happen);
- the fact that an objector is a tenant of land where development is proposed;

any consequences between landlord and tenant are unrelated to the application;

- allegations that a proposal might affect private rights, eg restrictive covenants; property maintenance; ownership and private rights of way disputes; boundary disputes; (such considerations are legal matters on which objectors should consult their own solicitor or advisor since it will not be possible for Officers of the Council to advise as to such rights);
- arguments of a personal kind in relation to the circumstances of the applicant. It is essential that Members are aware that planning permission goes with the land. The Government inquiry into planning in North Cornwall ('Inquiry into the Planning System in North Cornwall - DoE 1993') makes it plain that personal preferences are not reasons for granting planning permissions. Personal circumstances may, very exceptionally, have a place in the system. Therefore, information about the applicant should not be material to the consideration of a planning application in the vast majority of cases, and personal circumstances cannot therefore, in general, outweigh planning considerations.

6. DUTIES AND SANCTIONS

The Council's Planning Committee exercises the Borough Council's statutory Local Planning Authority functions and is the decision maker for the purpose of determining applications other than those matters falling within the Council's Scheme of delegation (see Appendix 4). Decision makers have a very special responsibility and have a number of statutory duties. There are also sanctions against the Council and Members for a failure to properly discharge the Local Planning Authority function. These duties and sanctions are summarised in Appendix 2.

7. THE DECISION MAKING PROCESS

In reaching a decision on a planning application, Members need to:-

- (i) identify the development plan policies which are relevant to the particular development proposal;
- (ii) identify any other material considerations;
- (iii) if there are other material considerations, the development plan should be taken as a starting point and the other material considerations should be weighed in reaching a decision. Considerable weight should be attached to the relevant policies of an adopted development plan. Exceptionally, paragraph 21 of The Planning System : General Principles, a document published alongside Planning Policy Statement 1: Delivering Sustainable Development advises that the personal circumstances of an occupier, personal hardship, or the difficulties of businesses which are of value to the welfare of a local community may be material. Such arguments will seldom outweigh the more general planning considerations. That means such considerations generally have less weight.

At a fundamental level, Members should go through the following three stage process when making a decision:-

Stage 1

- (i) Identify the relevant development plan policies and other relevant material considerations (if any) in respect of the application which need to be taken into account in the decision making process.

- (ii) Identify irrelevant matters which should not be taken into account in the decision making process. These include the applicant's personal qualities such as having a long term family connection with the area, his or her popularity in the community, the fact he/she is a local farmer, the fact that a son or daughter is just about to marry.

Stage 2

Attach sufficient weight to the development plan policies and other material consideration for and against refusal or approval.

Paragraph 21 of The Planning System: General Principles indicates that less weight is generally attached to personal circumstance. When they arise they fall to be considered not as a general rule, but as an exception to a general rule to be met in special cases.

Paragraph 13 of The Planning System: General Principles, indicates that Members must have proper regard to Government Statements of Planning Policy which indicates the weight to be given to relevant considerations. If Members elect not to follow relevant statements of the Government's Planning Policy, they must give clear and convincing reasons.

Stage 3

Weigh the material considerations in reaching a decision.

A failure to follow the proper decision making procedure can give rise to a proceedings for a Judicial Review or a finding of maladministration by the Local Government Ombudsman.

- ***In the decision making process, Members should not***

take into account irrelevant matters, allow them to outweigh important planning considerations and fail to take fully into account Government guidance on the weight to be attached to relevant considerations.

- *Members should determine applications in accordance with the advice given to them by their professional Officers unless they have good planning reasons, in the knowledge of all material considerations, to take a decision contrary to the officer's recommendation.*

8. LOBBYING OF AND BY COUNCILLORS

8.1 It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or to a Member of the Planning Committee. As the Nolan Committee's Third Report states: 'local democracy depends on Councillors being available to people who want to speak to them. It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representative, the Councillors themselves' (paragraphs 285, 288). However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question.

8.2 Councillors need to take account of the general public's (and the Ombudsman's) expectation that a planning application and other applications will be processed and determined in a transparently open and fair manner, in which Members taking the decision will take account of all the

evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. The determination of a planning application, or of a planning enforcement case, is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsman on grounds of maladministration; or to the Standards Committee that a member has breached the local code.

8.3 A Councillor who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding publicly to support a particular outcome - even campaign actively for it - it will be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented (perhaps in some respects for the first time) at Committee. Whilst in most circumstances this may not amount to a prejudicial interest in terms of the Model Code of Conduct, **the proper course of action for such a Member would be to make an open declaration and not to vote.** This can be seen, however, as a severe restriction on the Member's wish - duty even - to represent the views of the electorate. In most cases it should be possible for a Member to listen to a particular body of opinion, without engaging in lobbying for a particular outcome, and wait until the Planning Committee, to hear all the evidence presented, before making a final decision.

8.4 It is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and what the National Code of Local Government Conduct calls

the 'overriding duty as a Councillor ... to the whole local community'. However, the following guidance will be appropriate in most cases.

8.5 Councillors who are lobbied on a planning matter before the Planning Committee:

- may listen to what is being said;
- may give procedural advice eg to write to the Director of Regeneration and Neighbourhoods, the name of the Case Officer, the deadline for comments, whether the application is to be determined by the Planning Committee or delegated to Officers how decisions are reached through Officer recommendation /Planning Committee;
- should refer the person and any relevant correspondence to the Case Officer, so that their views can be recorded and, where appropriate, summarised in or attached to the report to the Committee;
- should take great care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have considered all the evidence and arguments;
- should make it clear that Councillors will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee;
- should not openly declare which way they intend to vote in advance of the relevant Committee meeting, or otherwise state a commitment to oppose or support the application;
- should not negotiate detailed planning matters with applicants, agents, objectors, etc;
- should pass relevant correspondence to the Case Officer prior to any Committee meeting;
- should report instances of significant, substantial or persistent

lobbying to the Development Control Manager or the Director of Regeneration and Neighbourhoods.

8.6 Councillors who have openly declared their voting intention in advance of the relevant Committee meeting should make an open declaration and leave the meeting, taking no part in debate or voting.

8.7 To avoid impressions of improper influence which lobbying by Members can create:

- Councillors should in general avoid organising support for or opposition to a planning matter to be determined by the Borough Council, and should not lobby other Councillors - such actions can easily be misunderstood by parties to the application and by the general public;
- Councillors should not put pressure on Officers for a particular recommendation;
- political group meetings should not be used to decide how Members should vote on planning matters;
- Councillors should not act as agents or advocates for planning applications or any other applications, enforcement cases or proposals to be determined by the Borough Council. Where a Councillor is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.
- Whenever a Member is approached or lobbied on any particular application Members should consider distributing the draft letter attached as Appendix 3 which makes clear the neutral stance which Members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting.
- If Members attend private site meetings in their ward at the request of the applicant they should

express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors, again, without expressing any opinion on the merits of the application prior to determination before Planning Committee.

- *Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.*

9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

9.1 The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving clear information about applicable policies, etc before proposals are designed; and so they can improve the quality of applications and development.

9.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- *The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to*

hand, neither will formal consultations with interested parties have taken place.

- *Advice should be consistent and based upon the development plan and material considerations.*
- *Where the Director of Regeneration and Neighbourhoods is the decision-maker (for delegated matters - see later), he/she should normally not meet the applicant, agent or objectors to discuss a case without another Officer present. A written note should be made of all discussions. A follow-up letter is advisable, at least when documentary material has been left with the Council. A note should also be taken of telephone discussions.*
- *Whilst Councillors will not normally be involved in pre-application or pre-decision discussions, if a Councillor is present he/she should be accompanied by an Officer. The Councillor should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.*

9.3 Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.*
- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*

- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use of Development. Advice from an Officer cannot legally circumvent this procedure.*
- *Officers will be unable to say what their recommendation is on a particular planning matter until all issues have been considered and the papers published for the relevant Committee.*

10. REGISTRATION OF

The Local Government Act 2000 and the Model Code place requirements on members on the registration and declaration of their interests and the consequences for the member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Guidance on the registration and declaration of interests will be issued by the Standards Board and advice may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

11.1 The Model Code abandons the use in the old National Code of the terms

'pecuniary' and 'non-pecuniary' interests. Instead, it uses the terms '**personal**' and '**prejudicial**' interests. The code defines a personal interest in any matter under discussion as:

(1) if the matter relates to an interest in respect of which the member has given notice in the statutory register of members' interests; and

(2) if a decision upon it might reasonably be regarded as affecting to a **greater extent than other council tax payers, ratepayers or inhabitants of the authority's area**, the well-being or financial position of themselves, a relative or a friend, or

- any employment or business carried on by such persons;
- any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- any body which the member is required to register in the statutory register of interests, in which such persons hold a position of general control or management.

11.2 Where a member considers he has such a personal interest in a matter, he must always declare it, but **it does not then necessarily follow that the personal interest debars the member from participation in the discussion.**

11.3 The member then needs to consider whether the personal interest is a **prejudicial** one. The code provides that a personal interest becomes a prejudicial one "*...if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest*". A member with a prejudicial interest shall declare it and leave the room, **unless members of the**

public are allowed to make representations, give evidence or answer question about the matter by statutory right or otherwise. If that is the case, the member can also attend the meeting for that purpose. However, the member must immediately leave the room once they have finished or when the meeting declares that the member has finished (if that is earlier). For the avoidance of doubt, the member should not remain in the public gallery to observe the vote on the matter.

11.4 The code will include some exceptions to this. For example, if the matter under discussion relates to:

- another authority of which the Councillor is a member;
- another public authority in which the councillor has a position of general management or control;
- a body to which the councillor has been appointed or nominated as a representative of the authority.

Then, in these circumstances, the interest **may not be regarded as prejudicial**. In practice, therefore, the member would need to declare the interest, but could participate.

11.5 It can be seen that these provisions of the code are an attempt to separate out interests arising from the personal and private interests of the councillor and those arising from the councillor's wider public life. The emphasis is on a consideration of the status of the interest in each case by the councillor personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts. Whilst the Standards Board, is mandated to provide guidance on the Code of Conduct, the decision in the end will be for the councillor alone to take.

11.6 Subject to paragraph 11.3, translated to a councillor's involvement in

planning issues, the two stage test of personal and prejudicial interests will, as now, require a councillor to abstain from involvement in any issue the outcome of which might advantage, or disadvantage the personal interests of the councillor, his family, friends or employer.

11.7 The exceptions made to the definition of prejudicial interests relating to membership of outside bodies mentioned in paragraph 11.4 are attempts to clarify the nature of such interests and to encourage participation in such cases. It appears that too often in the past, members had been prevented from participation in discussions in such circumstances, on the basis that mere membership of another body constituted an interest that required such a prohibition, even in cases where the member was only on that body as a representative of the authority.

11.8 When considered in the context of planning matters, this approach will require the exercise of particular judgment on the part of the councillor. The use of the term 'prejudicial' to describe the interest is helpful here. If a planning matter under consideration relates to another body upon which the councillor serves, the exemption in the Model Code would suggest that the member could participate in a decision on that matter - ie membership of that body could not be considered per se a prejudicial interest, which would bar the member.

11.9 However, if a member, in advance of the decision-making meeting had taken a firm view on the planning matter (in essence they had 'pre-determined' the matter), either in meetings of the other body or otherwise, they would not be able to demonstrate that, in participating in a decision, all the relevant facts and arguments had been taken into account, they would have fettered their discretion. Were they to participate in a decision in those circumstances, they might place their authority in danger of Judicial Review.

11.10 There will be occasions when

members will wish to press for a particular development which the member regards as beneficial to the development of the area. Should that member be able to vote on any planning application relating to that development? The appropriate action is not clear cut, and may depend on the particulars of the case. However, the general advice would be that a member in such circumstances may well be so committed to a particular development as the result of undertaking the responsibilities of furthering the development of the area, that he or she may well not be able to demonstrate that they are able to take account of counter arguments before a final decision is reached. Indeed, the member may be seen as an advocate on behalf of the authority for the development in question. In that sense, the member becomes almost the 'internal applicant'. In such circumstances, the appropriate approach is likely to be that the member advocating for the development should not vote on the relevant applications.

12. PARISH OR TOWN COUNCIL MEMBERSHIP

12.1 The Council consults the relevant Parish or Parish Meeting on every planning application. Planning Officers may, on request, attend a Parish meeting early in the life of an application to explain the facts of the application and any relevant Development Plan policies.

12.2 Difficulties can arise for Councillors who are members of a Parish Council as well as the Borough Council. By taking part in a Parish Council meeting when their comments on an application are agreed, a Borough Councillor will be seen to have made up her/his mind in advance of hearing all the issues at the decision-making Borough Council Committee. The member could be considered to have fettered his or her discretion. In those circumstances the member should not participate at the Borough Council meeting. In such cases the member has been excluded not because of the code but because the member's previous

actions had fettered his or her discretion and possibly laid the council open to the objection that the planning process had been tainted. So, a member has to choose whether to form a view at an early stage of the process and campaign for or against the planning applications but be excluded from the final decision-making; or reserve judgment until all views have been considered and only then form a view.

'Dual' Members should therefore either:

- ***not take part in the discussion of an application at the Parish Council meeting at which comments are agreed; or***
- ***not take part in the discussion/decision on the application at the Borough Council's Planning Committee;***

Furthermore:

- ***although the consultation response from a Parish Council is a relevant consideration, Members should not automatically defer to the Parish Council view, because Parish Councils do not have the advice of professional Planning Officers in reaching their decision.***

13. UNAUTHORISED DEVELOPMENT OR BREACH OF LISTED BUILDING CONTROL

13.1 Members or Officers who are aware of a breach of planning or listed building control on land under their ownership or control should promptly advise the Development Control Manager or the Director of Regeneration and Neighbourhoods of the breach in writing.

13.2 Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Development Control Manager and the Director of Regeneration and Neighbourhoods and be the subject of an

enforcement report to Planning Committee.

14. OFFICER REPORTS TO COMMITTEE

14.1 To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications, enforcement cases and other proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed through the Development Control Manager and will reflect the collective view of the Department - not the view of the individual author.

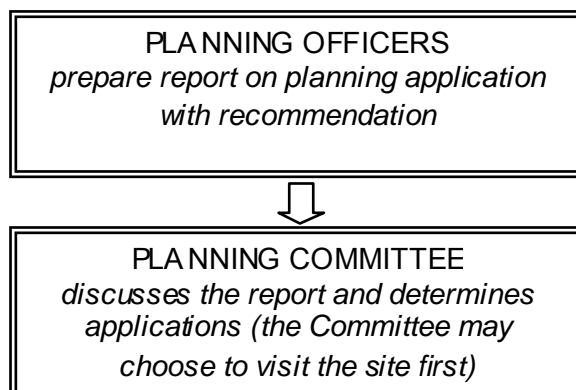
14.2 Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and applicable policies and their implications for the case, the site or related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;
- contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any conditions, planning agreement or obligation proposed in association with the planning permission.

15. COMMITTEE PROCEDURES

15.1 Decisions relating to planning applications (other than those matters dealt with under the Council's Scheme of

Delegation) are taken by the Council's Planning Committee. The procedure for processing planning applications may be summarised as follows:



15.2 Reports are available to the public five working days before the Committee on request. Paragraph 14.2 describes the content of reports. The application files, containing all comments, are also available at that stage. Late letters and other information may be put to Committee and copies of these are normally available for inspection. The public (including applicants and objectors) can attend Committee meetings and may speak under the terms of the Council's public speaking policy.

15.3 A guidance leaflet on public speaking and the process to be followed is available from the Borough Council. In essence, the officer will explain what is proposed and highlight the key planning issues. An individual wishing to speak on an application can ask to address the Committee for a defined time, ordinarily four minutes. Members may then ask questions of that individual if they wish. If the applicant (or agent) wish to speak or respond to points raised, they can then do so. Again, Members will then debate the merits of the case and arrive at a decision. For the avoidance of doubt, Members should also be similarly limited to the time constraints mentioned above and should not speak more than once at the 'debate stage' unless the Chair otherwise determines.

15.4 It is important that Members are present throughout all the debate on an

item. If any Member has to leave the Committee meeting for any reason, thereby missing any part of the proceedings, he/she should take no further part in the voting arrangements for the item(s) considered during their absence.

15.5 The Planning Committee may agree or disagree with the report and recommendation (but see sections 18 and 19 below). Having considered all the relevant planning matters, the Committee may:

- grant planning permission (usually with appropriate planning conditions) with justified planning reasons;
- refuse planning permission, with justified planning reason(s);
- defer the application for further consideration.

15.6 Planning enforcement decisions are normally taken by the Planning Committee. A written Officer report will normally be prepared in advance of the Committee. The report and the discussion at the Committee on some enforcement matters may not be available to the public, for example if the Council is considering a prosecution in the courts. Schedule 12A of the Local Government Act 1972 as amended sets out what can be considered in private.

15.7 Decisions on Local Plan/Local Development Plan proposals are referred to the Portfolio Member, following consideration of a written Officer report.

15.8 The procedures governing the conduct of meetings are set out in the Council's Constitution. However, the general public who attend these meetings will usually not be familiar with the Council's Constitution, or this Code. It is therefore important that decisions are made on relevant grounds and that this is the impression left with the public who attend. Responsibility for this rests primarily with the Chairman of the meeting, assisted where appropriate by Officers. To facilitate this:

- *a briefing for the Chairman and Vice-Chairman of the Planning Committee will be held after the Officer reports and recommendations have been published. The purposes of these briefings is to inform the Chairman and Vice-Chairman of the issues, to ensure that the rationale for the Officer recommendation is explained, and to identify any potentially problematic or controversial items;*
- *one or more Chartered Town Planners will be present at all Planning Committee meetings at which planning matters are considered;*
- *a Legal Officer will normally also be present.*

At a briefing and in order to ensure the proper conduct of the Committee meeting and to minimise any inconvenience, the Chair and Vice Chair may agree for an item(s) to be withdrawn if circumstances so require, the Committee being notified at the commencement of their meeting, of such withdrawal of the item(s) from the agenda.

16. COMMITTEE SITE VISITS

16.1 The Planning Committee may sometimes decide to visit a site prior to determining an application. Site visits sometimes result from a request by a Ward Councillor. It is acknowledged that this is a proper part of the representational role and should normally be acceded to, so long as the Ward Councillor can justify his/her request in relation to material planning considerations. Site visits should not be employed merely to appease local interest in an application.

16.2 However, site visits cause delay and add costs for the applicant and Council, and should only be used where there are substantial benefits. Therefore:

- *A site visit is likely to be necessary only if the impact of the proposed development is difficult to understand from the plans and any supporting material, including photographs taken by Officers, or if the proposal is particularly contentious.*
- *The reasons for a site visit should be clearly stated and minuted.*
- *All Members of the Planning Committee will be invited and should make every effort to attend, so that they understand the issues when the matter is considered at the following Committee meeting.*

16.3 Site visit meetings will be conducted in a formal manner:

- *The Chairman should start by explaining the purpose and conduct of the site inspection .*
- *The Officer will describe the proposal and highlight the issues relevant to the site inspection and other material planning considerations.*
- *The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.*
- *To avoid giving an impression of being lobbied, Members should not listen to or talk to any individuals whilst on site, unless being addressed as a group. Any comments should be made to the whole group through the Chair.*
- *The public, applicant or objector may attend the site inspection and will be invited by the Chair to draw Members' attention to any salient features or to any relevant factual information.*
- *Other than to draw Members' attention to any salient feature or to clarify a factual point, the public, applicant and objector will not be allowed to participate.*
- *To avoid Members being spoken to individually, the Chairman should*

endeavour to keep the Committee together as a group.

- *No discussion or decision-making will take place on site.*
- *No hospitality will be accepted before, on or after site visits.*
- *Members or Officers who have any declarable interest which means they should not participate at Committee on determining the application should not attend a site inspection.*

17. DECISIONS DELEGATED TO OFFICERS

17.1 The Council has generally agreed that decisions on certain types of application can be taken by the Director of Regeneration and Neighbourhoods through the Development Control Manager or the Assistant Director of Regeneration and Neighbourhoods, some in consultation with the Chair of the Planning Committee. These are wide ranging but generally less contentious the discharging of planning conditions and breaches of planning conditions. The full list of decisions delegated to the Director of Regeneration and Neighbourhoods is set out in Appendix 4. The system allows quicker decisions to be taken on straightforward matters. The procedure for processing delegated planning applications may be summarised as follows:

PLANNING OFFICERS
*prepare report on planning application
with recommendation*



Development Control Manager
*discusses the report and determines
applications (the Development Control
Manager may choose to visit the site*

18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

18.1 Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 5.3).

18.2 *If Officers are recommending granting planning permission contrary to the development plan:*

- *The decision will always be taken by Committee, and not as a delegated decision.*
- *The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.*
- *The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with the Town and Country Planning (General Development Procedure) Order 1995 Article 8.*

18.3 In some circumstances (as defined by Government Direction) the application will be referred - normally after the Planning Committee has agreed a recommendation - to the Secretary of State for Communities and Local Government to enable him/her to decide whether to 'call in' the application to be decided centrally. More details are set out in Appendix 2(5).

19. DECISIONS CONTRARY TO OFFICER ADVICE

19.1 If the Planning Committee makes a decision contrary to the Officers' recommendation on a planning application or enforcement case, then:

- *the proposer of the motion to go against the Officers' recommendation, or the Chairman, should state the planning reasons for the proposed decision before a vote is taken; the Ombudsman has said that the reasons should be clear and convincing, and be*

material planning considerations (see section 5 above);

- *the Planning and/or Legal Officer present at the meeting should be given the opportunity to comment upon whether the proposed reasons for the decision are planning matters and, if an approval is proposed, to recommend appropriate planning conditions;*
- *if the decision would be contrary to the Development Plan, then the Officer should comment on the extent to which the other planning considerations could be seen to override the Development Plan, and on whether the decision would require referral (see section 18 above);*
- *where Planning Committee indicates that it is not minded to accept the Officers' recommendation for approval, the planning application should be deferred to the next available meeting of Planning Committee where so requested by the Development Control Manager on behalf of the Director of Regeneration and Neighbourhoods. This deferral period enables Officers to prepare clear and convincing planning reasons for refusal;*
- *a detailed minute of the Committee's reasons for departing from the recommendation should be taken and a copy placed on the application file; if the decision is contrary to the Development Plan, the minute should state that and clearly set out those planning considerations which override the development plan.*

19.2 If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes. Both reasons for refusal and reasons for supporting conditions need to clearly refer to

applicable Development Plan policies, where relevant.

20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

20.1 One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

20.2 The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:-
 - insufficient weight has been given to Officers' recommendations and Central Government guidance; and
 - there is a failure to give and record reasons for the authority's change of mind.

20.3 Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which

there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

20.4 Therefore:

- *If a Committee is minded to approve an application for development previously refused, the proposer of the motion for approval or the Chairman should state what the significant change in the planning circumstances justifying approval are before a vote is taken.*
- *If there is a history of refusals by the Council and Inspectors appointed by the Secretary of State, the proposer of the motion for approval or the Chairman should also state why the Inspector's decision should no longer be followed before a vote is taken.*

21. DEVELOPMENT PROPOSALS SUBMITTED BY, OR AFFECTING, COUNCILLORS AND OFFICERS

21.1 Proposals to their own authority by serving and former Councillors and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. Proposals can take the form of either planning applications or Development Plan proposals, or may involve planning enforcement. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.

21.2 For planning proposals from Officers and Councillors (which are otherwise deemed by the Director of Regeneration and Neighbourhoods, or his representative, to be contrary to the principles set out in the scheme of delegation) shall proceed to determination before Planning Committee, subject to the following principles:

- ***Serving Councillors and Officers who submit their own proposal to the authority they serve should play no part in the decision-making process for that proposal.***
- ***Such proposals will be reported to Committee and not dealt with by the Director of Regeneration and Neighbourhoods under delegated powers.***
- ***The Council's Monitoring Officer should be informed of such proposals by serving Councillors, and the Officers report to the Committee will show that the applicant is a Councillor.***
- ***Councillors and Officers should never act as agents for people pursuing a planning matter with their own authority.***

21.3 For proposals submitted by close relatives and friends of Officers involved with the development control process:

- ***The Officer concerned will have no involvement with the application.***
- ***The Officer concerned should alert the Director of Regeneration and Neighbourhoods and/or the Development Control Manager to the proposal.***

21.4 Where a planning proposal directly affects the property or personal interests of a Councillor, she/he should play no part in the decision-making process. This would apply, for example if a Councillor submitted comments, as a neighbour, on a planning application.

21.5 Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

22. THE COUNCIL'S OWN DEVELOPMENTS

22.1 Proposals for the Council's own development have to be treated in the same way as those by private developers.

- All applications for the Council's own development will be reported to Committee where the application does not accord with the Scheme of Delegation.
- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

23. THE MEDIA

23.1 The principles of this Code also apply to press contact. Councillors and Officers when commenting to the media on planning matters should:

- ***have regard to the points made in the section on lobbying (Section 8);***
- ***ensure that they do not give the impression that they have pre-determined or pre-judged (as opposed to a pre-disposition) the planning application ;***
and;
- ***make clear that Councillors will retain an open mind until such time as the full facts are available and these are debated by the appropriate Committee;***
- ***for delegated applications, make clear that the Director of Regeneration and Neighbourhoods or his appointed representative will retain an open mind until such time as the full facts are available and presented for decision.***

23.2 Any Officers can provide facts about a planning matter which are in the public domain and available to the media. However, the media should be referred to the Director of Regeneration and Neighbourhoods or his appointed representative for attributable comments.

24. RECORD KEEPING AND COMPLAINTS

24.1 The Council has established its own Complaints Procedure. Complaints are

first investigated within the Department by an Officer more senior than the Case Officer. If the complaint cannot be resolved within the Department it will be referred to the relevant Portfolio Holder for consideration in accordance with the Council's Complaints Procedure.

24.2 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. It is not possible to keep a full note of every meeting and conversation. However, the guiding rule is that every case file should contain an account of the main events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached.

- *The main source of this documentation will be the Officer report to Committee and, if the Committee does not agree the recommendation, the Committee minutes.*
- *For delegated applications, a formal note of the main planning considerations is written and kept on file.*
- *These principles apply equally to enforcement and Development Plan matters.*
- *All Committee reports and delegated decision reports will be checked and agreed by the Development Control Manager.*
- *A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in proportion to the significance of the event.*

24.3 Section 14 gives more details on what reports contain.

25. TRAINING

25.1 As section 5 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be given to each Councillor and Officer in the Regeneration and Neighbourhoods Department, including new Councillors and employees.
- The Council will provide periodic training events for Councillors on planning, which all Members should endeavour to attend as part of their personal development.
- Members newly elected to the Council and those serving upon the Planning Committee without prior training (including substitutes) should not vote upon any planning application or the consideration of enforcement and other action until they have attended a recognised training event on planning. The Council will employ a Chartered Town Planner as Development Control Manager and will attempt to employ trained or Chartered Town Planners to operate its main planning functions.
- The Council will, as far as possible, assist Officers in carrying out training and development activities which enable them to meet the requirements of their post, and enable them to fulfil the 'continuous professional development' requirements placed on Chartered Town Planners.

26. LEARNING FROM PAST DECISIONS

26.1 The lessons to be learnt from any complaint against the Planning Service should be considered, recorded, and any necessary changes to procedures implemented. There will be an annual review by Planning Officers of a selective number of planning decisions which will be appraised through training and other initiatives, including the visiting of affected sites and so considering where appropriate any complaints to learn from experience.

26.2 The Council is working towards a more systematic way of learning lessons from a sample of past planning decisions and outcomes.

27. HOSPITALITY

27.1 *Councillors and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.*

27.2 Councillors should also be very cautious about accepting gifts and hospitality. The Model Code requires any members receiving any gift or hospitality, **in their capacity as members**, over the value of £25, to provide within 28 days of its receipt written notification of the details to the Monitoring Officer of the Council. Such details will go in a register of gifts and hospitality, which will be open to inspection by the public.

27.3 Similarly, Officers, during the course of carrying out their duties, Officers may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, Officers should ensure that it is of the minimal level and declare its receipt as soon as possible. Councils should provide a hospitality book to record such offers whether or not accepted. This

book should be reviewed regularly by the Council's Monitoring Officer. The requirement to register any such hospitality is likely to be a feature of the statutory code of conduct for employees.

27.4 The presumption should be that any gift is normally refused.

28. RACIST COMMENTS

28.1 The Council will follow the procedures in the RTPI note "Planning Authorities and Racist Representations". In particular:

- Letters containing racist comments will be returned to the writer;
- Racist comments will not be referred to in reports to Committees;
- Persistent racist comments will be referred to the Commission for Racial Equality or the Police. This is to ensure that the Council abides by Sections 31 and 33 of the Race Relations Act 1976.

28.2 Any applicants suggesting that they have been affected by racial abuse in whatever form, will have their application considered by Planning Committee and the Monitoring Officer will be advised of the circumstances and representations received.

APPENDIX 1: OTHER GUIDANCE

FROM HARTLEPOOL BOROUGH COUNCIL

Code of Conduct for Members
Code of Conduct for Employees
Council's Constitution
Statement of Community Involvement (2006)

FROM OTHER ORGANISATIONS

'Code of Professional Conduct' The Royal Town Planning Institute, (January 2001).

'Guidance for Good Practice on Members' Interests', the Commission for Local Administration in England, April 1994.

'Probity in Planning', Local Government Association, 1997.

'The Role of Elected Members in Plan Making and Development Control', RTPI, 1997.

'Planning Authorities and Racist Representations', RTPI, July 1996.

'Probity in Planning (Update)', Local Government Association (March 2002)

'Lobby groups', dual-hatted members and the Code of Conduct – Guidance for members, Standards Board for England (September 2004).

'Positive Engagement' – A Guide for Planning Councillors (2005 – updated)

'Model Members Planning Code of Good Practice – ACSeS (2003 –updated)

APPENDIX 2: DUTIES AND SANCTIONS

1. DUTIES OF MEMBERS

In determining applications, Planning Committee are not bound to follow the Officer's recommendation contained in a report. The Committee should form its own views as to whether permission should be granted. However, this should not be interpreted as meaning that there are no possible grounds for challenge in the Courts, by the Ombudsman or some other external agency whatever Members do for example in approving applications contrary to Officer's recommendations, National and Development Plan Policy.

Members of the Local Planning authority have the following duties:-

- (i) Members must at all times act within the law;
- (ii) The overriding duty of Members is to the whole community, not to individual applicants. For example, the avoidance of sporadic development in the open countryside is in the interests of the whole community;
- (iii) Members have a statutory duty when determining planning applications to have regard to the provisions of the development plan where material to the application and to any other material considerations (Section 70 of the Town & Country Planning Act 1990).
- (iv) Members have a statutory duty to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- (v) Members have a statutory duty when determining applications for listed building consent to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 16 of the Planning (Listed Building and Conservation Area) Act 1990.
- (vi) Members have a statutory duty when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest: Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- (vii) Members have a statutory duty when determining planning applications in respect of buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the special character or appearance of the area: Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. **SANCTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS**

Sanctions against Local Planning Authorities and Members are necessary because duties without sanctions would be potentially unenforceable. This part of the code briefly examines the remedies available to aggrieved persons who consider that the Council has acted unreasonably or unlawfully in making a planning decision and the implications these actions may have for the Council and Members.

The consequences of an unlawful or unreasonable planning decision are that the Council and Members would become subject to the scrutiny of the following external agencies:-

(1) **THE STANDARDS COMMITTEE, THE STANDARDS BOARD FOR ENGLAND AND THE ADJUDICATION PANEL**

Part III of the Local Government Act 2000 introduced the Ethical Framework for Local Government. This is a statutory framework within which members must operate. Local Authorities including District Councils, Parish and Town Councils have experienced a significant strengthening of the standards of conduct arrangements within which elected and co-opted members must operate, backed up by an external regulator to ensure compliance.

The Ethical Framework has four key elements:

- (1) Codes of Conduct;
- (2) a national regulatory and advisory organisation called the Standards Board for England;
- (3) the Adjudication Panel which may set up a tribunal to consider cases of misconduct by Members and;
- (4) Local Authority Standards Committees.

The framework is concerned with the proper behaviour of politicians in public life, namely:

- (1) the way in which politicians conduct themselves in decision making;
- (2) their relationships with constituents, officials and outside interests; and
- (3) how conflicts of interest are declared and handled in the decision making environment of a Council.

(a) **STANDARDS COMMITTEE**

Since 8 May 2008 the responsibility for considering complaints that a member may have breached the Code of Conduct rests with the Standards Committees of local authorities. The Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, provides that a Standards Committee can refer complaints that a member has breached the Code of Conduct to the Monitoring Officer for investigation or other action. The Standards Committee also has a discretion to refer a complaint to the Standards Board for England for investigation.

(b) **STANDARDS BOARD FOR ENGLAND**

The Board, may instruct an Ethical Standards Officers to conduct an investigation. Ethical Standards Officers have considerable autonomy in deciding the approach they will take, with extensive statutory powers to require Councillors to:

- (a) attend before him or her in person;
- (b) furnish information and produce correspondence.

If a Councillor fails to comply with a request of an Ethical Standards Officer this is an offence with a maximum fine on conviction of £1000.

An Ethical Standards Officers will decide either that:

- (a) there is no evidence of misconduct;
- (b) there is evidence but no action needs to be taken;
- (c) that the matter should be referred back to the Standards Committee, or
- (d) that it should be referred to the President of the Adjudication Panel for adjudication by a Case Tribunal.

In assessing these powers, it is important to remember that they are only concerned with misconduct - not with fraud or corruption.

(c) **ADJUDICATION PANEL**

The Adjudication Panel for England is constituted separately from the Standards Board. It will establish case tribunals to consider matters referred to it by the Ethical Standards Officers. The person subject to the adjudication may appear or be represented before the case tribunal. Where that tribunal finds misconduct, it may suspend a member (up to one year, although this must not extend beyond the person's term of office), disqualify from present or future membership (up to five years) or take no disciplinary action. There is a right of appeal to the High Court.

(2) **DISTRICT AUDITOR**

Section 91 of the Local Government Act 2000 introduces a system of advisory notices. Advisory notices will apply to all bodies subject to audit under the Audit Commission Act 1998.

The advisory notice gives auditors time to seek the opinion of the Courts on the legality of an Authority's actions where they consider that the Authority or a committee is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the Authority concerned.

An Authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the Authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the Authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the Court on the legality of the proposed course of action. The Authority may then only proceed with the action if the Court decides that it is lawful or if the auditor does not seek a Court's opinion within the notice period.

Four extraordinary headings of expenditure which could arise from decisions of the Planning Committee are:

- (a) an ombudsman finding of maladministration and injustice giving rise to recommendations for remedial action and financial recompense;
- (b) costs of litigation and award of costs following an application for Judicial Review in the High Court;
- (c) costs of local public inquiries, including possible award of applicants' costs following use of Secretary of State's call in powers;
- (d) costs of local public inquiries together with landowner's costs and possibly substantial compensation payments following actions by the Secretary of State for revocation, modification or discontinuance.

(3) **LOCAL GOVERNMENT OMBUDSMAN**

Aggrieved individuals who consider that they have been unfairly treated by the Council may refer their complaint to the Local Ombudsman for investigation to see if they have suffered injustice caused by maladministration.

Examples of maladministration would include:-

- (a) failure to follow a Council's agreed policies, rules or procedure;
- (b) failure to have proper procedures; bias or unfair discrimination;
- (c) failure to give due weight to Officer's recommendations and National Policy coupled with a failure to give and record clear and convincing planning reasons for approving a planning application where a planning application for substantially the same development has previously been refused;
- (d) taking into account irrelevant matters, allowing them to outweigh important planning considerations and failing to take fully into account Government guidance on personal circumstances.

If, after investigation, it is found that injustice has been caused by maladministration, the Ombudsman's report will contain recommendations as to what action the Council ought to take, which may include the payment of compensation.

The powers of the Local Government Ombudsman are contained in the Local Government Act 1974, as amended.

(4) **JUDICIAL REVIEW**

If an aggrieved individual or group of individuals believe that the Council's planning decision is wrong in law, they can make application to the High Court for Judicial Review of the decision, which might result in the planning decision being quashed.

In considering an application for Judicial Review the Court has regard to the following factors:-

- (a) whether the Council determined the planning application in accordance with the Development Plan or other material considerations;
- (b) whether the Council has taken into account an irrelevant consideration;

- (c) whether the Council has failed to take into account a relevant consideration;
- (d) whether there is evidence to suggest that if the Council has taken into account all relevant considerations it could not reasonably have taken the decision it arrived at;
- (e) whether all required procedures had been followed or there had been any procedural unfairness.

If the claimant succeeds on an application for Judicial Review, the planning decision may be quashed. In such circumstances it would be normal for the costs of the claimant's action to be awarded against the Council.

(5) **THE "CALL IN" POWERS TO THE SECRETARY OF STATE**

The Secretary of State has call in powers which can be exercised where a Council appears to be making inconsistent decisions which are seriously in conflict with National and Development Plan Policy. Planning applications called in by the Secretary of State, usually require a local public inquiry to be held, a part of the costs of which may be incurred by the Local Planning Authority. This power is contained in Section 77 of the Town & Country Planning Act 1990, as amended. The Town and Country Planning (Consultation) (England) Direction 2009 and accompanying Circular 02/09 should now be read in conjunction with this power. There are now five broad categories of development a Local Planning Authority must refer if it does not propose to refuse the development. These are Green Belt development, large office retail and leisure developments outside town centres, world heritage development, playing field development and flood risk development.

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

APPENDIX 3

DRAFT LETTER FOR LOBBYISTS

Dear Sir/Madam

The Role of a Councillor in a Planning Application

Thank you for seeking my advice as a Borough Councillor on a planning application. I will do all that I can to see that the matter is dealt with as fairly and as quickly as possible. My role as a Councillor is to listen and assist you and others through the planning process. The process is complex and involves consulting a number of different people. The views of various people will not always coincide.

The Council has adopted policies on most planning matters and it is important that applications are dealt with firmly in accordance with those policies so that decisions are consistent throughout the Borough.

A large number of applications are dealt with directly by Planning Officers under powers delegated to them. Other applications are dealt with by Planning Committee. If I am a member of the appropriate Committee I will have a vote on this application. If not, I may be able to attend the Committee if the application is within my Ward, but not vote. It is not possible for me to provide any commitment or support for an application or objection until I have heard all the facts presented at Committee. I may also be approached by others who will take a different point of view to you and I will therefore need to weigh up all the conflicting considerations.

Any views that you have on an application should be sent directly to the Council's Director of Regeneration and Neighbourhoods and any correspondence or information that I have received will also be passed on to the appropriate officer.

I am required by the Council's Code of Practice not to lobby or attempt to influence Planning Officers or fellow Councillors. I therefore cannot act as an advocate or agent on your behalf.

If I am a Member of the appropriate Planning Committee I may refer you to another Councillor who will help you make out your case.

If I am involved in making a decision on an application I cannot accept any gifts or hospitality from you or be seen to meet you or to meet you on or off site or otherwise give the impression of influence or bias.

I hope this clarifies my role as Councillor in the planning process.

Development Control Scheme of Delegation

As of May 2002 Hartlepool Borough Council has operated revised arrangements for dealing with planning applications.

The new arrangements have been introduced with a view to increasing the number of applications dealt with by Officers in accordance with Government guidelines and targets.

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Planning Committee	
Membership:	16 Councillors: Councillors: Cook (Chair), Morris (Vice Chair), Ainslie, Beck, Brash, Fisher, James, A Lilley, G Lilley, Payne, Richardson, Robinson, Shields, Simmons, Thompson and Wells
Quorum :	7
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> 1. All functions relating to town and country planning and development control (as set out in Part A of Schedule 1 to the Regulations). 2. Powers relating to the protection of important hedgerows (as set out in Part I of Schedule 1 to the Regulations). 3. Powers relating to the preservation of trees (as set out in Part I, Schedule 1 to the regulations). 4. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land. 5. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976. 	<p><i>Director of Regeneration and Neighbourhoods</i></p> <ol style="list-style-type: none"> 1. Power to carry out all of the functions of the Committee in paragraphs 1-5 adjacent, subject to the following exceptions: <ol style="list-style-type: none"> i) in the case of any relevant application which is submitted to the Council for determination, any matter which any member requests should be referred to the Committee for decision, such request to be received within 21 days of publication of details of the application. ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial, iii) the determination of applications submitted by the Council in respect of its own land or proposed development, except those relating to operational development to which there is no lodged objection.

Planning Committee (continued)	
Function	Delegation
<p>6. Powers, related to Commons Registration as set out in part B of Schedule 1 to the Regulations. [1B.37 & 38]</p> <p>7. Functions relating to public rights of way (as set out in Part 1 of Part I of Schedule 1 to the 2001 Regulations).</p> <p>8. The licensing and registration functions set out in Part B of Schedule 1 to the regulations at points 41 and 47-55 relating to the New Roads and Street Works Act 1991 and the Highways Act 1980.</p> <p>9. Functions relating to Town and Village Greens (as set out in Part 1 of Schedule 1 to the 2000 Regulations).</p>	<p>iv) the refusal of an application except with the agreement of the Chair of the Committee.</p> <p>v) except in cases of urgency</p> <p>a) power to require the discontinuance of a use of land</p> <p>b) power to serve a stop notice</p> <p>c) power to issue an enforcement notice</p> <p>d) power to apply for an injunction restraining a breach of planning control</p> <p>e) power to serve a building preservation notice and related powers</p> <p>f) power to issue enforcement notice in relation to demolition of unlisted building in conservation area</p> <p>g) powers to acquire a listed building in need of repair and to serve a repairs notice</p> <p>h) power to apply for an injunction in relation to a listed building,</p> <p>exercise of such powers to be reported for information to the next available meeting of the Committee.</p> <p>2. Power to formulate decision notices following decisions made in principle by the Committee.</p>

Planning Committee (continued)	
Function	Delegation
	<ol style="list-style-type: none"> 3. Power to negotiate and set charges for diversion or related matters and to take action regarding blockages or Rights of Way issues other than those related to countryside management. 4. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way (other than those delegated to the Director of Adult and Community Services), following discussion of the issues with the Chair of the Committee. 5. In relation to matters which are relevant to countryside management, power to negotiate and set charges for diversion or related matters and to take action regarding blockage on Rights of Way issues. 6. Power in cases of urgency to carry out all of the functions of the Planning Committee relating to public rights of way which are relevant to countryside management. 7. Power to carry out all of the functions of the Committee with the exception of any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial.

Planning Committee (continued)	
Function	Delegation
	8. Power to register without modification unopposed applications to register land as town or village green in respect of Town and Village Greens, following the statutory consultation period.
	<i>Planning Services Manager</i> Power to require proper maintenance of land.
	<i>Chief Solicitor</i> 1. Power to confirm, without modification unopposed creation, diversion or extinguishment Orders in respect of Public Rights of Way, following the statutory advertising period. 2. Power to confirm, without modification, unopposed footpath and footway conversion orders following the statutory advertising period. 3. Power to confirm, without modification, all future unopposed Definitive Map Modification Orders following the statutory advertising period.



HARTLEPOOL BOROUGH COUNCIL CODE OF CORPORATE GOVERNANCE

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HARTLEPOOL BOROUGH COUNCIL'S

CODE OF GOVERNANCE

1. INTRODUCTION

- 1.1 Hartlepool Borough Council recognises that good governance leads to good management, attainment of good performance and overall proper stewardship of public monies. Additionally, through public engagement and empowerment this should ultimately lead to beneficial outcomes for citizens and service users. Good governance enables Local Authorities to pursue their aims and outcomes in an effective and responsive manner, as well as underpinning their visions through appropriate mechanisms for control and effective management of risk.
- 1.2 All public Authorities should aim to meet the standards of the best possible governance arrangements which should not only be sound but also seen to be properly robust and effective. Governance is about how Local Government bodies ensure that they are doing things right for the community they serve, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes as well as cultures and values by which Local Government is directed and controlled and through which it is publicly accountable. Of primary importance, is the way any public body engages with and where appropriate, provides leadership and direction to their communities.
- 1.3 Hartlepool Borough Council is committed to being at the forefront of those Local Authorities that are able to demonstrate that they have the necessary Corporate Governance to excel in the Public Sector. This Code is a public statement that sets out the way in which the Council will meet that commitment.

2. CODE OF GOVERNANCE FRAMEWORK

- 2.1 Hartlepool Borough Council is committed to applying the core principles as set out in the SOLACE-CIPFA Good Governance Framework which comprises the following key elements;

Focusing on the Council's Purpose and Community Needs

- focussing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area;

Having Clear Responsibilities and Arrangements for Accountability

- Members and Officers working together to achieve a common purpose with clearly defined functions and roles;

Good Conduct and Behaviour

- promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;

Informed, Transparent Decision Making and Managing Risk

- taking informed and transparent decisions which are subject to effective scrutiny and management of risk;

Developing Skills and Capacity

- developing the capacity and capability of Members and Officers to be effective; and

Engaging Stakeholders

- engaging with local people and other stakeholders to ensure robust public accountability.

- 2.2 Each of these Principles is an important part of Hartlepool Borough Council's Corporate Governance arrangements. This statement describes how the Council will meet and demonstrate its commitment to good Corporate Governance. Also described in this document is how and by whom the Council's Corporate Governance arrangements will be monitored and reviewed.

3. THE COUNCIL'S CORPORATE GOVERNANCE PRINCIPLES

3.1 Focusing on the Council's Purpose and Community Needs

The Council will explain and report regularly on activities, performance and the Council's financial position. Timely, objective and understandable information about the Council's activities, achievements, performance and financial position will be provided.

The Council will do this by annually publishing:

- A Council Plan;
- Externally audited accounts;
- Independently verified performance information.

The Council will aim to deliver high quality services that are value for money.

The Council will do this by:

- Delivering services to meet the needs of the local community, and put in place processes to ensure that they operate effectively in practice;
- Directing resources to those that need services most
- Ensuring that timely, accurate and impartial financial advice and information is provided to assist in decision making and to ensure that the Authority meets its policy and service objectives and provides effective stewardship of public money and value for money in its use
- Ensuring that the Authority maintains a prudential financial framework; keeps its commitments in balance with available resources; monitors income and expenditure levels to ensure that this balance is maintained and takes corrective action when necessary
- Ensure compliance with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code
- Developing effective relationships and partnerships with other public sector agencies and the private and voluntary sectors, and consider outsourcing where it is efficient and effective to do so;
- Responding positively to the findings and recommendations of external auditors and statutory inspectors and putting in place arrangements for the implementation of agreed actions;
- Comparing information about our services with services provided by similar organisations and assessing why levels of efficiency, effectiveness and quality are different elsewhere.

3.2 Having clear responsibilities and arrangements for accountability

The Council will ensure that the necessary roles and responsibilities for the Governance of the Council are identified and allocated so that it is clear who is accountable for decisions that are made.

The Council will:

- Appoint Committees to discharge the Council's Policy responsibilities;
- Appoint Committees to discharge the Council's Regulatory and statutory responsibilities;
- Appoint Committees to discharge joint responsibilities with other authorities
- Have in place a scheme of delegated Council responsibilities to Officers;
- Have in place effective and comprehensive arrangements for the review and overseeing of services.
- Ensure that the Chief Finance Officer (as the designated Section 151 Officer) reports directly to the Chief Executive (designated as the Council's Head of Paid Service) and is a member of the Corporate Management Team.
- Ensure that the Authority's governance arrangements allow the Chief Finance Officer (hereinafter referred to as the CFO) and the Council's Monitoring Officer direct access to the Chief Executive and to other members of the Corporate Management Team.

- Ensure that the CFO leads the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively
- Ensure that the budget calculations are robust and reserves adequate, in line with CIPFA's guidance
- Ensure that appropriate management accounting systems, functions and controls are in place so that finances are kept under review on a regular basis. These systems, functions and controls will apply consistently to all activities including partnership arrangements, outsourcing or where the Authority is acting in an enabling role.

3.3 Good Conduct and Behaviour

The Council will foster a culture of behaviour based on shared values, ethical principles and good conduct. The Council will do this by establishing and keeping under review:

- The Council's values
- A Member Code of Conduct;
- An Officer Code of Conduct;
- A Protocol governing Member/Officer relations;
- Defined Procedures detailing the roles of Members and Officers in decision-making (Part 3, Responsibility for Functions);
- Systems for reporting and dealing with any incidents of fraud and corruption, for example, through 'Whistle-blowing' procedures and anti-fraud policies and procedures including a policy relating to combating money laundering.
- Ensure that systems and processes for financial administration, financial control and protection of the authority's resources and assets are designed in conformity with appropriate ethical standards and monitor their continuing effectiveness in practice.

3.4 Informed, Transparent Decision Making and Managing Risk

The Council will ensure that appropriate legal, financial and other professional advice is considered as part of the decision-making process.

The Council will be transparent about how decisions are taken and recorded.

The Council will do this by:

- Ensuring that all 'Key Decisions' are made in public and that information relating to those decisions is made available to the public¹.
- Ensuring that all decisions of Policy and Regulatory Committees (including those discharging statutory responsibilities) of the Council are made in public and that information relating to those decisions is made available to the public
- Recording all decisions that are made by other Committees and Officers³ and making the details publicly available.

- Having rules and procedures which govern how decisions are made.
- Ensuring an effective internal audit function is resourced and maintained and that the Authority's governance arrangements allow the CFO direct access to the Audit and Governance Committee and external audit
- Ensuring the Authority's arrangements for financial and internal control and for managing risk are addressed in annual governance reports and the Authority puts in place effective internal financial controls covering codified guidance, budgetary systems, supervision, management review and monitoring, physical safeguards, segregation of duties, accounting procedures, information systems and authorisation and approval processes
- Ensuring the provision of clear, well presented, timely, complete and accurate information and reports to budget managers and senior Officers on the budgetary and financial performance of the Authority and the delivery of services.

¹ Except where that information is exempt under the provisions of the Freedom of Information Act or determined as being confidential by Government or otherwise exempt by the Council.

² Except where that information is exempt under the provisions of the Freedom of Information Act or determined as being confidential by Government or otherwise exempt by the Council.

³ For Officers this relates to Key, Major and significant operational decisions only.

The Council will operate a risk management system that aids the achievement of its strategic objectives, protects the Council's reputation and other assets and is compliant with statutory and regulatory obligations. The Council will ensure that the risk management system:

- Formally identifies and manages risks;
- Involves Elected Members in the risk management process;
- Maps risks to financial and other key internal controls;
- Incorporates service continuity planning; and
- Reviews and, if necessary, updates its risk management processes at least annually.

3.5 Developing Skills and Capacity

The Council will ensure that those charged with the governance of the Council have the skills, knowledge and experience they need to perform well. The Council will do this by:

- Implementing a Workforce Strategy including Member Development;
- Cascading regular information to Members and staff.

3.6 Engaging Stakeholders

The Council will seek and respond to the views of stakeholders and the community. The Council will do this by:

- Forming and maintaining relationships with the leaders of other organisations, for example, the Strategic Partners Group,
- Publishing a Forward Plan of Key Decisions to be taken during the relevant Plan period;
- Having a policy on consultation and providing access to a range of consultation methods, particularly to those groups not yet reached;
- Encouraging and supporting the public in submitting requests for the review of services and recommendations for improvement;
- Providing and supporting ways for Citizens to present community concerns to the Full Council and through Neighbourhood Forums

4. MONITORING AND REVIEW

The Council has Committees that are responsible for monitoring and reviewing the Council's Corporate Governance arrangements. These Committees and their functions are set out below. In addition, the Council has an Independent Remuneration Panel to advise and make recommendations to the Council on the scheme of allowances.

4.1 The Audit and Governance Committee is responsible for the Council's arrangements relating to:

- Approving the Council's Accounts;
- External audit;
- Policies and practices that ensure compliance with statutory and other guidance;
- Internal audit.

The Committee also has responsibility for the following roles and functions:

- (i) promoting and maintaining high standards of conduct by Elected Members and co-opted members and church and parent governor representatives;
- (ii) assisting the Elected Members and, co-opted members and church and parent governor representatives to observe the Members' Code of conduct;
- (iii) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (iv) monitoring the operation of the Members' Code of Conduct;
- (v) advising, training or arranging to train Elected Members and co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (vi) granting dispensations (unless otherwise delegated to the Council's Chief Solicitor, acting as Monitoring Officer) to Elected Members and, co-opted members and church and parent governor representatives

from requirements relating to interests set out in the members' Code of Conduct;

(vii) dealing with any reports from Monitoring Officer on any matter which is referred for investigation under 'arrangements' to deal with complaints under the Localism Act, 2011.

(viii) the exercise of (i) to (vii) above in relation to the Parish Councils wholly or mainly in its area and the members of those parish councils.

Through this Committee, the Council will ensure that these arrangements are kept under continual review by:-

- The work of internal audit
- Reports prepared by Managers with responsibility for aspects of this Code
- External Audit opinion
- Other review agencies and Inspectorates
- Opinion from the Council's statutory Officers

The Audit and Governance Committee will also have responsibility for the discharge of all statutory scrutiny functions relating to health and wellbeing under the Health and Social Care Act 2012 and Crime and Disorder for the purposes of the Police and Justices Act 2006.

The Monitoring Officer is responsible for the review and monitoring of the Council's Constitution, and able to make recommendations for changes, where reviewing the Constitution to full Council (Article 15 of the Council's Constitution refers).

4.2 The Finance and Policy Committee has responsibility for the financial and other resources of the Authority including the formulation, development and implementation of the Authority's plans and strategies under the Budget and Policy Framework. The role and remit of this Committee is referenced within Article 7 (Policy Committees) and Part 3 (Responsibilities for Functions) of the Council's Constitution.

All Policy Committee Chairs will be represented on Finance and Policy Committee.

5. THE CORPORATE GOVERNANCE STATEMENT

- 5.1 Each year the Council will publish an Annual Governance Statement. This will provide an overall assessment of the Council's Corporate Governance arrangements and an appraisal of the key controls in place to manage the Council's principal governance risks. The Statement will also provide details of where improvements need to be made⁴.
- 5.2 The Annual Governance Statement will be published as part of the Council's Annual Statement of Accounts and will be audited by our External Auditors.

⁴ Incorporating the Council's duties to publish an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2011 (Amended).

6. CONTACT

The underlying purpose of this "code of governance" is ostensibly to provide a statement of the Borough Council's commitment to proper and effective governance and to reference a variety of documents relating to governance within the Borough Council the same being documented below and available for public access at www.hartlepool.gov.uk.

For any further information on the Borough Council's good governance arrangements, contact should be initiated with the following Council Officers;

Chris Little ,
Chief Finance Officer, Hartlepool Borough Council, Civic Centre, Hartlepool
TS24 8AY

Peter Devlin,
Chief Solicitor and Monitoring Officer of Hartlepool Borough Council, Civic
Centre, Hartlepool TS24 8AY

Dave Stubbs
Chief Executive, Chief Executive's Department, Hartlepool Borough Council,
Civic Centre, Hartlepool, TS24 8AY

Andrew Atkin
Assistant Chief Executive, Chief Executive's Department, Hartlepool
Borough Council, Civic Centre, Hartlepool TS24 8AY

KEY DOCUMENTS

A - The Constitution

- Part 1 – Summary and Explanation
- Part 2 – Articles of the Constitution
- Part 3 – Responsibilities for Functions
- Part 4 – Rules of Procedure
- Part 5 – Codes and Protocols
- Part 6 – Members' Allowances Scheme
- Part 7 – Appointment to Outside Organisations and other bodies
- Part 8 – Management Structure

B - Essential Documents supporting the Council's Constitution

- Policy framework, plans and strategies (*including published minutes of meetings*)
- Code of Conduct for Members
- Code of Conduct for Employees
- Whistleblowing Procedure Document
- Planning Code of Practice
- Anti Money Laundering Policy
- Code of Corporate Governance
- Forward Plan of Key Decisions

C - Key Policy Documents

- Council Plan
- Sustainable Community Strategy
- Statement of Community Involvement

D - Key Budget and Risk Management Documents

- Council's Annual Budget
- Medium Term Financial Strategy
- External Auditor's Annual Statement and Accounts
- Council's Risk Management Framework - Council's Anti-Fraud and Corruption Policy
- Annual Governance Statement

E - Key Member, Officer Decision Making

- Annual Report of Policy Committees
- Officer/Member Protocol
- Council Delegation Scheme

F – Miscellaneous Documents

- Corporate Complaints Procedures
- Members Training and Development Programme
- Register of Members' Interests
- Members' Gifts and Hospitality Register
- Officers' Gifts and Hospitality Register
- Hartlepool Borough Council Year End Performance Report
- Hartlepool Borough Council's Annual Report

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**GUIDANCE FOR MEMBERS AND
OFFICERS SERVING ON OUTSIDE
ORGANISATIONS AND OTHER BODIES**

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CONTENTS

	Page
1. Introduction.....	89
2. Companies	90
3. Charities.....	92
4. Unincorporated Associations.....	94
5. Registration and Disclosure of Outside Interests for Members	95
6. Disclosure of Outside Interests for Officers	96
7. Gifts, Hospitality.....	97
8. Bribery Act, 2010.....	97

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1. Introduction

- 1.1 This guide is intended to give a general overview of the issues which affect Members and Officers who are appointed to outside organisations and other bodies (see also Part 7 of the Council's Constitution). The council's Monitoring Officer will be able to provide further advice to expand upon any of the issues raised.
- 1.2 Members are appointed by Council to a range of outside bodies. In addition, Members may be appointed directly by the outside body itself to serve in a private capacity (for instance as a member of the community) rather than as an elected member of the council, or they may be a serving member of that body before being elected as a Member of the Borough Council.
- 1.3 The roles of Members or Officers on outside bodies will depend upon the legal nature of that organisation and the capacity in which they are appointed to act. It may, for example, involve acting as a company director, the trustee of a charity, or a member on a management committee.
- 1.4 In participating in outside bodies, Members and Officers may take account of the council's wishes but they must ultimately make independent judgements in line with their duty of care to the outside body. They must also act according to the framework set by the outside body and take an active and informed role in the management of the outside body's affairs. This involves attending meetings on a regular basis and carrying out their duties to the best of their abilities. In addition, they must follow as far as applicable the Council's Code of Conduct and such other codes and protocols that might apply.
- 1.5 Members should be aware that they will have to disclose membership of the outside body in their dealings with the council and where a conflict of interest arises it is likely (see Council Procedure Rule 23) that they will have to withdraw from any consideration by the council of any matter affecting the outside body. Members should bear this in mind when deciding whether or not to accept a particular nomination. In the case of Officers, arrangements should be made to refer the matter to another officer to deal with whenever a conflict of interest arises.
- 1.6 Whilst there is no legal obligation on Members or Officers to report back to the council on their involvement in outside companies to which they have been nominated by the council, it is good practice to do so; this is best achieved by way of a report to the relevant committee. In the case of Officers, their participation should be discussed on a more regular basis with their line manager at supervision or appraisal meetings.

1.7 The most common types of outside bodies in which Members or Officers may become involved are considered in more detail below and include:-

- (a) Limited Liability Companies
- (b) Charities
- (c) Unincorporated Associations

1.8 Indemnities and Insurance.

1.8.1 The primary responsibility for providing proper indemnities and insurance cover to protect Members and Officers when acting for outside bodies lies with those bodies. However, a form of indemnity from the Council may exist to provide protection to the council's appointee or nominee.

1.8.2 An indemnity will only be provided by the council to those Officers or Members whom the council has appointed or nominated to an outside body. Where a Member or officer is serving on an outside body having been nominated by the body itself, or where the Member/officer was already serving on the body when elected a Member of the council/employed by the council, an indemnity would apply only where that Member or officer was acting at the request of, or with the approval of, the council.

2. Companies

2.1 The obligations imposed by company law are onerous and there are severe penalties for non-compliance with many of the duties imposed on directors. It is important for Members and Officers appointed to act as company directors to ensure that they understand the duties and obligations which the law imposes on them.

2.2 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. A company is distinct from its members, who may be either shareholders or guarantors.

2.3 Whether a company is limited by shares or by guarantee, the day to day management of the company is usually vested in the directors. The members ultimately control the company by electing the directors and deciding the major issues at general meetings. The main differences are as follows:-

- in a company limited by shares the shareholders share the ownership of the company and its profits and if the company is wound up each shareholder is liable to pay an amount equivalent to the nominal value of his or her shareholding;
- a company limited by guarantee does not normally seek to make a profit and in the event of the company being wound up, the members guarantee

to make a payment to the level of their guarantee (usually a nominal figure of £1.00). Hence companies limited by guarantee are more commonly used for voluntary and public bodies, especially where charitable status is sought.

- 2.4 A company is controlled by reference to its 'constitution', which is contained in the Memorandum and Articles of Association. These documents will set out the powers of the company, and the rules by which it is to be managed. Any act carried out by the company that is outside the powers set out in the Memorandum will be unlawful, and a director involved in such an act **may be personally liable** for any resulting losses.
- 2.5 In general Members and Officers should avoid taking executive or managerial responsibility for the company's activities because the duties of executive or managing directors can be particularly onerous. This is because executive directors are directly responsible for particular aspects of the company's affairs. For example, a finance director will have responsibility for the company's financial position, which could give rise to liability for allowing the company to trade while insolvent if the company goes into liquidation. However, all directors, including part-time and non-executive directors, are required to make themselves fully aware of the company's financial position and should attend Board meetings regularly. Ignorance of transactions entered into by the company through a failure to make proper enquiries may not be an adequate defence to a charge of negligence brought against such a director.
- 2.6 In some situations, the Council may nominate Members or Officers to act as "observers" on the board of directors of a company. Although such observers have no specific legal status, Members and Officers should be aware that if an observer's involvement increases to such an extent that it could be said that there is an active engagement in the management of the company, he or she may be deemed to be a "shadow director" which may entail liabilities. Any person appointed to this role should therefore ensure that the extent of their role as an observer is clearly defined and agreed to avoid involvement in managing or directing the management of the company.
- 2.7 Under the Companies Act 2006 ('the Act'), directors owe a number of legal duties to their company. These are duties to:
- Act within powers (section 171 of the Act)
 - Promote the success of the company (section 172)
 - Exercise independent judgement (section 173). Although it is permissible to take account of the interests of a third party (in this case the council), a director cannot vote simply in accordance with the council's instructions.
 - Exercise reasonable skill, care and diligence (section 174)
 - Avoid conflicts of interest (section 175). There may be actual or potential conflicts between the interests of the company and those of the council. A Member or officer cannot waive their statutory responsibilities as a director; hence they may have to cease to act as a Member or officer in relation to the particular matter. In extreme cases, the only proper way for

the conflict to be resolved may be for the Member or officer to resign either from the company or from the council.

- Not accept benefits from third parties (section 176)
- Declare interest in a proposed transaction or arrangement with the company (section 177). Directors must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association. Equally, Officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council.

Members acting as directors should be aware of these duties, particularly those which could lead to:

- A conflict with their role as member of the local authority (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
- Personal liability for the debts of the company

The fact that a director is appointed to a company board as a representative of the council does not diminish these duties.

Liabilities and Indemnities

- 2.8 Directors cannot be indemnified by a company against liability arising out of negligence, fraud or breach of duty or trust. The company's Articles of Association may however allow for directors to be indemnified by the company in respect of the cost of defending such proceedings, where the director concerned is granted relief by the court or acquitted.
- 2.9 The Council does have limited powers to provide indemnities for Members or Officers when appointing them to act as directors. It is also appropriate for a company to purchase insurance to protect its directors against claims of negligence, breach of trust or duty, or other default. Before taking up an appointment, directors should ensure that such insurance is in place and that the provision of the insurance is within the powers of the company.

3. Charities

- 3.1 Many outside bodies with which Members or Officers will be involved will be charities.
- 3.2 A charitable organisation is one which is formed for one or more of the following charitable purposes:
- the relief of poverty and human suffering
 - the advancement of education
 - the advancement of religion
 - another purpose for the benefit of the community.

- 3.3 It must operate for the public benefit and have exclusively charitable purposes. It must be registered with the Charity Commissioners. The Commissioner oversee the operations of all charities, and grant consent to various transactions involving charities, where the law requires this.
- 3.4 The law relating to charities imposes a number of duties and liabilities on those controlling the organisation. They are normally referred to as 'trustees' which will include the directors (of a company limited by guarantee) and the management committee of an unincorporated association.

Trustees' Duties

- 3.5 Trustees have the following duties:
- (1) A duty to act in accordance with the charities governing instrument and to protect the charity's assets.
 - (2) A duty to comply with the Charities Acts and other legislation affecting the charity.
 - (3) A duty not to make a private profit from their position.
 - (4) A duty to act with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
 - (5) A duty to ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that annual accounts and returns are completed and sent.
 - (6) Where charitable income exceeds £10,000, a duty to ensure that letters, adverts, cheques etc. bear a statement that the organisation is a registered charity.

Trustees' Liabilities and Indemnities

- 3.6 Trustees have the following liabilities:
- (1) To make good any deficiency where trust property has been used for the trustees own purposes, or for purposes not in accordance with the purposes of the trust.
 - (2) Personal liability for losses or claims where the trustee has acted outside the scope of the trust deed.
 - (3) Personal liability where the trustee has not shown the required standard of care.
- 3.7 An indemnity may be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts. If premiums are to be paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.

- 3.8 Further guidance and advice can be obtained from the Charities Commission. A trustee who seeks advice from the Charity Commissioners in a particular situation and acts on that advice will generally avoid personal liability.

4. Unincorporated Associations

- 4.1 An unincorporated association is an informal organisation which may arise whenever several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
- 4.2 The rules governing the members' duties and liabilities will usually be set out in a written constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for the election by the members of a management committee, which will be responsible for the everyday running of the organisation. The constitution may also provide for members to have annual general meetings, to deal with business such as the accounts and the appointment of the management committee.
- 4.3 As the association is not a separate legal entity from its members, it cannot hold property in its own name. Any property which it controls will therefore have to be vested in an individual, or individuals, who are usually called the trustees of the association. They will hold the asset, subject to the direction of the members, or (more usually) the management committee.
- 4.4 Where an unincorporated association is a registered charity the members of the management committee may also be charity trustees. As such their role and responsibilities will be determined not only by the association's constitution but also by the general law relating to trusts and charities as referred to above.

Duties

- 4.5 The members of the management committee, and the trustees appointed to hold any assets for the association, must act within the constitution, and must take reasonable care in exercising their powers.

Liabilities and Indemnities

- 4.6 Generally management committee members are liable for the acts or omissions of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.
- 4.7 Management committee members will have personal liability if they act outside the authority given to them or if they do not comply with the law.
- 4.8 It is possible (subject to the rules in the constitution) for insurance to be taken out, to cover trustees and members of the management committee for their potential liabilities. As with other outside bodies, Members and Officers should satisfy themselves that the organisation has adequate insurance cover in this respect.

5. Registration and Disclosure of Outside Interests for Members

- 5.1 In accordance with Chapter 7 of the Localism Act, 2011, the Council has adopted a Code of Conduct for Members. The Code of Conduct for Members is set out in full in the Council's constitution (Part 5). The provisions of the Code will continue to apply to Members in respect of their appointments to outside bodies. In addition through an appointment to another public body, a Member will also need to adhere to that authority's Code of Conduct.

Registration of Interests

- 5.2 The Code of Conduct for Members requires every Member to notify the Monitoring Officer of any disclosable pecuniary or other interest which he/she holds, within 28 days of election or appointment. In addition, the Member must notify the Monitoring Officer of any change in his/her registerable interests within 28 days of becoming aware of that change. A copy of the relevant declaration form and a form for amendments are set out in the Council's constitution at Part 9.2.

Disclosure of Interests

- 5.3 There are a number of rules which Members must be aware of, which may limit the extent to which they are able to take part in debates or votes on issues. These rules extend to matters involving outside bodies. The rules require that, in certain situations, Members should disclose the fact that they have an interest in the matter under discussion. They may also be required not to take part in any debate or discussion on the matter, and may have to leave the meeting during the item.

Personal Interests

- 5.4 A Member appointed to an outside body will have a personal interest in that body. Provided that it is not also a prejudicial interest (see below), the Member only needs to declare the personal interest if and when he/she speaks on the matter at a Council meeting.

Prejudicial Interests

- 5.5 A Member will probably have a prejudicial interest in a matter relating to the outside body if he/she is a member of or in a position of general control or management on the outside body and the interest falls into one of the following two categories:-
- (a) the matter affects the financial position of the outside body (e.g. an application for grant funding to the outside body); or
 - (b) the matter relates to an approval, consent, license, permission or registration that affects the outside body (e.g. an application by the outside body for planning permission).

- 5.6 If a Member has a prejudicial interest in a matter under discussion he/she must declare the nature of that interest as soon as it becomes apparent to him/her. The Member should then leave the meeting room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If that is the case, the Member can make his/her representations, in accordance with the decision making bodies rules, but must then immediately leave the meeting room. A Member with a prejudicial interest cannot remain in the public gallery to observe or vote on the matter.

Bias/Prejudice

- 5.7 Where there is no prejudicial interest in a matter, a Member's duties as a director or trustee or a member of a management committee may still mean that he/she should not participate in a decision because of a legitimate fear of lack of impartiality, or bias, which could potentially invalidate the decision.
- 5.8 Bias will not be assumed by mere membership of an outside body. However, where the outside body has a line which is being advocated by the Member, it is likely that the Court would find bias on that issue and therefore the Member should not take part in a discussion or decision at a Council meeting on that issue. In such circumstances, it would be appropriate to seek advice from the Council's Monitoring Officer.

6. Disclosure of Outside Interests for Officers

Declaration of Interests

- 6.1 Section 117(1) of the Local Government Act 1972 requires that if it comes to the knowledge of any officer of a local authority that the authority has entered or proposes to enter into any contract in which he/she has a pecuniary interest, whether or not he/she would actually be a party to the contract, he/she must give notice in writing to the authority. A pecuniary interest should be interpreted as any circumstance in which he/she or a member of his/her immediate family stand to gain or lose financially as a result of the contract.

Conflicts of interest

- 6.2 Where an officer has been appointed to an outside body by the Council and a conflict of interest arises, this should always be disclosed to the officer's immediate manager who should, in appropriate cases, seek advice from the Council's Monitoring Officer. Such conflicts may be dealt with in a number of different ways, depending on the nature and seriousness of the conflict. If the conflict is insubstantial then it should simply be recorded and no further action need be taken. Where there is a discrete conflict this may preclude the officer from undertaking a particular discrete task, such as dealing with the administration of a planning application, but would not be incompatible with the general performance of their job. In the case of a more serious incompatible conflict it may be determined that the nature of the conflict of interest is such that the officer must resign their position on the outside body and/or re-arrange their duties in a manner which avoids the conflict.

7. Gifts and Hospitality

- 7.1 Members and Officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as Councillors or Officers of the authority. In the case of Officers accepting any such gift or consideration from anyone who has or is seeking a contract with the authority, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove the contrary. It is therefore very important to be completely open about any significant gift or hospitality to avoid the suspicion of misconduct.
- 7.2 Members are required by the Code of Conduct for Members to notify the Monitoring Officer, in writing, on receipt of any gift or hospitality with a value of more than £25, whatever the motivation for such a gift. Members should note that they only need to register gifts and hospitality worth more than £25 that are received in connection with their official duties as a Member. Gifts received by Members in a personal/private capacity do not need to be registered.
- 7.3 Officers are required to disclose offers and receipts of gifts and hospitality which must be appropriately recorded in a register of gifts and hospitality.
- 7.4 A particular issue arises for Officers seconded to work on outside bodies, as section 117(2) of the Local Government Act 1972 provides that an officer shall not, through his office or employment, accept any fee or reward whatsoever other than his/her proper remuneration. Where an officer is to be seconded and might be in receipt of any remuneration, bonus or allowances from the authority to which he/she is to be seconded, the seconding authority must agree that his/her proper remuneration shall henceforth include any remuneration, bonus or allowances paid to the officer by the body to which he/she is seconded.

8. Bribery Act, 2010

- 8.1 Members and Officers appointed to outside bodies need also to be aware of their potential liability under the Bribery Act 2010. This Act created a number of new criminal offences, of which the most relevant in the context of this guidance are:
- bribing another person
 - receiving a bribe
 - failure by a commercial organisation to prevent bribery

The Act defines bribery as offering, promising or giving someone a financial or other advantage either –

to encourage that person to perform their functions or activities improperly or to reward that person for having already done so; or in the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of the recipient's functions or activities.

- 8.2 Personal liability. Where any of the offences referred to in paragraph 8.1 are committed by a company, a senior officer of that company is liable to be prosecuted for the same offence if it is proved to have been committed with

their consent or connivance. **No indemnity or insurance is available to Members or Officers found guilty in this situation**

- 8.3 As regards the offence of a commercial organisation failing to prevent bribery, Members and Officers should note the following (taken from Ministry of Justice guidance): so long as the organisation is incorporated (by whatever means), or is a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in **commercial activities**, irrespective of the purpose for which profits are made.
- 8.4 Members and Officers should also refer to the council's anti-fraud policies for further details.

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HARTLEPOOL BOROUGH COUNCIL

PUBLIC QUESTIONS TO COUNCIL MEETINGS

Introduction

Members of the public are welcome to attend meetings of the Council, its Committees, Sub-Committees and Neighbourhood Forums, except when the meetings are considering items classed as 'confidential' or 'exempt'. Those matters that may be considered as confidential or exempt are set out in the Access to Information Procedure Rules in the Council's Constitution. If you would like to attend a meeting, or would like further details of a meeting, you are advised to contact our Democratic Services Team (democratic.services@hartlepool.gov.uk or 01429 523568) to confirm details of the meeting.

Council Meetings

The Council's Constitution states that during a period of 45 minutes, or a longer period at the discretion of the Chair, residents of Hartlepool may ask questions of Chairs of Committees at ordinary meetings of the Council in accordance with the Council's Procedure Rules.

You can ask a question by completing a Public Question Time form attached to this guide (**Appendix 1**). The form must be delivered in writing or by electronic mail to the Chief Executive no later than noon on the Thursday of the week before the meeting (or in the case of a meeting held otherwise than on a Thursday, on the expiry of the fifth clear working day before the meeting). Alternatively, if you would prefer to send your question by e-mail, send it to democratic.services@hartlepool.gov.uk you must include the name and address of the questioner and must specify which Committee Chair to whom the question is to be put.

If the questioner is under 16 years of age, the notice must include the name, address and signature of the parent or guardian of the questioner.

The day before the meeting, the order in which the questions shall be asked will be determined randomly by the Chief Executive. The determination of the order shall take place at the Civic Centre and will be open to the public.

At any one meeting no person may submit no more than 2 questions but a question may consist of a number of parts.

A question should fulfil the following criteria:-

- i) The name of the person wishing to ask the question should be on the Hartlepool Register of Electors;
- ii) The question should be concise (both in length and number of parts), direct and should be about a matter that the local authority has a responsibility or which affects the borough;

- iii) The question should not be the same as one asked at Council in the last six months (unless there has been a significant change in circumstances)

The Chief Executive, in consultation with the Chair of the Council, may reject a question if it is considered to be

- defamatory, frivolous or offensive,
- seeks the disclosure of confidential or exempt information,
- is substantially the same as a question which has been put at a meeting of the Council in the past six months and since when there has been no change of circumstances justifying the resubmission of the question,
- is unreasonably excessive because of its length or its number of parts,
- the name of the person wishing to ask the question is not on the Register of Electors.

Copies of all questions will be circulated to all Members and will be made available at the meeting. At the Council meeting, the question will be put, by the Chief Executive, to the Member named in the notice.

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Chair to whom it was to be put, will be dealt with by way of a written answer.

Council meetings are usually held at 7.00 pm in the Council Chamber, Civic Centre, Victoria Road, Hartlepool. Dates of Council Meetings and any further information can be obtained from the Democratic Services Team, telephone 523568 or from the Council's website www.hartlepool.gov.uk.

Committees and Sub Committees

All meetings of the Council's committees and sub committees are open to the public to attend except when the meetings are considering items classed as 'confidential' or 'exempt'. These meetings may consider issues that will be of interest to residents who may wish to ask questions or express their views on the matters being considered. On such occasions anyone wishing to speak at a committee or sub committee meeting should seek the permission of the Chair in advance of the meeting. This can be done directly with the Chair or via the Democratic Services Team (democratic.services@hartlepool.gov.uk or 01429 523568).

Planning Committee

There are different rules applying to public speaking at Planning and Licensing Committee. "A Guide to Public Speaking at Planning Committee" is available on the Council's website and is attached to this Guide (Appendix 2). Essentially, only applicants and registered objectors to planning applications can speak at those meetings. For more guidance contact the Development Control Team (developmentcontrol@hartlepool.gov.uk or 01429 523280).

Licensing Committee

Licensing Committee considers licensing and other applications in accordance with the Licensing Act 2003 and other matters, i.e. gambling etc.. Individual licensing applications are dealt with by the Licensing Act Sub Committee and if you wish to speak at a meeting of the sub committee in relation to an application that affects you, you should contact the Public Protection Team (licensing@hartlepool.gov.uk or 01429 523354).

Neighbourhood Forums

There are two Neighbourhood Forums, one covering North and Coastal (*Bruce, Hart, Headland and Harbour, Jesmond and Seaton wards*) and the other South and Central (*Burn Valley, Fens and Rossmere, Foggy Furze, Manor House, Rural West and Victoria wards*). The Forums are a focal point for local consultation on the provision of Council Services through Face the Public and other events incorporating consultation on the Council's Annual Budget. Residents are actively encouraged to attend these meetings and there is a specific section of the meeting for public questions on any aspects of the council's services. For more information on the Neighbourhood Forums please contact the Democratic Services Team (democratic.services@hartlepool.gov.uk or 01429 523568).

PUBLIC QUESTION TIME AT COUNCIL MEETINGS

(Before completing this form please read the accompanying note carefully)

Your question (Please continue on a separate sheet if necessary)

To whom do you wish to ask this question (please tick one only):

- ☐ Chair of Children's Services Committee
☐ Chair of Adult Services Committee
☐ Chair of Regeneration Committee
☐ Chair of Neighbourhoods Committee
☐ Chair of Finance and Policy Committee
☐ The Chair of the Committee / Sub Committee

Will you be attending the Council meeting to ask your question?

- ☐ Yes
 ☐ No
 ☐ Don't know - I will let you know

Name

Address

Postcode Contact telephone number

E-mail address

Signed **Date**

If under 16 years of age:

Name

Address

Signature of Parent or Guardian

For office use only

Date received ☐☐ ☐☐ ☐☐ Checking in by Accepted Y / N

ER number: PW ☐

Accepted

Ballot result ☐ Attended Council Y / N Written response sent ☐☐ ☐☐ ☐☐

Check by ☐

Rejected

Reasons:

Written response sent ☐☐ ☐☐ ☐☐ Checked by

Part 6

Members' Allowances Scheme

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MEMBERS' ALLOWANCES SCHEME

CONTENTS

Page

A - General Guidance

1.	Introduction	5
2.	Claiming allowances	6
3.	Co-opted Members	7
4.	Enquiries and disputes about allowances and expenses	7
5.	Basic Allowance	7
6.	Special Responsibility Allowance	8
7.	Payment of Basic and Special Responsibility Allowance	8
8.	Dependant Carers Allowance	9
9.	Travel and Subsistence Allowance	10
10.	Making Travel Arrangements	12
11.	Telephone Allowance	15
12.	Out of pocket expenses	16
13.	Financial Loss Allowance	16
14.	Records and publicity	17
15.	With-holding of Allowances	17
16.	Tax, National Insurance and the production of receipts	17
17.	Members working or living outside Hartlepool	18

B - Further Information and Guidance

Schedule 1	Approved Duties	19
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MEMBERS' ALLOWANCES SCHEME

General Guidance

1 Introduction

- 1.1 Members are entitled to claim certain allowances in recognition of the time devoted by them to their work and are also entitled to claim allowances for travel and subsistence costs. The Council in exercise of powers conferred under the Local Authorities (Members' Allowance) Regulations 2003 are able to make provision for the payment of allowances to Members and co-opted members. The Allowances Scheme will operate from the 1st April through to the 31st March of the following year and the Council have a duty to have regard to the recommendations made by an Independent Remuneration Panel.
- 1.2 The Independent Remuneration Panel has been established by the Council under the provisions of the Local Government Act 2000 Act and applicable regulations with the selection of the Panel being made by the Council's Audit and Governance Committee.
- 1.3 The Panel's job is to make recommendation to Council on a range of issues.

The responsibilities of the Panel are:-

- To recommend the level of basic allowance payable to all Members of the Council to cover their normal duties as a Councillor.
 - To consider whether a Dependant Carer's allowance should be payable to relevant Members and if so at what level.
 - To identify any Member posts of special responsibility and to recommend the assignment of an appropriate allowance to each such post.
 - To consider and make recommendations on the pensionability of the above allowances.
 - To make recommendations to the Council on travelling and subsistence allowances to be paid to all elected Members.
- 1.4 Whilst the Council is not obliged to accept these recommendations it is strongly influenced by them and must give them due consideration.

2. Claiming Allowances

- 2.1 The first point of contact for any issue concerning allowances should be the Members' Services Team in the Members' Office at the Civic Centre. All queries should be directed to them. If they are not able to adequately address an issue, then they will pursue the query with the relevant Officers on behalf of the Member.
- 2.2 All Basic and Special responsibility allowances are paid directly into Member's bank accounts. There is no need for any claim forms to be completed.
- 2.3 Other allowances, such as Dependant Carer's allowance or travel allowance, should be claimed using the appropriate claim form. These are available from the Members' Services Team. Details of the allowances and expenses that Members are entitled to are outlined in the following paragraphs. In addition, Members should be aware of the following general principles:
- Claims for expenses should be made on a regular basis that the duration of any claim for travel or subsistence allowances should be no more than one month - subject to the final claim in any financial year being submitted within two weeks of the year end.
 - Members are responsible for the accuracy of their expenses claims.
 - Members should allow adequate time for the processing of claims.
 - Claim forms must not be completed on behalf of Members by other Members or by Officers.
 - A Member may give written notice to the Chief Finance Officer to forgo his/her entitlement or any part of his/her entitlement to an allowance under this scheme.

3. Co-Opted Members

- 3.1 Co-opted members of the Authority are entitled to claim the following allowances and expenses. The same rules that apply to Members for the claiming and receipt of allowances and expenses apply to co-opted members.
- 3.2 The allowances that they are eligible to claim for are as follows:
- Travel and subsistence
 - Financial loss

4. Enquiries and Disputes about Allowances and Expenses

- 4.1 In the first instance Members should approach staff in the Members' Services Team with any queries about claims for allowances and expenses.
- 4.2 If a dispute arises about a specific claim it should be referred to the Principal Registration and Members' Services Officer. The Officer will be able to advise Members on the operation of the scheme for allowances and expenses and, as the Officer responsible for its day to day operation, is able to adjudicate in such circumstances.
- 4.3 If a Member continues to be unhappy with a specific claim, the Chief Finance Officer should then be approached for a final resolution of the dispute.

5. Basic Allowance

- 5.1 This allowance is payable to all Members and the following activities fall within its scope:
- All formal meetings of the Authority, a Committee of the Authority, and all other duties undertaken on behalf of the Authority;
 - Meetings with Officers;
 - Meetings with constituents;
 - Personal research;
 - Informal meetings with other Members;
 - Meetings of organisations outside the approved list (Part 7 of the Constitution refers);

- Political group meetings;
- Ward Surgeries.

Rate

5.2 The current rate of Basic Allowance is £5,767 per annum.

6. Special Responsibility Allowance

6.1 This allowance is payable to Councillors who undertake specified additional duties as part of their role as a Councillor. No more than one special responsibility allowance can be claimed by any one Member.

Rates

6.2 The rates of allowance payable to various post holders are:-

Table to be inserted following consideration of recommendations from Independent Remuneration Panel

Position	SRA

7. Payment of Basic and Special Responsibility Allowance

7.1 This is payable by BACS payment.

Tax and National Insurance

- 7.2 The allowance is subject to both tax and national insurance deductions.

8. Dependant Carers' Allowance

- 8.1 The Council has accepted the recommendations of the Independent Remuneration Panel in regard to the payment of a Dependant Carers' Allowance in specific circumstances.
- 8.2 The allowance is only payable, under the Regulations in respect of such expenses of arranging for the care of their children or dependents as are necessarily incurred in:
- a) Attending a meeting of the Authority, or a Committee or Sub-Committee of the Authority;
 - b) A meeting of any body to which the Authority makes appointments or nominations, or a meeting of a Committee or Sub-Committee of such a body;
 - c) Attending a meeting which has been both authorised by the Authority, a Committee or Sub-committee of the Authority or a Joint Committee of the Authority, or Sub-Committee and to which representatives of more than one political group have been invited (or where the Authority is not divided into political groups two or more Members have been invited);
 - d) Attending a meeting of a Local Authority Association of which the Authority is a member;
 - e) The performance of any duties undertaken on behalf of the Authority in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
 - f) The performance of any duties undertaken on behalf of the Authority in connection with arrangements made by the Authority for the attendance of pupils at a school approved for the purposes of Section 342 of the Education Act 1996 (approval of non-maintained special schools);
 - g) The carrying out of any other duty approved by the Authority, for the purposes of, or in connection with the discharge of the functions of the Authority or any of its Committees or Sub-Committees.

- 8.3 This is a discretionary allowance which the Council has determined it is right and just to pay in appropriate circumstances. The following rates and rules apply to claims for this allowance.
- 8.4 The allowance applies to Members who incur expenditure for the care of children or dependant relations whilst undertaking the above duties. Claims are subject to:-
- The maximum hourly rate claimable, be the national minimum wage and that this be increased annually as the national minimum wage increases;
 - Payment is claimable in respect of children aged 15 or under or in respect of other related dependants where there are medical or social care needs;
 - The scheme be limited to 2 claims per week with each claim being no longer than 7 hours each, except in special circumstances to be judged by the Council's Chief Executive in consultation with the Chief Finance Officer;
 - The allowance is paid as a reimbursement of incurred expenditure against receipts;
 - The allowance will not be payable for care provided by a member of the claimant's own household or immediate family;
 - No payment will be made in respect of any dependant person for whom an attendance allowance is already payable.

Tax and National Insurance

- 8.5 This allowance, on the advice of the Inland Revenue is subject to tax and national insurance.

9. Travel and Subsistence Allowance

- 9.1 The Authority has approved the payment of an allowance in respect of travelling and subsistence undertaken in connection with or relating to the duties as specified within paragraph 8.2 (a)–(g).
- 9.2 Different conditions apply to the entitlement for travel and subsistence allowances depending on the type of meeting that is being attended, the distance to be travelled and the mode of transport. All three criteria need to be considered when determining entitlement and how it should be claimed.

- 9.3 Some restrictions are placed on eligibility for subsistence allowance, for example where a Member is attending an event where meals are provided.

Type of meeting, event or activity

- 9.4 These fall into two categories:

- Council meetings – meetings of Council, Committees, Forums, etc and meetings that are closely associated with these, for example a pre-agenda meeting (as a Panel or Forum Chair) for a Neighbourhood Forum. Please refer to Schedule 1, Approved duties for more details;
- Meetings of “outside bodies” to which a Member is appointed. A list of these can be found in Part 7 of the Constitution.

The distance to be travelled

- 9.5 Members need to consider whether the journey is local or non-local. The definitions are as follows:

- Local journeys are within a 35 mile radius of Hartlepool, destinations include:

Darlington	Middlesbrough	Stockton
Durham	Newcastle	Sunderland
Gateshead	Redcar	

- Non-local journeys are those to destinations more than 35 miles from Hartlepool. Members are expected to liaise with the Members’ Services Team in making travel arrangements for longer journeys. Members must seek approval to make a journey that is more than 35 miles from Hartlepool.

Mode of transport

- 9.6 When using a car or local public transport, Members would be expected to make their own arrangements. Use of public transport for longer journeys must be made through the Members’ Services Team. Details of the regulations for each mode of transport can be found in Table A.

Rates and conditions that apply to claims for travel allowance

- 9.7 These are outlined in Table A.

Payment of travel allowance

- 9.8 This will be made in arrears and claims should be made within a month of the event.

Tax and National Insurance

- 9.9 This allowance may be subject to tax and national insurance where receipts covering the actual costs incurred are not provided.

10. Making Travel Arrangements

Local journeys – within 35 miles of the Civic Centre

- 10.1 Wherever possible Members should enquire about the availability of the Civic Vehicle for making local journeys. This can be booked through the Members' Services Team. If use of the Civic Vehicle is not possible then Members would be expected to use public transport or their car.
- 10.2 If using their own car, Members are requested to offer transport to colleagues attending the same meeting or event.

Non-local journey – more than 35 miles from the Civic Centre

- 10.3 Members are more likely to use public transport for such journeys. Where public transport is to be used, travel arrangements should be made through the Members' Services Team in order to obtain the discounts that are available through the Council's authorised travel agent. Any Officer accompanying a Member(s) to a non-local event, and using his/her own vehicle to attend the event, would be expected to transport the Member(s) involved in their vehicle.

TABLE A: Travel Allowances

MODE OF TRANSPORT	RATES	CONDITIONS FOR USE
CAR		
LOCAL EVENTS	A standard casual car user rate applies to all Members. This rate is 52.2p for the first 8,500 miles and 14.4p thereafter.	<ul style="list-style-type: none"> Wherever possible Members are expected to share transportation with colleagues attending the same meeting or event.
NON-LOCAL EVENTS	<p>The appropriate mileage rate shown above or the equivalent of 2nd class rail fare* per official passenger – whichever is the cheaper.</p> <p>*or any cheap rail fare available at the time of the journey</p>	<ul style="list-style-type: none"> Wherever possible Members are expected to share transportation with colleagues attending the same meeting or event.
HIRED CAR/ MOTOR VEHICLE	The actual cost of the hire of the vehicle and fuel or reimbursement to the equivalent of the cost of public transport for each official passenger – whichever is the lesser.	<ul style="list-style-type: none"> Overall cost should not exceed the rate applied if vehicle belonged to the Member; The vehicle should be hired via Neighbourhood Services Division; Receipts are required for any claims.

MODE OF TRANSPORT	RATES	CONDITIONS FOR USE
TRAIN COACH PLANE FERRY	<p>Members are entitled to travel Standard, Second or Economy Class.</p> <p>Where a Member is eligible for a Railcard this will be purchased for him/her by the Members' Services Team at a time when travel takes place.</p>	<ul style="list-style-type: none"> All travel tickets will be ordered and obtained by the Members' Services Team who will, as a matter of course, seek the most competitive rates.
TAXI	<p>Members may claim the actual cost of the journey plus a reasonable gratuity on production of a detailed receipt incorporating the amount paid, the date of the journey and the journey undertaken.</p>	<ul style="list-style-type: none"> Where no public transport is reasonably available; In cases of extreme emergency; Early morning/late evening journeys to and from the main-line rail station (Darlington); In the event of illness or where the Member has a long-term medical problem.
OTHER(s) Tube/Underground, bus, parking costs	<p>Members may claim the actual cost of incidental journeys/expenditure as incurred</p>	<ul style="list-style-type: none"> Wherever possible a detailed receipt should be obtained.

Rates of subsistence allowance

10.4 These vary depending on whether or not an overnight stay is involved.

10.5 Absence not involving an overnight stay:

Breakfast Allowance

More than 4 hours away from normal place of residence before 11am £6.46

Lunch Allowance

More than 4 hours away from normal place of residence including the period 12 noon to 2pm £8.90

Tea Allowance

More than 4 hours away from normal place of residence including the period 3pm and 6pm £3.51

Evening Meal Allowance

More than 4 hours away from normal place of residence and ending after 7pm £11.02

10.6 Overnight (24 hour) absence from usual place of residence:

Outside London £79.82

London £91.04

Payment of Subsistence Allowance

10.7 This will be made in arrears and claims should be made within a month of the event.

Tax and National Insurance

10.8 This allowance may be subject to tax and national insurance where receipts covering the actual costs incurred are not provided.

11. Telephone Allowance

Members can be reimbursed for the cost of the installation of a telephone line if not already connected. Members are also eligible to claim the cost of line and telephone rental.

12. Out of Pocket Expenses

- 12.1 Members may claim “out of pocket expenses” whilst staying in residential accommodation where meals are provided for in the overall fee.

Rates for out of pocket expenses

- 12.2 £3.63 per 24 hour period up to a maximum of £14.55 per week.

Payment of out of pocket expenses

- 12.3 This will be made in arrears and claims should be made on a regular basis, within 14 days of the event and at the latest within two weeks of every month end.

Tax and National Insurance

- 12.4 This is **not** subject to tax or national insurance.

13. Financial Loss Allowance (Only Payable to Co-Opted Members)

- 13.1 Co-opted Members who are not Councillors (ie Co-opted or “added” Members) may claim financial loss allowance for performance of approved duties.

Rates of Financial Loss Allowance

- 13.2 The actual loss suffered or expense incurred may be claimed, subject to the following maximum for the performance of an approved duty:

Not exceeding 4 hours	£27.65
More than 4 hours but less than 24 hours	£52.49
For periods over 24 hours, for each complete 24 hours	£52.49

(plus the appropriate rate for the remainder of the period)

Payment of Financial Loss Allowances

- 13.3 This will be made in arrears and claims should be made on a regular basis, within 14 days of the event and at the latest within two weeks of every month end. Evidence to substantiate the claim will be required.

Tax and National Insurance

- 13.4 This is subject to both tax and National Insurance deductions.

14. Records and Publicity

The Council is required to keep a record of payments made to Members in accordance with the Members Allowances and Expenses Scheme. The record is available for public inspection by local electors and it must give details of the amount and nature of payments to each Member. As soon as practicable after the end of the year to which the scheme applies the Council must publicise the total paid to each Member in respect of basic allowance, special responsibility allowance, travel allowance and subsistence allowance.

15. Withholding of Allowances

All allowances will be withheld where a Member:

- ceases to be a Member of the Authority;
- is otherwise unable (except for cases of illness as notified to the Authority) to discharge the duties of a Councillor; and the Chief Executive Officer, in consultation with the Chief Finance Officer is of the opinion that the withholding of an allowance is reasonable;
- In the event of withholding of an allowance, the Chief Executive shall report to the next available ordinary meeting of Council his/her decision and the reasons for that determination. The Member affected by such a decision may request a review before the Council's Audit and Governance Committee or a Sub-Committee of that Committee, with 14 days of that determination.

16. Tax, National Insurance and the Production of Receipts

- 16.1 The previous paragraphs have, where possible, identified the tax and national insurance positions for each allowance. Taxation and National Insurance regulations are very complex and the position could vary depending on an individual Councillor's own position. The

payment of allowances may also have an impact on any social security benefits an individual Member receives. Any queries should be directed to the Payroll Manager.

16.2 Wherever possible Members should include receipts for travel and subsistence allowance claims. This is not obligatory*, however it is in Members' interests to do so for two reasons:

- it is good practice in the administration of an expenses system;
- failure to include receipts may lead to claims for travel and subsistence allowance being subject to tax and national insurance.

*with the exception of rail tickets, where the normal procedures for purchasing tickets have not been used, and taxi journeys - in both instances receipts must accompany claims.

17. Members Working or Living Outside Hartlepool

Where a Member temporarily or permanently works or lives outside the boundaries of Hartlepool, then subsistence and travel expenses should be fully reimbursed for additional return journeys or any excess mileage incurred, up to a 35 mile radius from the Civic Centre.

SCHEDULE 1 - APPROVED DUTIES

The list below sets out Approved Duties for the payment of travel and subsistence allowances.

1. Attendance at meetings:
 - i) Of Council, Committees and Forums, to which the Member has been appointed.
 - ii) Of any Sub-Committee constituted under Council Procedure Rule 25 to which the Member has been appointed.
 - iii) As a substitute for an appointed Member under Council Procedure Rule 4 at any of the meetings described at (i) and (ii) above.
 - iv) Of Committees described at (i) and (ii) above at the specific request of the body.
2. Attendance at meetings of working parties, panels and groups established by a Committee or Sub-Committee of the Council, for the purpose of, or in connection with, the discharge of the functions of the Council or any of its Committees or Sub-Committees, PROVIDED THAT at least one Member from each political group has been appointed to the particular working party, panel or group.
3. Attendance as a Council appointee at meetings of independent panels constituted by the Council.
4. Attendance as a Council appointee (or a substitute) at meetings of associations, boards and other committees and authorities listed in Part 7 of this Constitution, provided that the Member is not entitled to receive any remuneration for travel or subsistence in respect of such meetings otherwise than under this scheme.
5. Attendance at Members' Seminars as part of the Council's programme of seminars.
6. Attendance at a site visit or Council inspection, approved by the appropriate Committee, if not as, or as part of, a properly constituted meeting.
7. Attendance at training courses for Members as part of the Council's approved training programme for Members.
8. Duties required to be performed by Chairs of Committees, Forums, Panels, that relate to a specific engagement or organised event that a Chair attends in his or her capacity as a Chair, where such can be recorded and monitored (but not ad hoc meetings with Officers, etc).

9. Attendance at Ward Surgeries (for the Ward to which a Member has been elected).
10. Attendance at political group meetings, provided that Borough Council business is to be discussed.

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Part 7

Appointments to outside organisations and other bodies

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APPOINTMENTS TO OUTSIDE ORGANISATIONS AND OTHER BODIES

CONTENTS

	Page
<u>Introduction and Explanation</u>	5
(i) Joint Committees.....	7
(ii) Leadership Bodies and Partnerships	8
(iii) Advisory	10
(iv) Council in the Community	11
(v) Other Decision Making Bodies	13
 <u>List of outside Organisations and Other Bodies</u>	
Age UK Teesside	11
Archives Joint Committee	7
Association of North East Councils	8
 Cleveland Emergency Planning Joint Committee	7
Cleveland Fire Authority	11
Cleveland Police & Crime Panel	7
 Durham Heritage Coast Partnership Steering Group	8
Durham Tees Valley Airport Board	11
Durham Tees Valley Airport Consultative Committee	11
 Economic Regeneration Forum	8
 Hartlepool and District Sports Council	8
Hartlepool Credit Union	11
Hartlepool Power Station	8
Hartlepool War Memorial and Crosby Homes	11
Henry Smith Educational Trust	11
HMS Trincomalee Trust	8
Housing Partnership	8
Housing Hartlepool	8
 Leaders and Executive Mayor's Group	8
Local Government Association	8
Local Joint Consultative Committee	10

National Association of Councillors.....	14
North East Procurement Organisation.....	7
North East Regional Employers Organisation.....	14
North East Rural Affairs Commission.....	9
North East Strategic Migration Partnership.....	9
North Eastern Inshore Fisheries and Conservation Authority.....	7
North Tees and Hartlepool NHS Foundation Trust.....	9
Northern Consortium of Housing Authorities	9
 Preston Simpson and Sterndale Scholarship in Music.....	 11
 Regional Flood and Coastal Committee.....	 7
River Tees Port Health Authority	11
 Safer Hartlepool Partnership	 9
Schools Admission Forum	10
SITA Board	10
Standing Advisory Council for Religious Education.....	9
Strategic Partners Group	9
 Teesside Pension Fund.....	 14
Teemouth Field Centre.....	12
Tees Valley Arts – Board of Directors	9
Tees Valley Community Foundation	12
Tees Valley Environmental Protection Group.....	12
Tees Valley Joint Health Scrutiny Committee.....	7
Tees Valley Leaders and Chief Executives.....	9
Tees Valley Local Access Forum	10
Tees Valley Unlimited.....	9
Together Project Working Group.....	13
 Victoria and Jubilee Homes.....	 13

APPOINTMENTS TO OUTSIDE ORGANISATIONS AND OTHER BODIES

Introduction and explanation

The attached schedules show the categorisation of the currently recognised outside organisations and other bodies.

There are five main categories as follows:

- (i) Joint Committees
- (ii) Leadership Bodies and Partnerships
- (iii) Advisory
- (iv) Council in the Community
- (v) Other Decision Making Bodies

It will be open to the Council to make Officer nominations where appropriate in respect of most bodies, the main exception being formal Joint Committees where Member attendance is a statutory requirement. In some cases it may be possible and appropriate to make nominations of persons from outside of Council.

These sub categories have been determined as follows:

(i) Joint Committees

Part IV of the Local Government Act 1972 and other specific legislation provides that the arrangements for the discharge of functions may be through a joint Committee of two or more Local Authorities.

(ii) Leadership Bodies and Partnerships

Involvement in such bodies and partnerships will cover the following roles:

- to represent the interests of Hartlepool
- to lead the community planning process
- to be the focus for forming partnerships with other public, private, voluntary and community sector organisations to address local needs.

(iii) Advisory

Bodies which relate to the Council's functions in an advisory or influencing capacity.

(iv) **Council in the community**

These are bodies which do not discharge functions of the Council and where the principal role of Members who are nominated will be to represent constituency interests, whether at the Ward or Borough level.

(v) **Other decision making bodies**

These are decision making bodies other than Joint Committees.

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(i) JOINT COMMITTEES

Organisation

Membership

Archives Joint Committee

(1) Chair/Member representative from Committee with responsibility for Service Area

Cleveland Emergency Planning Joint Committee

(1) Chair/Member representative from Committee with responsibility for Service Area

**Cleveland Police and Crime Panel
(Statutory Guidance applies)**

(2) Chair/Member representative(s) from Committee with responsibility for Service Area

North East Procurement Organisation

(1) Chair/Member representative from Committee with responsibility for Service Area

North Eastern Inshore Fisheries and Conservation Authority

(1)

Regional Flood and Coastal Committee (1)
(formerly Regional Flood Defence Committee)

Tees Valley Joint Health Scrutiny Committee

(3)

(ii) LEADERSHIP BODIES & PARTNERSHIPS

<u>Organisation</u>	<u>Membership</u>
Association of North East Councils	(3)
Leaders and Executive Mayor's Group	(1 of the 3 above)
Durham Heritage Coast Partnership Steering Group	(1)
Economic Regeneration Forum	(2) Chair/Member representative from Committee with responsibility for Economic Regeneration: Chair/Member representative from Committee with responsibility for Children's Services:
HMS Trincomalee Trust (3 year term expires 2014)	(2) CLLR HALL CLLR TEMPEST
Hartlepool and District Sports Council	(2)
Hartlepool Power Station	(1)
(i) Community Liaison Committee	(3) Chair of Regeneration Services Committee; Chair of Planning Cttee (Substitute: Vice Chair Of Planning Cttee); Asst Director, Regeneration and Planning (or nominee).
(ii) Emergency Planning Committee	(1) Chief Emergency Planning Officer
Housing Hartlepool	(2)
Housing Partnership	(1) Chair/Member representative from Committee with responsibility for Service Area
Leaders and Executive Mayor's Group	(1) (substitute allowed)
Local Government Association	
(i) General Assembly	(1)
(ii) Urban Commission	(1)

Organisation**Membership**

(iii) Rural Commission	(1)
North East Rural Affairs Commission	(1)
North East Strategic Migration Partnership	(1)
North Tees and Hartlepool NHS Foundation Trust	(1) Chair/Member representative from Committee with responsibility for Service Area
Northern Consortium of Housing Authorities	(2) Chair/Member representative(s) from Committee with responsibility for Service Area
Safer Hartlepool Partnership	(2) Leader of Council and one other Member
(i) Executive	
Standing Advisory Council for Religious Education	(2) CLLR GRIFFIN
(Term of office 2012-2016)	CLLR FLEET
Strategic Partners Group	All Policy Committee Chairs and Chairs and Vice Chairs of the Neighbourhood Forums
Tees Valley Arts – Board of Directors	(1)
Tees Valley Leaders & Chief Executives Meeting	(2) The Leader (substitute allowed) and Chief Executive
Tees Valley Unlimited	(1) The Leader (substitute allowed)
(i) Leadership Board	(1) The Leader (substitute allowed)

(iii) ADVISORY

Organisation

Membership

Local Joint Consultative Committee

(9)

(Politically balanced)

Schools Admission Forum

(3) Chair and two other Member representatives from the Children's Services Committee

SITA Board

(1) Chair of Neighbourhood Services Committee

Tees Valley Local Access Forum

(1) CLLR LAUDERDALE

(3 year term of office – end 2014)

(iv) COUNCIL IN THE COMMUNITY

Organisation

Membership

Age UK Teesside

(1)

Cleveland Fire Authority

(4)

(Hpool Chair – 2012/13)

(Politically balanced):

Durham Tees Valley Airport Board

(1)

**Durham Tees Valley Airport
Consultative Committee**

(1)

Hartlepool Credit Union

(2) Chair/Member representative(s) from
Committee with responsibility for Service Area

(Nominations subject to FSA Approval)

**Hartlepool War Memorial and Crosby
Homes** (term until 2014)

(1) CLLR FLEET

Henry Smith Educational Trust

(i) Nominated trustees – Term of
office 1 year (3)

(ii) Non-educational charity - Term of
office 2012-2016 (1)

**Preston Simpson and Sterndale
Scholarship in Music**

(3) Chair and 2 Member representatives* of
Children's Services Committee

* New term of office commences May
2013

River Tees Port Health Authority

(2)

Organisation**Membership****Teesmouth Field Centre**

(1) Chair/Member representative from Committee
with responsibility for Service Area

**Tees Valley Community Foundation –
Grant Giving Panel**

(1)

**Tees Valley Environmental Protection
Group**

(3)

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(iv) COUNCIL IN THE COMMUNITY (Continued)

Organisation

Membership

Together Project Steering Group

(5)

(Politically balanced)

Victoria and Jubilee Homes

(4)

(Term of Office 2010-2014)

CLLR BRASH

CLLR HALL

CLLR LAUDERDALE

CLLR SIRS

(v) OTHER DECISION MAKING BODIES

Organisation

Membership

National Association of Councillors:

Northern Branch

(3)

General Management Committee

(3)

North East Regional Employers Organisation

(3) Including Chair/Member representative(s) from
Committee with responsibility for Service Area

(i) Executive

(1) Chair/Member representative from Committee
with responsibility for Service Area

Teesside Pension Fund

(1)

APPROVED CONFERENCES:

Association of North East Councils

Centre for Public Scrutiny

National Association of Councillors (3 delegates to attend)