

# REVIEW OF CONSTITUTION – JANUARY 2014

## ISSUES PAPER

### 1 - REQUIRED AMENDMENTS/PROCESS

Ref No	Subject
1	<b>Part 1 – Summary and Explanation</b> People's Rights – include reference to Council Tax referendum
2	<b>Part 2 – Articles of the Constitution</b> Article 2 – Members of the Council 2.02 – date of elections include “ subject to Parliamentary Order”
3	Article 4 – Full Council 4.01 (vii) – functions of the Council to include reference to Honorary Freewoman and Alderwoman
4	4.4 (a) Policy Framework Include reference to Local Council Tax Support Scheme
5	Tees Valley Unlimited – addition of paragraph “Decisions taken by the Chief Executive Officer under delegated powers subject to consulting with and seeking the agreement of the Leader of the Council where decisions are required at Tees Valley Unlimited.”
6	Article 10 – Neighbourhood Forums 10.07 (iii) – suggested amendment ‘consult <i>and engage with residents</i> on the development of key partner strategies and plans for the Borough’
7	Article 12 – Officers Addition of the following to Director of Public Health:- 4) Such other public health functions as the Secretary of State shall determine, <i>including functions in planning for and responding to emergencies which pose a risk to Public Health.</i> 5) <i>Responsibility for providing representations on behalf of the Council as a responsible authority under the Licensing Act 2003 and associated regulations.</i>
8	Schedule 2 – political structure – to include Children's Strategic Partnership – <b>Appendix 1</b>

<p>9</p> <p>10</p>	<p><b>Part 3 – Responsibility for Functions</b></p> <p>Track changes document submitted as <b>Appendix 2</b></p> <p>Functions within former Grants Committee to be included in the functions of Finance and Policy Committee with the exception of Civic Lottery Fund which is to be reported annually to Neighbourhood Services Committee in accordance with the decision of the Finance of Policy Committee (Aug 2013).</p> <p><b>Note</b> – Functions of former Grants Committee – Allocation of Grants of over £500 from the following funds:-</p> <ul style="list-style-type: none"> <li>• Community grants pool</li> <li>• Community safety capital grants</li> <li>• Grants for play schemes and play development</li> <li>• Directed lettings</li> <li>• Voluntary sector youth centre support</li> <li>• Youth advisory grants</li> </ul> <p>The sponsorship of new grant-aiding schemes, related to community services functions funded by external agencies.</p>
<p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p>	<p><b>Part 4 – Rules of Procedure</b></p> <p><b><i>Access to Information Procedure Rules</i></b></p> <p><b>Rule 19.1</b> – Delete the requirement to ‘advertise’ Forward Plan dates (no longer statutory requirement)</p> <p><b>Rule 22 – quarterly report on Special Urgency decisions</b> – highlighted as good practice by Monitoring Officer – inclusion on Cex Business Report rather than the Leader submitting quarterly reports to Council.</p> <p><b><i>Contract Procedure Rules</i></b></p> <p>Track changes document attached, incorporating amongst other matters Hartlepool living wage, “blacklisting” following motions resolved by Council</p> <p><b>Appendix 3</b></p> <p><b><i>Council Procedure Rules</i></b></p> <p><b><i>Calling Extraordinary Meetings</i></b></p> <p>Suggested pro-forma attached to assist with this procedure <b>Appendix 4</b></p> <p><b>Order of Business at Ordinary Meetings</b> – potential amendment of procedure rule 2.1 viii)</p> <p>a) <i>Questions to the Chairs about recent decisions of Council Committees and Forums without notice under Council Procedure Rule 12.1</i></p> <p>b) <i>Questions on notice to the Chair of any Committee or Forum under Council Procedure Rule 12.2.</i></p>

16	<p>c) <i>Questions on notice to the Council representatives on the Police and Crime Panel and Cleveland Fire Authority</i></p> <p>d) <i>Minutes of the meetings held by the Cleveland Fire Authority on xxxx and the Police and Crime Panel held on xxxx for information</i></p> <p><b>Questions by Members</b> – procedure rules relating to accepting member questions/reasons for rejection to be broadly comparable with questions/reasons for rejection from the public (Rule 11 refers)</p>
17	<p><b>Rule 23 – Interests of Members in Contracts and Other Matters</b></p> <p>Heading to be amended to read:- “Pecuniary or Prejudicial Interest of Members in Contracts and other Matters”</p>
18	<p>and amend bullet point (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 <i>and where that interest is not pecuniary or otherwise a prejudicial interest.</i>”</p>
19	<p><b>Rule 27 – Reference to Council</b></p> <p>Suggested pro-forma attached to assist with this procedure <b>Appendix 5</b></p>
20	<p><b>Officer Employment Procedure Rules</b></p> <p><b>Appointment of Director of Public Health</b> – A Committee of the Council will make this appointment. The Committee to also include:-</p> <ul style="list-style-type: none"> <li>- External Health Professional Assessor</li> <li>- Local Authority Chief Executive Officer or nominee</li> <li>- Senior Local NHS representative</li> <li>- Public Health England Regional Director or nominee</li> </ul>
21	<p><b>Disciplinary Action relating to Director of Public Health</b> – The Local Authority must consult the Secretary of State before dismissing the Director of Public Health</p>
22	<p><b>Part 5 – Codes and Protocols</b></p> <p>Revised Planning Code of Practice -<b>Appendix 6</b></p>
23	<p>Revised Code of Corporate Governance - <b>Appendix 7</b></p>
24	<p>Addition of Protocol for Filming, Recording and Photographing Council Meetings – <b>Appendix 8</b></p>
25	<p><b>Part 6 – Members’ Allowances Scheme</b></p> <p>Updated to reflect 1% increase in Members’ Allowances</p>
26	<p><b>Part 7 – Appointments to Outside Organisations and other bodies</b></p> <p>1. <b>Tees Valley joint Health Scrutiny Committee</b> – 3 seats with seat 1 allocated to the Chair of Audit and Governance Committee</p>
27	<p>2. <b>NuLeaf</b> – Chair Regeneration Services Committee</p>

28	<b>3. NE Cultural Partnership</b> – Chair of Regeneration Services Committee
29	<b>4. Regional Health Scrutiny Cttee</b> – 1 place
30	<b>5. Economic Regeneration Forum</b> – Chair of Finance and Policy Committee and Chair of Regeneration Services Committee and Director of Regeneration and Neighbourhoods
31	<b>6. Limestone Landscapes Board</b> -1 place
32	<b>Part 8 - Management Structure</b> Revised Structure with effect from 1 April 2014 to be circulated upon completion.

## 2- DISCUSSION ITEMS

Ref No	Subject	Yes	No	Comment
	<p><b><u>A. Public Questions</u></b></p> <p><b><i>Council Procedure Rules</i></b></p> <p><b>Public Questions - Member suggestions</b></p> <ul style="list-style-type: none"> <li>Members of the public should be allowed to ask their own questions, instead of having it read out for them.</li> <li>The deadline for submission of public and Member questions should be reduced (noon on the day prior to the Council meeting)</li> <li>The public should have 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).</li> <li>The Leader of the Council should be required to answer questions on any aspect of Council business, in the same way as the Elected Mayor did.</li> <li>All Councillors should be able to be questioned, not just those who hold certain posts, about the work they are involved in.</li> </ul> <p><b>Public Supplementary Questions</b></p> <p><b>Note</b> Council decision of 25 July 2013 that public supplementary questions be considered as part of the review .</p> <p><b><u>Member Suggestions</u></b></p> <ul style="list-style-type: none"> <li>No return of supplementary questions.</li> <li>Alternative suggestion from Members that supplementary questions be reinstated to original number of 2.</li> </ul> <p><b><u>Public Suggestions</u></b></p> <ul style="list-style-type: none"> <li>2 questions with 2 supplementary questions be reintroduced (4 public submissions)</li> <li>Public should have the ability to ask Elected Members questions “verbally in Full Council” as opposed to being read out by Chief Executive Officer</li> </ul>			
33				
34				
35				
36				
37				
38				
39				
40				
41				
42				

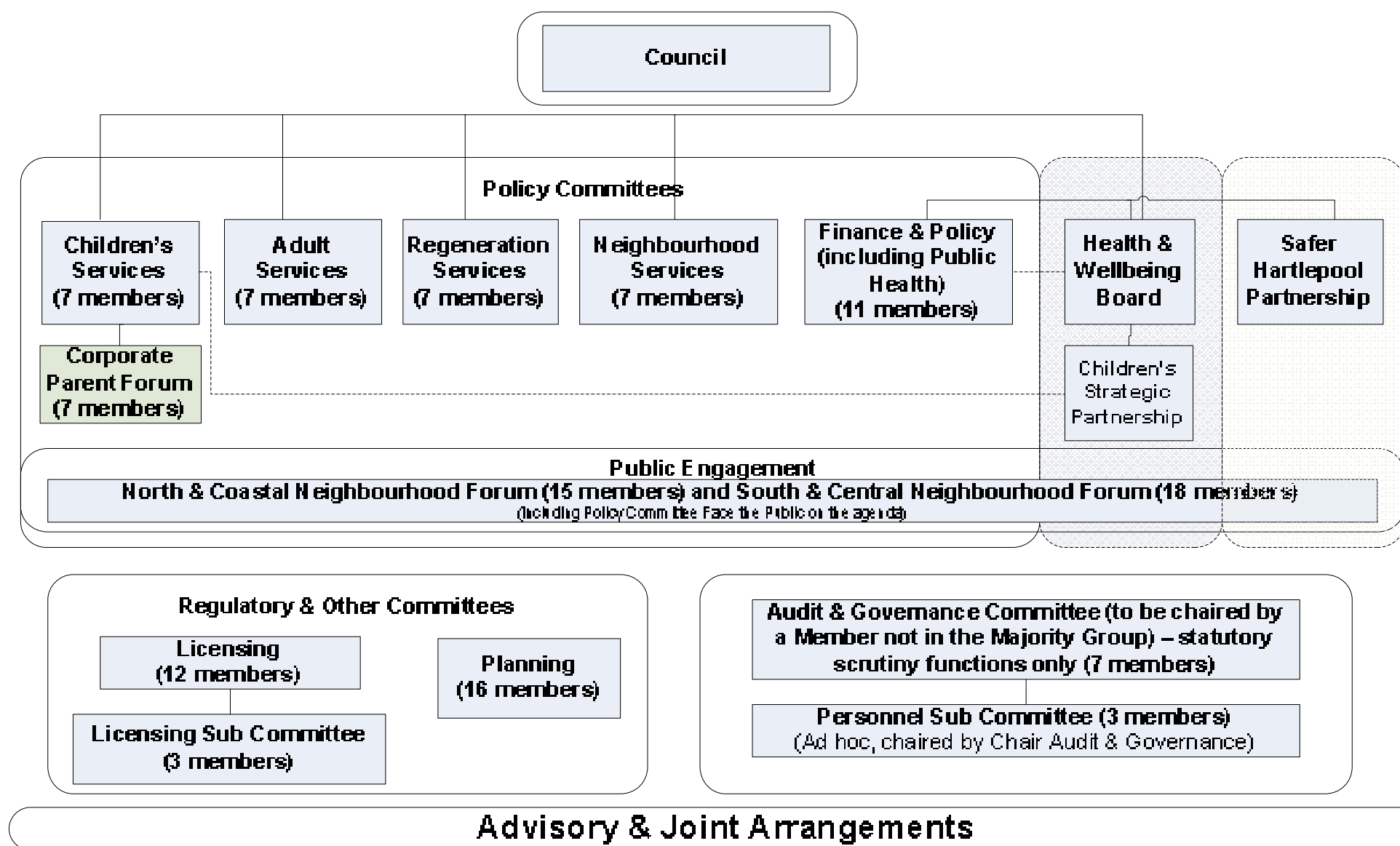
43	<ul style="list-style-type: none"> <li>• That questions on notice only provide for a prescriptive answer” and questions without notice should be permitted.</li> </ul> <p><b>Questions on Notice at full Council</b></p> <p>Whether questions should be allowed to the Ceremonial Mayor in his/her capacity as Chair of the Council?</p>			
44	<p><u>Member suggestion -</u></p>			
45	<ul style="list-style-type: none"> <li>• That questions be allowed to the Leader irrespective of being a Chair of any Committee or Forum.</li> </ul> <p><b><u>B. Proportionality</u></b></p> <p><b>Part 5 – Codes and Protocols</b></p> <p><b>Political Balance/Proportionality</b></p> <p><u>Public suggestions</u></p>			
46	<ul style="list-style-type: none"> <li>• Not only should committees be broadly representative of political balance, the Membership of committees should also reflect the composition of Council Wards – <b>Note</b> officer advice, this would prove to be impractical given the present size of committees and present composition of Council following Local Government Boundary Review – Committees have the ability to listen to the views of Ward Councillors.</li> </ul>			
47	<ul style="list-style-type: none"> <li>• The constitution be amended to ensure proportionality regarding Committee Chairs and Vice-Chairs.</li> </ul>			
48	<ul style="list-style-type: none"> <li>• The mathematical calculation of political composition of the Council should be undertaken by Chief Solicitor in his role of Monitoring Officer.</li> </ul> <p><b>Note</b> – this is current practice (guidance note attached at <b>Appendix 10</b> refers)</p>			
49	<ul style="list-style-type: none"> <li>• Proportional representation of Members on Committees should reflect the political composition of the Council as a whole (4 submissions) <b>Note</b> position is referred to in attached guidance note – <b>Appendix 10</b></li> </ul> <p><u>Member suggestions</u></p>			
50	<ul style="list-style-type: none"> <li>• The allocation of Chairs of Committees and Forums reflect the true political proportional balance of the Council (2 submissions)</li> </ul>			

51	<ul style="list-style-type: none"> <li>The allocation of seats on the Fire Authority represent the political proportional balance of the Council on a simple mathematical basis <b>Note</b> - see <b>Appendix 9</b></li> </ul> <p><b><u>C. Others</u></b></p> <p><b>Part 2 – Articles of the Constitution</b>  Article 5 – Ceremonial Mayor  <u>Public suggestions</u> -</p> <p>52 53</p> <ul style="list-style-type: none"> <li>Position of Ceremonial Mayor (Chair of Council) should be on a rota.</li> <li>Separate roles of Ceremonial Mayor and Chair of Council</li> </ul> <p>54</p> <p>Article 7 – Policy Committees  Corporate Parent Forum potential increase in membership (presently 7 members of the authority, comprising Chair of Children's Services Committee, Chair of Adult Services Committee, Leader of the Council, plus 4 other Members, 4 non-voting co-optees and 2 officers - NB: recommendation of Children's Services Committee to increase membership to include all Members of the Children's Services Committee and Chair of Adult Services Committee</p> <p>55</p> <p>Also suggested that the Chairs of the Adult Services Committee and Children's Services Committee be outside consideration of political proportionality requirements.</p> <p>Article 9 – Joint Committees and Partnership Boards</p> <p>56</p> <p>Children's Strategic Partnership – Member suggestion – composition of partnership be reviewed (currently 1 Member – Chair of Children's Services Committee)</p> <p>Article 10 – Neighbourhood Forums  10.05 – Operation of Neighbourhood Forums  57  Member suggestion – format of "Face the Public" at Neighbourhood Forums to be discussed.</p>			
58	<p><b>Part 3 – Responsibility for Functions</b></p> <p>Role of Champions – possible alignment to the general duties of Committee Chairs – what approach do Members want to take?</p> <p>Health and Wellbeing Board Membership – Audit</p>			

59	and Governance Committee recommendation - That a recommendation be made to the H&WBB that the membership of the H&WBB be reconsidered to include representatives from other Health Trusts.			
60	Member suggestion – Planning Committee – possible reduction in number of Members – currently 16.			
61	Clarification Relationship Safer Hartlepool Partnership/Neighbourhood Services Committee – Community Safety Plan /SHP/NS Cttee to Council – transfer of Community Safety function to Finance and Policy Committee?			
62	<p><b>Part 4 – Rules of Procedure</b></p> <p><b><i>Access to Information Procedure Rules</i></b></p> <p><b>Formalise Access to “Pink Papers”</b> by all Members for key decisions – 6 month trial agreed by Finance and Policy Committee from 1 October</p> <p><b>Part 4 Rule 18 - Minutes</b></p> <p><u>Public suggestion</u></p> <ul style="list-style-type: none"> <li>• That minutes should be passed only after the full Committee has agreed them to be a true record. <b>Note</b> this would slow down the process of implementing a decision of a Policy Committee and potentially undermine Council Procedure Rules (Council Procedure Rule 27 refers)</li> </ul> <p><b>Council Procedure Rules</b></p> <p><b>Rule 27 – Reference to Council</b></p> <p><u>Member suggestion</u></p> <ul style="list-style-type: none"> <li>• Number required for referral be reduced from 17 to 5.</li> </ul> <p><b>Scrutiny Procedure Rules</b></p> <p><u>Member suggestion</u></p> <p>Possible expansion of the Councillor Call for Action Procedures - Briefing Note prepared by the Statutory Scrutiny Officer to assist with discussions attached - <b>Appendix 10</b></p>			
63				
64				
65				



	<b>Part 6 – Members’ Allowances Scheme</b> <u>Member suggestions</u>			
66	<ul style="list-style-type: none"> <li>Changes to travelling and subsistence rates (suggested mileage rate 45p per mile as opposed to 52.2p per mile, travel cards should not be funded by the Council and travel and subsistence should not apply for attendance at political meetings.</li> </ul>			
67	<ul style="list-style-type: none"> <li>Review Members’ Allowances but do not increase them.</li> </ul>			



# **Part 3**

## **Responsibility for Functions**



# RESPONSIBILITY FOR FUNCTIONS

	Page
<b>A</b>	
<b>Introduction .....</b>	<b>5</b>
<b>B</b>	
<b>Council functions and delegation scheme</b>	
Council .....	7
Finance and Policy Committee.....	15
Adult Services Committee .....	21
Children's Services Committee .....	23
Corporate Parent Forum .....	26
Regeneration Services Committee.....	28
Neighbourhood Services Committee.....	31
Audit and Governance Committee .....	33
Personnel Sub-Committee .....	37
North and Coastal Neighbourhood Forum.....	38
South and Central Neighbourhood Forum.....	40
Licensing Committee.....	42
Licensing Sub-Committee .....	45
Planning Committee .....	46
Safer Hartlepool Partnership .....	50
Health and Wellbeing Board.....	52
Civic Honours Committee.....	54
Decision making by joint bodies .....	55
Decision making by Officers – statutory framework and basic principles .....	55
Individual Director/Chief Officer delegation .....	58
<b>C</b>	
<b>Proper officer functions.....</b>	<b>66</b>
Power to Act Generally.....	71
Appendix 1 – Delegation Scheme - Officers.....	73
Appendix 2 – Power to Act Generally.....	75



## **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.





## **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.)

<b>Council</b>	
<b>Membership:</b>	<b>33 Councillors</b>
<b>Quorum:</b>	<b>9</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
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.	

<b>Council (Continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
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, Director of Regeneration and Neighbourhoods, <del>Director of Public Health</del>
6. Functions relating to health and safety at work.	Finance and Policy Committee and the Director of <del>Public Health</del>
7. Functions relating to elections <ul style="list-style-type: none"> <li>a) Duty to appoint an electoral registration officer</li> <li>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.</li> <li>c) Power to dissolve small parish councils</li> <li>d) Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.</li> <li>e) Duty to appoint returning officer for local government elections</li> <li>f) Duty to divide constituency into polling districts</li> <li>g) Power to fill vacancies in parish councils in the event of insufficient nominations</li> </ul>	All other powers to the Finance and Policy Committee or the Chief Solicitor

**Deleted:** and the

**Deleted:**

**Deleted:** Regeneration and Neighbourhoods

<b>Council (continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
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"> <li>- Director of Regeneration and Neighbourhoods</li> <li>- Chief Solicitor</li> </ul>
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.	

<b>Council (continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
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 <u>Public Health</u>
32. The service of an abatement notice in respect of a statutory nuisance.	Director of <u>Public Health</u>
33. The inspection of the Authority's area to detect any statutory nuisance.	Director of <u>Public Health</u>
34. The investigation of any complaint as to the existence of a statutory nuisance.	Director of <u>Public Health</u>

**Deleted:** Regeneration and Neighbourhoods

**Deleted:** Regeneration and Neighbourhoods

**Deleted:** Regeneration and Neighbourhoods

**Deleted:** Regeneration and Neighbourhoods

<b>Council (continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
<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>	

<b>Council (continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
<p>38. The function of determining:</p> <ul style="list-style-type: none"> <li>(a) the amount of any allowance payable under – <ul style="list-style-type: none"> <li>i) subsection (5) of section 3 (Ceremonial Mayor/Chairman's expenses) of the 1972 Act;</li> <li>ii) subsection (4) of section 5 (Deputy <b>Ceremonial</b> Mayor/Vice-Chairman's expenses) of that Act;</li> <li>iii) subsection (4) of section 173 (financial loss allowance) of that Act</li> <li>iv) section 175 (allowances for attending conferences and meetings) of that Act;</li> </ul> </li> <li>(b) the rates at which payments are to be made under section 174 (travelling and subsistence allowances) of that Act;</li> <li>(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;</li> </ul>	
<p>39. To exercise powers under Part 2 of the Local Government and Public Involvement in Health Act 2007, <b>as amended</b> 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>	

<b>Council (continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
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 <u>Local</u> Council Tax Support Scheme. <u>??CL</u>	
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. <u>Functions relating to the preparation, approval and subsequent publication of a Pay Policy Statement under Section 38 of the Localism Act 2011.</u>	
<u>45. Functions reserved to Council by law.</u>	

**Deleted:** Annual

**Deleted:** Functions reserved to Council by law



<b>Finance and Policy Committee</b>	
<b>Membership:</b>	<p><b>11</b></p> <p><b>Councillors:</b>  <b>C Akers-Belcher, Chair (Leader of Council);</b>  <b>Richardson, Vice Chair (Deputy Leader of Council/Chair of Adult Services Committee);</b>  <b>Simmons (Chair of Children's Services Committee);</b>  <b>Payne (Chair of Regeneration Services Committee);</b>  <b>Jackson (Chair of Neighbourhood Services Committee).</b></p> <p><b>Plus Councillors:</b></p> <p><b>Dawkins, James, A Lilley, Thompson, <u>Martin</u>-Wells and Cook</b></p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<p>1. Responsibility for the financial and other resources of the Authority, for <u>formulating</u>, 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.</p> <p>2. The formulation, development and implementation of the policy framework (as detailed below) and budget and the implementation of</p>	

these in respect of Council	
-----------------------------	--

<b>Finance and Policy Committee (Continued)</b>	
<p>functions and services not otherwise the responsibility of Council or any other Committee, in particular finance and support services.</p> <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><b>ELECTIONS</b></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>Chief Solicitor</p> <p>6.(a)-(j)</p>

<b>Finance and Policy Committee (Continued)</b>	
<p>g) Duty to give public notice of a casual vacancy</p> <p>h) Power to make temporary appointments to Parish Councils</p> <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 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.</p>	
<p><b><u>STAFFING</u></b></p> <p>7. Functions relating to Local Government pensions, etc, except those reserved to the <u>Audit and Governance Committee</u>.</p> <p><u>8. Consideration of any staffing proposals requiring compulsory redundancy of one or more staff.</u></p> <p><u>9.</u>Power to make agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities.</p> <p><u>10.</u>Functions relating to health and safety at work (as set out in Part C of Schedule 1 to the Regulations).</p>	<p><b>Deleted:</b> Personnel Sub-Committee in dealing with matters of appeal etc.</p> <p><b>Deleted:</b> 8</p> <p><b>Deleted:</b> .</p> <p><b>Deleted:</b> 9. . To advise on the appointment of school governors.¶</p>
<p><b>FINANCE ADMINISTRATION</b></p> <p>11.Writing-off of debts above the limits allocated to Officers.</p> <p><b><u>GRANTS</u></b>  <u>Functions of former Grants Committee to be added with the exception of the Civic Lottery Fund (to be included under the functions of the</u></p>	<p>Chief Finance Officer  Power to write off debts within the approved limit of £1,000.</p> <p><b>Formatted:</b> Indent: Left: 0 cm, First line: 0 cm</p>

Neighbourhood Services Committee).  
**PROCUREMENT**

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

**Formatted:** Underline

<b>Finance and Policy Committee (Continued)</b>	
<p>(incorporating if necessary provider comparative analysis) where lowest/highest price is not payable/receivable.</p> <p>13. To receive and examine reports on any exemptions granted to these Contract Procedure Rules.</p> <p><b>Policy Framework Areas</b>  Annual Capital Budget  Annual Revenue Budget  Council Plan  Health and Wellbeing Strategy  Sustainable Community Strategy</p> <p><b>Other Plans &amp; Strategies</b>  Alcohol Harm Reduction Strategy  Annual Drug Treatment Plan  Anti-Fraud and Corruption Strategy  Asset Management Plan  Commissioning &amp; Procurement Strategy  Corporate Capital Strategy  Debt Recovery Strategy  Equality &amp; Diversity Plan  Health Protection Plan  Health and Safety Services Plan</p> <p>▼</p> <p>▼</p> <p>▼</p> <p><u>Workforce Strategy (including Member Development Strategy)</u></p> <p><b>Service Area</b>  Child Poverty *  Financial Management (Corporate) Accountancy  Financial Management Benefits (incl Fraud and control) and means tested services  Revenues collection</p>	<p>Chief Executive, Director of Child and Adults Services, <del>Director of Regeneration and Neighbourhoods</del> <u>and Director of Public Health</u></p> <ol style="list-style-type: none"> <li>1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact.</li> <li>2. Approval of Departmental service plans.</li> <li>3. Strategic service level financial and performance monitoring.</li> <li>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 ie where key decision test (i) does not apply.</li> </ol>

**Deleted:** and

**Deleted:** HR Strategy

**Deleted:** People Framework (incl. HR &

**Deleted:** Workforce Development Strategies)

**Deleted:** Workforce Development Strategy

Payments / Payroll	
--------------------	--

Finance and Policy Committee (Continued)	
<p> Insurances  Social Fund  Legal  Land Charges  Members Services  Public Relations  ICT  Policy / Performance / Partnerships  Complaints / Consultation  Democratic Services    ▼ Human Resources <u>Business Team</u>  Organisational Development  Customer Services / Hartlepool Connect  Registrars  Equality / Diversity  Health, Safety and Wellbeing  Strategic Procurement and Reprographic  ▼ Asset and Property 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>

**Deleted:** Workforce Development

**Deleted:** Advisors and operations

**Deleted:** Logistics¶

**Deleted:** Facilities Management¶



<b>Finance and Policy Committee (Continued)</b>	
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	

<b>Adult Services Committee</b>	
<b>Membership:</b>	<b>7</b>  <b>Councillors:</b> <b>Richardson (Chair)</b> <b>Shields (Vice Chair)</b>  <b>Plus Councillors:</b> <b>Fisher, Hall, A Lilley, Loynes and</b> <b>Sirs.</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<ol style="list-style-type: none"> <li>1. Responsible for Adult Social Care and related services</li> <li>2. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below.</li> </ol> <p><b>Policy Framework Areas</b>  Vision for Adult Social Care in Hartlepool</p> <p><b>Other Strategies &amp; Plans</b>  Dementia Strategy  Housing Care &amp; Support Strategy  Carers Strategy  Reablement Strategy  Assistive Technology Strategy</p> <p><b>Service Areas</b>  Child Poverty *  Older People's Commissioning  Mental Health Commissioning  Commissioning for Working Age Adults  Social Care Transformation  Adult Social Work Teams</p> <ul style="list-style-type: none"> <li>• Older People</li> <li>• Learning Disabilities</li> <li>• Physical Disabilities</li> <li>• Sensory Loss</li> </ul>	<p>Chief Executive, Director of Child and Adults Services, <del>Director of Regeneration and Neighbourhoods</del> <u>and Director of Public Health</u></p> <ol style="list-style-type: none"> <li>1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact.</li> <li>2. Approval of Departmental service plans.</li> <li>3. Strategic service level financial and performance monitoring.</li> <li>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</li> </ol>

**Deleted:** and

<b>Adult's Services Committee (Continued)</b>	
<p>Safeguarding Vulnerable Adults 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>ie where key decision test (i) does not apply.</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>7. Improvement plans and other key reports.</li> <li>8. External Audit and other inspection reports on service and non-strategic corporate matters.</li> <li>9. Policies, plans and strategies which are not part of the budget and policy framework.</li> </ol>

<b>Children's Services Committee</b>	
<b>Membership:</b>	<p><b>7</b></p> <p><b>Councillors:</b>  <b>Simmons (Chair)</b>  <b>James (Vice Chair)</b></p> <p><b>Plus Councillors:</b>  <b>Atkinson, Fleet, Griffin, Hill and Lauderdale</b></p> <p>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</p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<p>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.</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><u>3. To make appointments of Local Authority school governors.</u></p>	

<b>Children's Services Committee (continued)</b>	
<p><b>Policy Framework</b></p> <p>Children and Young People's Plan Child Poverty Strategy Youth Justice Strategic Plan</p> <p><b>Other Strategies &amp; Plans</b></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><b>Service Area</b></p> <p>Child Poverty * Safeguarding, Assessment &amp; 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 &amp; Challenge Curriculum development and enrichment Performance management and self-evaluation Pupil Referral Unit ICT in schools</p>	<p>Chief Executive, Director of Child and Adults Services, <del>Director of Regeneration and Neighbourhoods</del> <u>and Director of Public Health</u></p> <ol style="list-style-type: none"> <li>1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact.</li> <li>2. Approval of Departmental service plans.</li> <li>3. Strategic service level financial and performance monitoring.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ol>

**Deleted:** and

<b>Children's Services Committee (continued)</b>	
<p>Transformation of Learning Primary Capital Programme Social and Educational Inclusion School Transformation Special Educational Needs Educational Psychology Early Years Foundation Stage School Capital (in partnership with R&amp;N) School Admissions and School Place Planning</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 or otherwise reserved to a Policy Committee.</p>

<b>Corporate Parent Forum</b>	
<b>Membership:</b> <u>Possible change in membership – see issues paper</u>	<p><b><u>13 17 (Member representation to increase from 7 to 11)</u></b>  <b><u>Membership to be same as Children's Services Committee and include Lead Member for Adult Services</u></b></p> <p><b>Councillors:</b>  <b>Simmons, Chair (Chair of Children's Services Committee)</b>  <b>Richardson (Chair of Adult Services Committee)</b>  <b>C Akers-Belcher, The Leader of the Council;</b></p> <p><b>Plus Councillors:</b>  <b>James (Vice Chair), A Lilley, Hill and Lauderdale</b></p> <p>2 Children and Young People who are, or have been, looked after;  2 Foster Carers;  Assistant Director (Children's Services);  Policy Link Officer</p>
<b>Quorum:</b>	<b>3 Councillors and 1 representative from the Children, Young People and Foster Carers</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<p>1. This Sub-Committee of the Children's Services Committee is responsible for the <u>formulation</u>, 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.</p> <p>2. To advise and make recommendations to the Council's decision-making bodies and other</p>	

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.	





<b>Regeneration Services Committee (Continued)</b>	
<p>Fuel Poverty Strategy Library Plan Local Cultural Strategy Planning Policy Tourism Strategy Trading Standards Service Delivery Plan Sport &amp; Physical Activity Strategy Playing Pitch Strategy Indoor Sports Facilities Strategy Multi Use Games Area Strategy (MUGA)</p> <p><b>Service Areas</b> 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 &amp; Information Services;-</p> <ul style="list-style-type: none"> <li>• Libraries &amp; Community Buildings</li> <li>• Museums &amp; Art Gallery</li> <li>• Theatre &amp; Arts Development</li> <li>• Strategic Events &amp; Independent Safety Advisory Group</li> <li>• Tourist Information &amp; Box Office</li> </ul>	<ol style="list-style-type: none"> <li>3. Strategic service level financial and performance monitoring.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>7. Improvement plans and other key reports.</li> <li>8. External Audit and other inspection reports on service and non-strategic corporate matters.</li> <li>9. Allocations, scheme designs and specifications within agreed programmes of works.</li> </ol>

<b>Regeneration Services Committee (Continued)</b>	
<ul style="list-style-type: none"> <li>• Leisure Centre management</li> <li>• Sport &amp; Physical Activity</li> <li>• Carlton Outdoor Education Centre</li> <li>• Outdoor Activities &amp; Summerhill</li> <li>• Primary Swimming</li> </ul> <p>Tees Archaeology;-</p> <ul style="list-style-type: none"> <li>• Historic Environment Record (HER)</li> </ul>	<p>10. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee</p>

<b>Neighbourhood Services Committee</b>	
<b>Membership:</b>	<b>7</b> <b>Councillors:</b> <b>Jackson, Chair</b> <b>Ainslie, Vice Chair</b>  <b>Plus Councillors:</b> <b>Barclay, Dawkins, Gibbon, Loynes and Tempest</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<ol style="list-style-type: none"> <li>1. Responsible for waste, coastal protection and flood defence, highways and traffic management (including integrated transport and partnership working) neighbourhood management and community safety.</li> <li>2. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below.</li> </ol> <p><u>Note – reference to receipt of annual report relating to Civic Lottery Grants</u></p> <p><b>Policy Framework Areas</b>  Community Safety Plan  Local Transport Plan  Tees Valley Joint Waste Management Strategy  Hartlepool Voluntary and Community Sector Strategy</p> <p><b>Other Strategies &amp; Plans</b>  <u>Anti-Social Behaviour Plan</u>  <u>Allotment Development Strategy</u>  Child Poverty *  Cleveland Emergency Planning Unit  <u>Civic Lottery</u>  Climate Change Strategy</p>	<p>Chief Executive, Director of Child and Adults Services, <del>Director of Regeneration and Neighbourhoods</del> <u>and Director of Public Health</u></p> <ol style="list-style-type: none"> <li>1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact.</li> <li>2. Approval of Departmental service plans.</li> <li>3. <del>Strategic service level financial and performance monitoring.</del></li> </ol>

**Deleted:** and

**Deleted:** Allotment Development Strategy¶

**Deleted:** Annual Plan¶

Community Cohesion Framework Contaminated Land Plan	
--	--

Deleted: -----Page Break-----

<b>Neighbourhood Services Committee (Continued)</b>	
Domestic Violence Strategy Hartlepool Incident Response Plan Highway Asset Management Plan Highway Maintenance Plan Highway Network Management Plan	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.
Neighbourhood Management & Empowerment Strategy Network Management Plan Prevent Action Plan Rights of Way Improvement Plan Shoreline Management Plan Waste Management Strategy Winter Maintenance Plan Play Facility Strategy	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.
<b>Service Areas</b> 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	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

Deleted: Logistics

Deleted: Facilities Management

Deleted: Social Behaviour Plan¶

	Policy Committee.
--	-------------------

<b><u>Audit and Governance</u></b>	
<b>Committee</b>	
<b>Membership:</b>	<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><b>Councillors:</b>  <b>Fisher (Chair)</b>  <b>S Akers-Belcher (Vice Chair)</b></p> <p><b>Ainslie, Brash, Loynes, Robinson and Shields</b></p> <p>Plus (Independent <b>Persons</b>.) 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>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<p><b>AUDIT</b></p> <ol style="list-style-type: none"> <li>1. Promote the independent internal audit function and raise awareness of internal control, reviewing controls and financial operations and developing an anti-fraud culture.</li> <li>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. <u>Liaising with a local audit panel over the recommendations for appointment of the External Auditor.</u></li> </ol>	

**Deleted:** Member(s)

Deleted: .....

## **Audit and Governance Committee (Continued)**

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 solutions thereon and to make such recommendations to Council as the Committee shall deem appropriate.
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.
7. Functions relating to the scrutiny of contracts.  
  
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.
8. Making appointments to the Independent Remuneration Panel as established under the provisions of the Local Government Act 2000.

## **STANDARDS**

9. Promoting and maintaining high standards of conduct by Members and Co-opted members of the Authority.

Deleted: ¶

Deleted: .....Page Break.....



<b>Audit and Governance Committee (Continued)</b>	
<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> <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><b>STATUTORY SCRUTINY</b></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>	

<b>Audit and Governance Committee (Continued)</b>	
<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> <p><b>MISCELLANEOUS</b></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"> <li>• Appeals against dismissal</li> <li>• Disputes or appeals arising out of departmental staffing reviews and/or re-structures</li> <li>• Grievances at the final internal stage</li> </ul> <p>20. Functions relating to local government pensions, etc. relating to the determination of individual cases.</p>	<p></p> <p></p> <p>Personnel Sub-Committee</p> <p></p> <p>Personnel Sub-Committee</p>

<b>Personnel Sub-Committee</b>	
<b>Membership:</b>	<b>Three members selected from a rota of Audit and Governance Committee Members maintained by the Democratic Services Team Manager.</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
1. Power to consider and determine: <ul style="list-style-type: none"> <li>• Appeals against dismissal</li> <li>• Disputes or appeals arising out of departmental staffing reviews and/or re-structures</li> <li>• Grievances at the final internal stage</li> </ul> 2. Functions relating to local government pensions, etc. relating to the determination of individual cases.	<p><u>Assistant</u> 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>

<b>North and Coastal Neighbourhood Forum</b>	
<b>Membership:</b>	<p><b>Elected representatives of the following Wards: De Bruce, Hart, Headland and Harbour, Jesmond and Seaton</b></p> <p><b>Chair: Tempest</b>  <b>Vice Chair: Beck</b></p> <p><b>Councillors: Ainslie, Atkinson, Cook, Dawkins, Fisher, Fleet, Griffin, Hill, Jackson, Payne, Robinson, Shields and Thompson</b></p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>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.</li> <li>2. To enable discussion to take place with community representatives on issues of local interest.</li> <li>3. To advise the Council on matters of interest to their area.</li> <li>4. To be a key part of the Council's local consultation process.</li> <li>5. To assist all Councillors in listening to and representing their community.</li> </ol>	

<b>North and Coastal Neighbourhood Forum (Continued...)</b>	
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<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>

<b>South and Central Neighbourhood Forum</b>	
<b>Membership:</b>	<p>Elected representatives of the following Wards: Burn Valley, Fens and Rossmere, Foggy Furze, Manor House, Rural West and Victoria.</p> <p>Chair: Cranney Vice Chair: James</p> <p>Councillors: C Akers-Belcher, S Akers-Belcher, Brash, Gibbon, Hall, Hargreaves, James, Lauderdale, A Lilley, G Lilley, Loynes, Morris, Richardson, Simmons, Sirs and <del>Martin</del>-Wells</p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>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.</li> <li>2. To enable discussion to take place with community representatives on issues of local interest.</li> <li>3. To advise the Council on matters of interest to their area.</li> <li>4. To be a key part of the Council's local consultation process.</li> <li>5. To assist all Councillors in listening to and representing their community.</li> </ol>	

Deleted:

<b>South and Central Neighbourhood Forum</b> (continued....)	
FUNCTIONS	DELEGATIONS
6. To help build partnerships between the Local Authority, other local public, private and voluntary sector organisations and the public.  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	
<b>Membership:</b>	<b>12</b> <b>Councillors:</b> <u>Martin</u> -Wells, Chair Morris, Vice Chair  <b>Plus Councillors:</b> Ainslie, Beck, Cook, Dawkins, Fleet, Gibbon, Griffin, Hall, Jackson and Tempest.
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>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.</li> <li>2. All licensing and registration functions except those relating to Commons Registration, Roads and Highways (delegated to Planning Committee by Council)</li> <li>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;</li> </ol>	<p><u>Director of Public Health;</u>  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>

**Deleted:** Director of Regeneration and Neighbourhoods:

**Deleted:** ¶



<b>Licensing Committee (Continued)</b>	
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>1. Application for Premises Licence (Gambling Act).</li> <li>2. Application for a Variation of Premises Licence (Gambling Act).</li> <li>3. Application for a Transfer of a Premises Licence (Gambling Act).</li> <li>4. Application for a Provisional Statement (Gambling Act).</li> <li>5. Review of a Premises Licence (Gambling Act).</li> <li>6. Application for a Club/Gaming Club Machine Permits (Gambling Act).</li> <li>7. Cancellation of Club/Gaming Club Machine Permits (Gambling Act).</li> <li>8. Applications for other permits under the Gambling Act.</li> <li>9. Cancellation of Licensed Premises Gaming Machine Permits (Gambling Act).</li> <li>10. Consideration of Temporary Use Notice (Gambling Act).</li> <li>11. Decision to give a Counter Notice to a Temporary Use Notice (Gambling Act).</li> <li>12. Amusements with Prizes (Gambling Act)</li> <li>13. Lotteries (Gambling Act).</li> <li>14. Prize Bingo (Gambling Act).</li> <li>15. Application for a Premises Licence (Licensing Act).</li> <li>16. Application for a Variation of a Premises Licence (Licensing Act).</li> <li>17. Application to Transfer a Premises Licence (Licensing Act).</li> <li>18. Application to Grant a Provisional Statement (Licensing Act).</li> </ol>	

<b>Licensing Committee</b> (Continued)	
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ul style="list-style-type: none"> <li>19. Application to Vary a Designated Supervisor (Licensing Act).</li> <li>20. Application to Grant a Club Premises Certificate (Licensing Act).</li> <li>21. To Grant a Variation of a Club Premises Certificate (Licensing Act).</li> <li>22. Making an order under Section 284 disapplying Section 279 (Exempt Gaming) or Section 282(i) (Gaming Machines Automatic Entitlement) to specific licensed premises.</li> <li>23. Approving the Statement of Principles to be applied regarding functions relating to Family Entertainment Centre Gaming Machine Permits and Prize Gaming Permits.</li> </ul>	

<b>Licensing Sub-Committee</b>	
<b>Membership:</b>	Three Members when dealing with Licensing Act matters and four Members in all other cases, selected from a fixed rota of the Committee (including the designation of the Chair of the Sub-Committee) that has been pre-determined by the Committee at the beginning of each municipal year, and maintained by the Democratic Services Team Manager.
<b>Quorum:</b>	3
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
Dealing with individual licensing and other applications and 'day to day' decisions as determined by the Committee.	

<b>Planning Committee</b>	
<b>Membership:</b>	<b>16</b>  <b>Councillors:</b> <b>Cook, Chair</b> <b>Morris, Vice Chair</b>  <b>Plus Councillors:</b> <b>Ainslie, Beck, Cranney, Fisher,</b> <b>Fleet, Griffin, James, Loynes, A</b> <b>Lilley, G Lilley, Robinson, Sirs,</b> <b>Shields and <u>Martin-Wells</u></b>
<b>Quorum:</b>	<b>7</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>1. Exercise the Council's development control and management functions including conservation, Town and Village Greens, Commons Registration and Public Rights of Way.</li> <li>2. All functions relating to town and country planning and development control.</li> <li>3. Powers relating to the protection of important hedgerows</li> <li>4. Powers relating to the preservation of trees.</li> <li>5. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.</li> <li>6. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</li> </ol>	<p>Director of Regeneration and Neighbourhoods</p> <ol style="list-style-type: none"> <li>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"> <li>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.</li> <li>ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial,</li> <li>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.</li> </ol> </li> </ol>

<b>Planning Committee (continued)</b>	
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<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"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ol>

Deleted: )

<b>Planning Committee</b> (continued)	
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
	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.
	<b>Planning Services Manager</b>  Power to require proper maintenance of land under Section 215 of the Town and Country Planning Act 1990
	<b>Chief Solicitor</b>  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.

Safer Hartlepool Partnership	<u>Terms of Reference</u>
<p><b>Membership:</b></p> <p><b><u>– Agreed by SHP on 24 April 2013)</u></b></p>	<ul style="list-style-type: none"> <li>• *Two Elected Members, including the Leader of Council</li> <li>• *Chief Executive, Hartlepool Borough Council</li> <li>• *Director of Regeneration and Neighbourhoods, Hartlepool Borough Council</li> <li>• *Neighbourhood Manager (Community Safety) , Hartlepool Borough Council</li> <li>• <del>Director of Public Health - Hartlepool Borough Council/Primary Care Trust*</del></li> <li>• *Hartlepool District Commander Cleveland Police</li> <li>• <del>Office of the Police and Crime Commissioner</del></li> <li>• *Youth Offending <del>Board</del> - Chair of Management Board, Hartlepool Borough Council</li> <li>• <u>Representative of Hartlepool and Stockton on Tees Clinical Commissioning Group</u></li> <li>• *Director of Offender Management, Durham Tees Valley Probation Trust</li> <li>• *</li> <li>• <del>*Cleveland Fire <u>Brigade</u> - District Manager</del></li> <li>• VCS Representative – Chief Executive, Safe in Tees Valley</li> <li>• Housing Hartlepool – Director of Housing Services</li> <li>• <u>Head of Youth Services, Hartlepool Borough Council</u></li> <li>• Hartlepool Magistrates Court – Chair of the Bench</li> </ul> <p><i>* indicates Responsible Authority member</i></p>

**Deleted:** (Currently under Review

**Deleted:** \*

**Deleted:** \*

**Deleted:** Service

**Deleted:** Cleveland Fire and Rescue Authority - nominated member

**Deleted:** and Rescue Service – Hartlepool



<b>Safer Hartlepool Partnership (Continued)</b>	
<b>Quorum:</b>	<del>3</del> Members, with at least 2 being Responsible Authority Members.
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>1. A partnership to create confident cohesive and healthy communities by working together to reduce crime, anti-social behaviour, re-offending and substance misuse in Hartlepool.</li> <li>2. The Partnership is responsible for the delivery of the community safety outcomes within the Sustainable Community Strategy.</li> </ol> <p><b>PLANS AND STRATEGIES</b></p> <p><u>Anti-Social Behaviour Strategy</u>  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</p> <p><u>Reducing Reoffending Strategy</u>  Community Cohesion Framework  Troubled Families Programme</p>	

Deleted: 7

<b>Health and Wellbeing Board</b>	<b><u>Updated Terms of Reference – Agreed by the Board</u></b>
<b>Membership:</b>	<p><b>Prescribed Members:</b></p> <p>Elected Members, Hartlepool Borough Council*, including the Leader of the Council <u>and Chair of Children's Services Policy Committee</u>(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><b>Other Members:</b></p> <p>Chief Executive, Hartlepool Borough Council (1);  Director of Regeneration and Neighbourhoods, Hartlepool Borough Council (1);  Representative of the NHS <u>England</u> Representative of Hartlepool Voluntary &amp; Community Sector (1);  Representative of Tees Esk and Wear Valley NHS Trust (1);  Representative of North Tees and Hartlepool NHS Foundation Trust (1);  <u>Observer – Representative of Audit and Governance Committee, Hartlepool Borough Council (1)</u></p>
<b>Quorum:</b>	<b><u>5 prescribed Members with at least 1 representative from each of the 3 prescribed Member organisations</u></b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
Responsibility for the preparation and implementation of a Health and Wellbeing Strategy for the Borough.	

**Deleted:** Commissioning Board Area Team (1);¶

**Deleted:** Representative of North East

**Deleted:** Ambulance NHS Trust (1);¶  
Representative of Cleveland Fire Brigade (1).

**Deleted:** 3

**Formatted Table**

--	--

- \* The Chair will be the Leader of Hartlepool Borough council or their substitute.
- \*\* The Vice-Chair will be a representative of the Clinical Commissioning Group

<b>Health and Wellbeing Board (continued)</b>	
<p>Responsibility for ensuring the development and use of a comprehensive evidence based Joint Strategic Needs Assessment (JSNA) for Hartlepool <u>and that a pharmaceutical needs assessment is undertaken.</u></p> <p>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.</p>	

Civic Honours Committee	
Membership:	<p>5</p> <p>S Akers-Belcher, Chair (<del>Ceremonial Mayor</del>)</p> <p>Councillors:</p> <p>Barclay, Dawkins, Simmons and <del>Martin</del>-Wells</p>
Quorum:	3
FUNCTIONS	DELEGATIONS
<ol style="list-style-type: none"> <li>1. Receive, consider and make recommendations to Council in respect of conferment of the Freedom of the Borough upon individuals or organisations.</li> <li>2. Consider nominations for Honorary Alderman <del>and Honorary Alderwoman</del> and make recommendations to the Council thereon.</li> <li>3. Make recommendations and issue guidance as the Committee may consider appropriate to Council on the conferment of Civic Honours.</li> </ol>	

Deleted: Chair of Council

## **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.

10. To act as the Council's representative on Joint Committees and Partnership Boards and to exercise all decision making powers therein in consultation with the Leader of the Council, as required under the Council's governance arrangements.

**Deleted:** . 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.

**Deleted:** ¶

**Deleted:** ¶

### **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.
3. 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.
4. 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.

### **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 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 **Support** (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 **Local Welfare Support** grant payments.
15. To determine sanctions in fraudulent benefit cases in accordance with the Social Security Administration Act 1992.

**Deleted:** Community Charge,

**Deleted:** Benefit

**Deleted:** Social Fund

**Deleted:** .

## 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 wellbeing 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 Neighbourhoods**

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.

**Deleted:** 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.¶

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.

**Formatted:** Indent: Left: 0 cm, First line: 0 cm

**Deleted:** ¶

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 1990, the Planning (Hazardous Substances) Act 1990, the Planning Act 2008 or under any related secondary legislation except those reserved to the Planning Committee.

7. To undertake the Council's powers and duties in relation to high hedge complaints under the Anti-Social Behaviour Act 2003.

**Deleted:** 6. . To exercise the Council's functions with regard to temporary markets under Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.¶

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)).

10. Exercise responsibilities in relation to applications for Child Safety Orders under Section 11 of the Crime and Disorder Act 1998.

**Deleted:** 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.¶

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, wayleases, 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 and for the Council to publish that report.

Formatted: Indent: Left: 0 cm, Hanging: 1.5 cm, Tabs: Not at 2.5 cm

Deleted: .

6. To exercise the Council's functions with regard to temporary markets under Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.
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.



## **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 (~~Neighbourhoods~~) 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. **Deleted:** Transportation and Engineering Services
17. The Assistant Director (Regeneration) 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. **Deleted:** and Planning
18. The person appointed by the ~~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. **Deleted:** Health Protection Agency North East  
**Deleted:** (part of
19. ~~The Chief Solicitor~~ is hereby appointed Proper Officer to receive notices under the Local government (Committees and Political Groups) Regulations 1990. **Deleted:** The Assistant Chief Executive
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 (rdnance survey <u>Neighbourhoods</u> )	Functions with respect to

**Deleted:** Transportation and  
. 0

**Deleted:** Engineering Services

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)	<del>Chief Solicitor</del>	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-laws
248	Chief Solicitor	Keeping of roll of Freeman
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)

**Deleted:** Assistant Chief

**Deleted:** Executive¶

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

(Neighbourhoods)

Assistant Director (Regeneration  
)

Director of Regeneration and Neighbourhoods

Director of Child and Adult Services

Director of Public Health

## 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  
(Neighbourhoods) or Assistant  
Director (Regeneration) (as  
appropriate)

Assistant Director (Children's  
Services)

Assistant Director (Adult Services)

Chief Executive other than  
statutory health protection duties –  
Alternative Director of Public  
Health (Tees Valley Authorities)

**Deleted:** Transportation and  
Engineering

**Deleted:** and

**Deleted:** Planning

**Deleted:** Transportation and  
Engineering

**Deleted:** and Planning

**Formatted:** Indent: Left: 0  
cm, First line: 0 cm, Tabs: Not  
at 2.12 cm + 8.47 cm

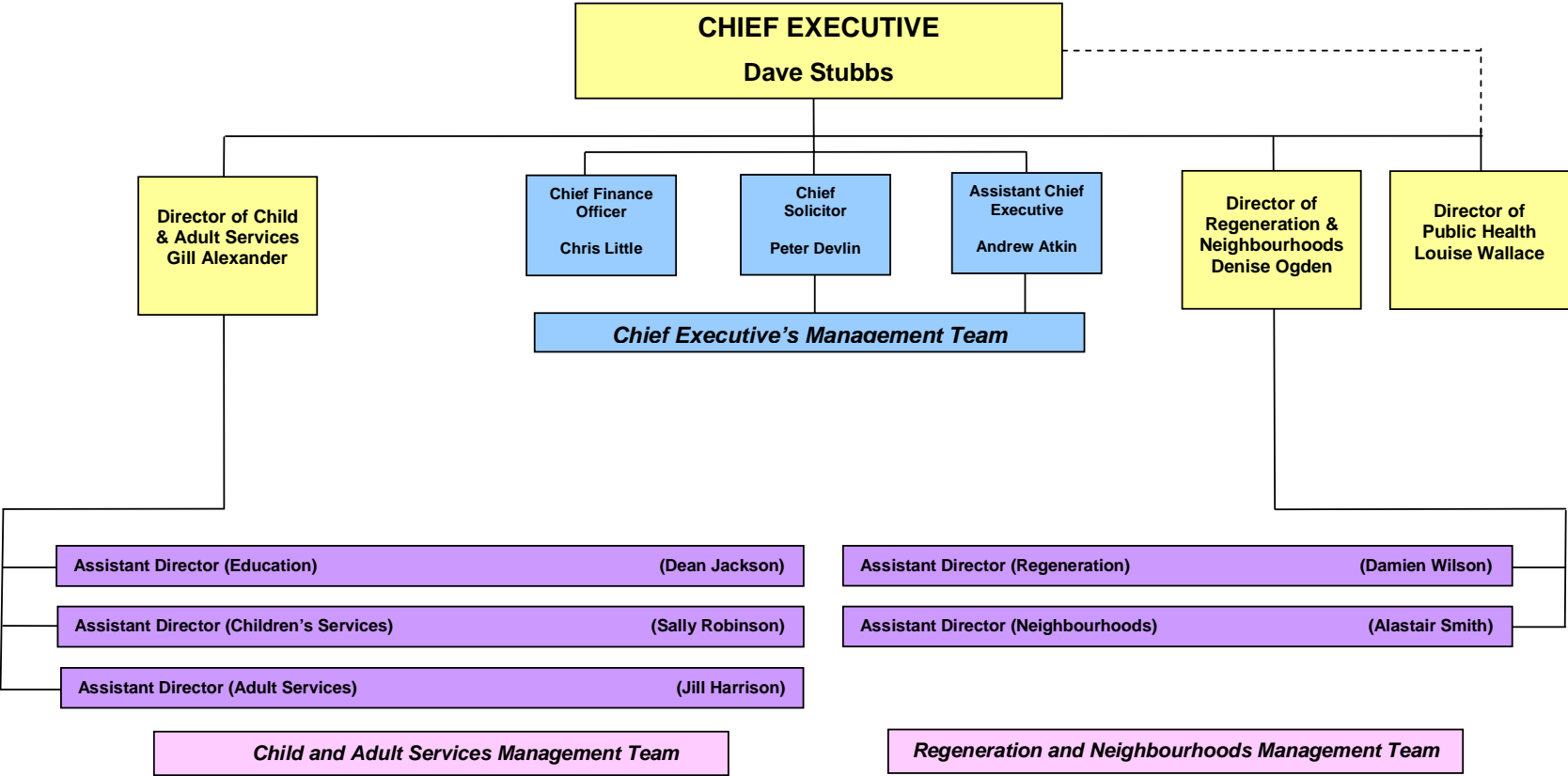
## **POWER TO ACT GENERALLY**

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.



DELEGATION SCHEME – OFFICERS

APPENDIX 1



----- Other than statutory health protection duties (alternatively Director of Public Health - Tees Valley Authorities)



## APPENDIX 2

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

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 Act 2008  
Climate Change and Sustainable Energy Act 2006  
Coastal Protection Act 1949  
Commonhold and Leasehold Reform Act 2002  
Commons Act 2006  
Commons Registration Act 1965  
Companies Act 1985  
Companies Act 1989  
Companies Act 2006  
Competition Act 1998  
Concessionary Bus Travel Act 2007

Consumer Credit Act 1974  
Consumer Protection Act 1987  
Contract (Rights of Third Parties) Act 1999  
Control of Dogs Order 1992  
Control of Pollution Act 1974 and 1976  
Copyright Design and Patents Act 1988  
Coroners and Justice Act 2009  
Corporate Manslaughter and Corporate Homicide Act 2007  
Council Tax (New Valuation Lists for England) Act 2006  
County of Cleveland Act 1987  
Countryside and Rights of Way Act 2000  
Courts Act 2003  
Courts and Legal Services Act 1990  
Crime and Courts Act 2013  
Crime and Disorder Act 1998  
Criminal Procedure and Investigations Act 1996  
Criminal Damage Act 1971  
Criminal Justice Act 1991  
Criminal Justice Act 2003  
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  
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  
[Defamation Act 2013](#)  
Deregulation and Contracting Out Act 1994  
Development of Tourism Act 1969  
Digital Economy Act 2010

Disability Discrimination Acts 1995 and 2005  
Disabled Persons' Parking Badges Act 2013  
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  
Electoral Registration and Administration Act 2013  
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  
Energy Act 1976  
Energy Act 2008  
Energy Act 2011  
Energy Act 2013  
Energy Conservation Act 1981

Deleted: mendment

Energy Conservation Act 1996  
Enterprise and Regulatory Reform Act 2013  
Environment Act 1995  
Environmental Protection Act 1990  
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  
[Finance Act 2013](#)  
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  
Growth and Infrastructure Act 2013  
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  
Incitement to Religious Hatred Act (1986 Public Order Act)  
Income and Corporation Taxes Act 1988  
Independent Living and Human Rights Act 1998  
Insurance Brokers (Registration) Act 1977  
Insurance Companies Act 1981  
Intoxicating Substances (Supply) Act 1985  
  
Jobseekers Act 1995  
Jobseekers (Back to Work Schemes) Act 2013  
Justices of the Peace act 1997  
  
Land Charges Act 1972 and 1975  
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  
Law of Property Act 1925  
Law of Property (Miscellaneous Provisions) act 1989  
Litter Act 1983  
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  
Local Authorities (Goods and Services) Act 1970  
Local Authority Social Services Act 1970 (as amended)  
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 Finance Act 2013](#)  
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  
Lotteries and Amusements Act 1976  
Lotteries Act 1993

Malicious Communications Act 1988  
Marine and Coastal Access Act 2009  
Medicines Act 1968  
Mental Health Act 2007  
Mental Health Act 1983  
Mental Health (Discrimination) Act 2013  
Mobile Homes Act 2013  
Mobile Homes Acts 1975 and 1983  
[Mobile Homes Act 2013](#)  
Mock Auction Act 1961  
Motor Cycle Noise Act 1987  
Motor Vehicles (Safety equipment for Children) Act 1991

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  
Noise and Statutory Nuisance Act 1993  
Noise Act 1996  
Nurses Agencies Act 1957

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  
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  
Poisons Act 1972  
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  
Prevention of Social Housing Fraud Act 2013  
Prices Acts 1974 and 1975  
Private Places of Entertainment (Licensing) Act 1967  
Private Security Industry Act 2001  
Property Misdescriptions Act 1991  
Prosecution of Offences Act 1985  
Protection of Animals Act 1911  
Protection of Freedoms Act 2012  
Protection from Eviction Act 1977  
Protection from Harassment Act 1997  
Public Health Acts 1907, 1936-1961  
Public Health (Control of Disease) Act 1984  
Public Libraries and Museums Act 1964

Public Service Pensions Act 2013  
Public Services (Social Value) Act 2012

Race Relations Act 1976  
Race Relations (Amendment) Act 2000  
Racial and Religious Hatred Act 2006  
Refuse Disposal (Amenity) Act 1978  
Registered Homes Act 1984  
Registration of Political Parties Act 1998  
Registration Services Act 1953  
Regulation of Investigatory Powers Act 2000  
Regulatory Enforcement and Sanctions Act 2008  
Rehabilitation of Offenders Act 1974  
Representation of the People Act 1983  
Representation of the People Act 1985  
Representation of the People Act 2000  
Rent Act 1977  
Riding Establishment Acts 1964 and 1970  
Rights of Way Act 1990  
Road Safety Act 2006  
Road Traffic Act 1974  
Road Traffic Act 1991  
Road Traffic Acts 1971 and 1988  
Road Traffic (Consequential Provisions) Act 1988  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Offenders Act 1988  
Road Traffic Regulation Act 1984

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  
Scrap Metal Dealers Act 2013  
Sea Fisheries Regulation Act 1966  
Sex Discrimination Acts 1975 and 1986

Sheriffs Act 1887  
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 Theatres Act 1972  
Sunday Trading Act 1994  
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 1971  
Town and Country Planning Act 1990  
Town Police Clauses Act 1847  
Trade Descriptions Act 1968  
Trade Marks Act 1938  
Trade Marks Act 1994  
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

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

Video Recordings Act 1984  
Video Recordings Act 2010  
Vehicle (Excise) Act 1971  
Vehicles (Crime) Act 2001  
Violent Crime Reduction Act 2006

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  
Welfare Reform Act 2007  
Welfare Reform Act 2012  
Wildlife and Countryside Act 1981

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.

<b>CONTRACT PROCEDURE RULES</b>
---------------------------------

## CONTENTS

### Rules

Introduction .....	31
<b>Part A – Scope of Contract Procedure Rules .....</b>	<b>39</b>
1. Application of Contract Procedure Rules	
<b>Part B – Selected Tenderers Lists .....</b>	<b>40</b>
2. Compilation of Selected Tenderers Lists	
3. Adoption/Development of Corporate or Collaborative Framework Agreements .....	41
<b>Part C – Procurement Procedures .....</b>	<b>41</b>
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).	
<b>Part D – Best Price Procedures .....</b>	<b>43</b>
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	
<b>Part E – Price/Quality Procedures .....</b>	<b>44</b>
10. Price/Quality Contracts Provisions	
<b>Part F – Strategic Partnerships .....</b>	<b>45</b>
11. Strategic Partnership Contracting Provisions	
<b>Part G – General Provisions .....</b>	<b>46</b>
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 – Glossary.....50**

- 21. Interpretation

## 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 ~~exemptions~~ set out in the rules.

Deleted: exceptions

- 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).
- 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.

Deleted: – currently £173,934 (2013).

## **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(i) 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 and 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) Deleted: 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 ex 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 in line 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. Prompt Payments in the Supply Chain

Formatted: Font: Bold

- i) The Council is keen to ensure that prompt payment of valid invoices takes place throughout its supply chains.
- ii) The Council has a good record in paying its suppliers promptly and it has expressed the aim of ensuring this good performance is extended throughout its supply chains.
- iii) To achieve this aim, the Council has amended its contractual terms and conditions to impose the following payment related obligations on its suppliers:

#### Purchase Order Terms and Conditions:

Where the supplier enters into a sub-contract, the Council expects that all sums due by the supplier to the sub-contractor are paid within a specified period not exceeding 30 days from the receipt of the invoice.

Standard Terms and Conditions for the Purchase of Goods and  
Standard Terms and Conditions for the Purchase of Services,

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Where the Contractor enters into a sub-contract they must ensure that  
a provision is included which:

Formatted: Font: Not Bold

Formatted: Font: Not Bold

- Requires payment to be made of all sums due by the  
Contractor to the sub-contractor within a specified period not  
exceeding 30 days from the receipt of a valid invoice as defined by the  
sub-contract requirements and provides that, where the Council has  
made a payment to the Contractor in respect of the services and the  
sub-contractor's invoice relates to such services then, to that extent  
the invoice must be treated as valid and, provided the Contractor is not  
exercising a right of retention or set-off in respect of a breach of  
contract by the sub-contractor to the Contractor, payment must be  
made to the sub-contractor without deduction;

Formatted: Font: Not Bold

Formatted: Font: Not Bold

- Notifies the sub-contractor that the sub-contract forms part of a  
larger contract for the benefit of the Council and that should the sub-  
contractor have any difficulty in securing the timely payment of an  
invoice, that matter may be referred by the sub-contractor to the  
Council.

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Indent: Left: 0 cm, First line: 0 cm

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Deleted: ¶

## **12. Hartlepool Living Wage**

i) The Council has adopted the 'Hartlepool Living Wage' (HLW) and  
seeks to encourage its supply chain to do the same.

ii) In pursuit of this aim, the Council has determined that all tender  
documentation will include a clause which reiterates the Council's  
position, documents the prevailing rate of the HLW and encourages  
other businesses to do likewise.

iii) In addition, all tender and quotation exercises must include the  
following questions

'Do you pay your employees the Hartlepool Living Wage

'Do you intend to pay your employees the Hartlepool Living  
Wage?

'Would you consider paying your employees the Hartlepool  
Living Wage?

iv) Responses to these questions will be compiled and statistics  
retained for reporting purposes.

## **13. Blacklisting**

i) The Council operates a policy of not contracting with organisations  
who undertake 'blacklisting' in relation to their employees on the basis  
of their trade union membership or union activities.

ii) This policy is enacted through the content of Pre-qualification and Business questionnaires, and the Council's contract terms and conditions.

iii) The questionnaires referred to above contain the following warranty which bidding organisations are required to offer:

'The organisation (or its directors or any other person who has powers of representation, decision or control of such organisation) confirms that:-

Being an organisation, it has not complied or disseminated any 'blacklist' which is intended to discriminate against workers on the grounds of their Trade Union membership or union activities.

It is understood that such activities are expressly prohibited by law and that should the organisation engage in such practices, the Council has the right to exclude the organisation from tendering for any Council contracts.

Furthermore the organisation warrants that they have not been convicted of any offence under the Employment Relations Act 1999 (Blacklists) Regulations 2010.

iv) The Councils' contract terms and conditions incorporate the following clause:

'Subject to the provisions of the Force Majeure clause in these terms and conditions the Council may terminate this contract with immediate effect by notice in writing to the Contractor/Supplier at any time if the Contractor/Supplier or any subsidiary company of the Contractor/Supplier is convicted of any offence under the Employment Relations Act 1999 (Blacklists) Regulations 2010.

Formatted: Indent: Left: 0 cm

Formatted: Indent: Left: 2.5 cm

Formatted: Font: Not Bold

Formatted: Indent: Left: 0 cm

Deleted: 11

#### **14. 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 exemption 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.

Deleted: ception

Requests for an exemption from the rules must be documented using the template available on the Council's intranet. On completion of the template, a copy must be sent to the Corporate Procurement Team. The request will be checked for completeness and passed for review to:

the Chief Solicitor or representative

the Head of Procurement or representative

the Chief Finance Officer or representative

the Commissioning Officer requesting the exemption

A record of any granted exemption 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 exemption shall have been justified.

Deleted: exception

Deleted: exception

- 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 ~~four~~ 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.

Deleted: six

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 ~~seven~~ calendar days public notice shall be given**

Deleted: fourteen

- 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 14 days after appearance of the public notice) when tenders will be received.

Deleted: 21

- 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 tenders 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 executed under the Council's seal by the Chief Solicitor (or in his/her absence by a person authorised by him/her).

Deleted: either-

-

Deleted: ->executed by the Chief Officer and the Chief Solicitor or the Chief Finance Officer or

## 18. Tenderers withdrawal

Deleted: ->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)).

- 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.
 

Requests for a contract extension, as described above, must be documented using the template available on the Council's intranet. On completion of the template, a copy must be sent to the Corporate Procurement Team. The request will be checked for completeness and passed for review to:

  - the Chief Solicitor or representative,
  - the Head of Procurement or representative
  - the Chief Finance Officer or representative
  - and;
  - the Commissioning Officer requesting the exemption
- 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.

# Hartlepool Borough Council

## ***Motions to call an Extraordinary Council***

### **1. The Members who are submitting the Motion to request the Proper Officer to call a Council meeting in addition to the Ordinary Council Meetings?**

This Notice must be signed by 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 representation of the requisition.

Councillor	Position and Party Group	Signature
1.		
2.		
3.		
4.		
5.		

### **2. What is/are the reason(s) for requesting an Extraordinary Council?**

Lead Councillor:

Signed:

Date:

### **For office use only**

Date received:

Initials:

Extraordinary  
Council Agenda:



# Hartlepool Borough Council

## Council Referral



### 1. Which key decision would you like to refer to Council?

(Please include details of the decision, when it was taken and by which Policy Committee)

### 2. What are the reasons for referring this decision? Referrals must only be used in exceptional circumstances

Please indicate which of the following applies and provide supporting information.

- where Members have evidence to suggest that the key decision taken was not in accordance with the Principles of Decision Making as set out in Article 13 of the Council's Constitution; or
- the decision falls outside the Budget and Policy Framework.

This Notice must be signed by not less than half of the whole number of elected Members (17 Members or more) of the Council must sign the Referral.

Councillor	Position and Party Group	Signature
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		

## Appendix 5

13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		
<b>3. Advice of the Chief Finance officer and/or the Monitoring Officer whether the matter is outside the Budget and Policy Framework ??</b>		
<b>NB. Any Member may initiate Referrals providing they have the support of at least 17 other Members of the Council.</b>		
Lead Councillor:		
Signed:		Date:
<b>For office use only</b>		
Date received:	Initials:	Council Agenda:

# HARTLEPOOL BOROUGH COUNCIL

## PLANNING CODE OF PRACTICE

Deleted: Currently Under  
Review

Hartlepool Borough Council  
Civic Centre  
Victoria Road  
HARTLEPOOL  
TS24 8AY



## CONTENTS

	PAGE	
1. INTRODUCTION .....	4	<b>Comment [e1]:</b> The dots are inconsistent do they need to be on the page?
2. THE NEED FOR A CODE .....	4	<b>Comment [e2]:</b> The number is incorrect this will need to be checked once the text is finalised.
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 <b>ACTIONS</b> .....	8	<b>Deleted:</b> SANCTIONS
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 COUNCIL MEMBERSHIP .....	15	<b>Deleted:</b> OR TOWN
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	<b>Deleted:</b>
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. <b>GIFTS AND</b> HOSPITALITY .....	23	<b>Deleted:</b> <b>Deleted:</b> ..... .....

28. RACIST COMMENTS .....	23
APPENDICES - 1, 2, 3, 4, , .....	24-34

Deleted: .....

**Comment [e3]:** These should be titled in the contents

***The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.***

## 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. This Code of Practice therefore complements and expands on the Code of Conduct, adopted by the Borough Council in conformity with the Localism Act, 2011. The Code of Conduct is essentially concerned with the responsibilities of councillors when acting in the role as a Member of the Borough Council. The Planning Code is concerned with the integrity of the Planning System and its procedures. It is therefore based on guidance from, ie The Committee on Standards in Public Life, the Local Government Association, the Royal Town Planning Institute, the Department for Communities and Local Government, the Council's External Auditors 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 through the Council's Audit and Governance Committee (or such committee that has 'standards' as part of its responsibilities and functions). 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.

Deleted: e

Deleted: complements

Deleted: Model

Deleted: and is an annex to it

Deleted: Model

Deleted: conduct of individual councillor's duties, while

Deleted: t

Deleted: on

Deleted: The Code of Practice is based

Deleted:

Deleted: eg

Deleted: Nolan Committee

Deleted: the Standards Board for England, the Audit Commission

Deleted: by

Deleted: Standards

### 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 Department for Communities and Local Government and others, provides standards and guidance for Councillors. Employees are subject to a separate 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 Planning Services 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. 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. 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.**

Deleted: Development Control

Formatted: Right: -0.1 cm

Deleted: ¶  
-----Page Break-----

Comment [e4]: Some of the text is disappearing I think the columns need re-formatting.

Deleted: and the successor Local Development Frameworks

Deleted: c

Deleted: c

Deleted: Standards Board

Deleted: c

Deleted: will be

Deleted: statutory



- **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 Code of Conduct sets out the requirements on Councillors in undertaking their role as a Member of the Council. 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:

**"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," ('Principles of Public Life'). "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" (paragraph 1.2 of the 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 as amended, restrictions are placed on the outside activities of senior staff.

**4.6** Impartiality (particularly crucial in highly contentious matters) is re-enforced by requirements on members in the Code of Conduct. Members are placed under a requirement by the Code to:

- treat others with respect; and
- act in accordance with the Authority's reasonable requirements.

**4.7** Under the Localism Act, 2011, a Code of Conduct, when viewed as a whole, must be consistent with the following principles:

- Selflessness
- Integrity
- Objectivity
- Accountability

**Deleted:** <#>¶

**Deleted:** 4.5 .

**Formatted:** Indent: Left: 0 cm, First line: 0 cm

**Formatted:** Bullets and Numbering

**Deleted:** <#>¶

**Deleted:** -----Page Break-----

**Deleted:** ¶

¶

**Deleted:** Model

**Deleted:** c

**Deleted:** relation to

**Deleted:** conduct

**Deleted:** a member

**Deleted:** 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."

**Deleted:** Paragraph 6(a)

**Deleted:**

**Deleted:** , such as membership of political parties and serving on another Council

**Deleted:** 4.6 .

**Formatted:** Indent: Left: 0 cm, First line: 0 cm, Tabs: 0 cm, List tab + Not at 1.01 cm

**Formatted:** Bullets and Numbering

**Deleted:** Model Code of Conduct).

**Deleted:** Model

**Deleted:** Model

**Deleted:** 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

**Deleted:** 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:

**Deleted:** Honesty and

- Openness
- Honesty
- Leadership

In addition, the Council have incorporated in their Code the additional principles of:

Respect for others  
Duty to uphold the law  
Personal Judgement

*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 through the National Planning Policy Framework 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.

Section 38 (6) of the Planning & Compulsory Purchase Act 2004 it is a requirement that 'If regard is to be had to the development plan, for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan, unless material considerations indicate otherwise'.

The National Planning Policy Framework constitutes guidance for local planning authorities in both drawing up plans and as a material consideration in determining applications. The Framework underlines that 'the purpose of the planning system is to contribute to the achievement of sustainable development' (paragraph 6 refers).

The development plan consists of:

- The saved policies of the Hartlepool Local Plan (April 2006) and the policies contained with the Minerals and Waste Development Plan Documents (September 2011) so far as they are consistent with the National Planning Policy Framework.

The emerging Hartlepool Local Plan will in due course, following public examination, be adopted by the Council as its development plan. Neighbourhood Plans subject to examination in public and approval through referendum, must be in general conformity with an adopted Local Plan.

5.4 Other material planning considerations include:

- 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

**Comment [e5]:** Should the following paras not be numbered?

**Deleted:** Under

**Formatted:** No bullets or numbering

**Deleted:** s

**Deleted:** the

**Deleted:** s

**Deleted:** ¶  
¶  
¶

**Deleted:** Personal Judgement¶  
Respect for Others¶  
Duty to Uphold the Law¶  
Stewardship¶  
.....-Page Break-.....  
• Leadership

**Deleted:** ¶

**Deleted:** The North East of England Plan, Regional Spatial Strategy (Issued 2008)¶

**Deleted:** (including Minerals & Waste Policies)

**Deleted:** the same

**Deleted:** 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.¶

**Deleted:** and

**Deleted:** be superseded by the Hartlepool Local Development Framework.¶

**Deleted:** <#>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;¶

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, ~~ie 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.

Deleted: \_\_\_\_\_

Deleted: g

## 6. DUTIES AND ACTIONS

**6.1** 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 actions that can be taken against the Council and Members for a failure to properly discharge the Local Planning Authority function. These duties and actions are summarised in Appendix 2.

## 7. THE DECISION MAKING PROCESS

**7.1** 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. Some weight can be attached to an emerging plan, dependent on the stage at which a draft plan has reached prior to its formal adoption. 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.

Members must give clear and convincing reasons for any departure from adopted plan policies and other material considerations.

### Stage 3

Weigh the material considerations in reaching a decision.

A failure to follow the proper decision making procedure can give rise to proceedings for a Judicial Review and/or a finding of maladministration by the Local Government Ombudsman.

- ***In the decision making process, Members should not***

Deleted: ¶

Deleted: SANCTIONS

Comment [e6]: Formatting is out

Deleted: sanctions

Deleted: sanctions

Deleted: .....

Formatted: Indent: Left: 0 cm, Hanging: 0.63 cm

Deleted: 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

Deleted: .¶  
¶

Deleted: 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

Deleted: .

Deleted: a

Deleted: 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.¶



***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 Monitoring Officer**, that a member has breached the **Code of Conduct**.

**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 **or any pecuniary** interest in terms of the **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 **the** 'overriding duty as a Councillor ... to the

**Deleted:** to the Standards Committee

**Deleted:** local

**Deleted:** c

**Deleted:**

**Deleted:** Model

**Deleted:** what the National Code of Local Government Conduct calls

**Deleted:** ¶

-----Page Break-----

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 *ie* 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 **Planning Services 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

Deleted: g

Deleted: Development Control Manager

*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*

**Comment [e7]:** There's an inconsistency throughout the document when bullets are used some show text inset some in line with bullets, minor point

**Deleted: ¶**  
-----Page Break-----

**a Certificate of Lawfulness of Existing Use or 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.**

**9.4** The Planning Advisory Service operated by the Planning Services Team encourages member involvement in pre-application discussions on major applications, a 'Pre Application Development Forum' has been agreed by the Planning Committee which would allow Councillors to be presented with development proposals at an early stage. A local protocol is set out in 9.5 regarding Councillor involvement. Without this, councillor involvement may unnecessarily open any Councillor on the planning committee, to avoidable risks of challenge on apparent predetermination.

**9.5** The local protocol for the 'Pre Application Development Forum' is as follows:

- Councillors are encouraged to promote any community aspirations involving sites, land or community benefits from development, or other planning issues through Local Development Framework & Sustainable Community Strategy preparation at the earliest opportunity (To embed community aspirations in corporate policy and minimise the risks of pre determination in any community championing role);
- Councillors & the public are invited to any pre application development forum, on significant proposals (To ensure transparency of process & minimise private briefings);
- The relevant officer explains the role of members present at any pre-application discussion and this is recorded in the note of the meeting;
- Planning committee members' role in pre-application discussions is to learn about the emerging proposal, identify

issues to be dealt with in any further submissions, but not to express any initial view on the proposal as to pre-determine their view on any formal application;

- Officers will note those present, the issues identified at the pre-application discussion meeting or forum, and take appropriate follow up action recording the outcome of the meeting to the developer and on a public file;

- Any planning committee Councillor who elects to support a view for or against the development being discussed will predetermine their position to the extent they will be advised to declare a prejudicial interest, and be free to present their community views to the committee in the event of the committee considering a subsequent application, but not to participate in the discussion and vote on the application.

## 10. REGISTRATION OF INTERESTS

The Localism Act 2011, places an obligation on members to register and declare certain pecuniary interests and such other interests as set out within the Council's Code of Conduct. Further the Code outlines the consequences for the member's participation in consideration of an issue, in the light of those interests. The attention of Members is also drawn to Council Procedure Rule 23 (which for the avoidance of doubt has application to Council Committees and Sub Committees) on interests of Members in contracts and other matters. 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 Council's Monitoring Officer. However, ultimate responsibility for fulfilling these 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

Deleted: f

Formatted: Font: 11 pt

Formatted: Justified, Indent: Left: 0 cm, First line: 0 cm, Tabs: 0 cm, List tab + Not at 0.74 cm

Formatted: Bullets and Numbering

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Comment [c8]: Replicates what is the position in the Code of Conduct.

Deleted:

Formatted: Font: 11 pt

Formatted: Font: Not Bold

Deleted: Government

Deleted: 00

Deleted: and the Model Code

Formatted: Font: 11 pt, Bold

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Deleted: requirements

Deleted: on the

Deleted: ration

Formatted: Font: 11 pt

Deleted: ation

Deleted: of their

Formatted: Bullets and Numbering

Deleted: and

Deleted: Standards Board and advice may be sought from the

Deleted: U

Deleted:

Formatted: Font: 11 pt



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 ~~Code of Conduct defines a pecuniary interest, which can have application to a Member, their partner (which includes spouse, civil partner and co-habitee) as that introduced under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, 2012, which forms a schedule to the Code adopted by the Council. In addition, the Code has maintained references to 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 £25,000; 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 ~~Some exceptions are provided 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

**Deleted:** Model

**Deleted:**

**Deleted:** abandons the use in the old National Code of the terms

**Deleted:** .....Column Break.....

**Deleted:** 'pecuniary' and 'non-pecuniary' interests

**Deleted:** Instead, it uses the

**Deleted:** .....Page Break.....

**Deleted:** The code will include

**Deleted:** s

**Deleted:** to this. F

**Deleted:** ¶

**Deleted:** ¶

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. 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. This would also be applicable if the interest was pecuniary affecting the individual Member or their partner.

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 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 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

**Deleted:** Whilst the Standards Board, is mandated to provide guidance on the Code of Conduct

**Deleted:** ,

**Deleted:** t

**Deleted:** c

**Deleted:** -----Page Break-----

**Deleted:** OR TOWN COUNCIL

**Deleted:** the exemption in the Model Code would suggest that

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 Planning Services Manager, or the Director of Regeneration and Neighbourhoods of the breach in writing.

**Deleted:** Development Control Manager

**13.2** Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Planning Services Manager, and the Director of Regeneration and Neighbourhoods and be the subject of an enforcement report to Planning Committee.

**Deleted:** Development Control Manager

**Deleted:** -----Page Break-----

## 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 Planning Services Manager, and will reflect the collective view of the Department - not the view of the individual author.

**Deleted:** Development Control Manager

**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:

PLANNING OFFICERS  
*prepare report on planning application  
with recommendation*



PLANNING COMMITTEE  
*discusses the report and determines  
applications (the Committee may choose  
to visit the site first)*

**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 generally within the functions of the Regeneration Services Committee.

Deleted: ~~~~~Page Break~~~~~

Deleted: u

Deleted:

subject to Council approval as part of the Budget and Policy Framework.

**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*

**Deleted:** referred to the Portfolio Member, following consideration of a written Officer report

**Deleted:** ¶  
-----Page Break-----



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 Planning Services Manager or the Assistant Director Regeneration and Planning, 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



Planning Services Manager, discusses the report and determines applications (the Planning Services Manager may choose to visit the site

Deleted: Development Control Manager

Deleted: Development Control Manage

## 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).

Deleted: -----Page Break-----  
¶

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 Part 3 (18) of The Town and Country Planning (Development Management Procedure) (England) Order 2010

Formatted: Justified, Indent: Left: 0 cm, Hanging: 0.32 cm, Space Before: 0 pt, After: 0 pt

Deleted: the Town and Country Planning (General Development Procedure) Order 1995 Article 8.

Formatted: Font: Bold

Formatted: Font: 11 pt

Deleted: Development Control Manage

Deleted: of

Deleted: Neighbourhoods,

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.

Deleted: (

Deleted: 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 may be deferred to the next available meeting of Planning Committee where so requested by the Planning Services 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.

Deleted: -----Page Break-----

Deleted: ¶

## 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.

Deleted:

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

Comment [c9]: AS DISCUSSED

Deleted: should

Deleted: Development Control Manager

Comment [e10]: This never happens and given time pressures I think this should be changed, that reasons will be given at the meeting or reasons will be agreed with the Chair of Planning Committee.

- 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 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 should 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 within the Borough.*

**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 Planning Services 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.

**Comment [c11]:** AS DISCUSSED

**Comment [e12]:** If other officers in the council submit an application I can not see any reason to delay determination, plus sometimes we may not know they are officers of the council.

**Deleted:** .....

**Deleted:** Planning

**Deleted:**

**Comment [c13]:** AS DISCUSSED

**Deleted:**

**Deleted:** wil

**Deleted:** are

**Comment [e14]:** This is ambiguous as I live in Co. Durham therefore it reads like I'm ok to act as an agent here but not there.

**Deleted:** their own authority

**Deleted:** Development Control



## 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 predetermined 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 Policy Committee Chair 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 Planning Services 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*

Deleted: ¶

-----Page Break-----

Deleted: ¶

Deleted: Portfolio Holder

Deleted:

Deleted: Development Control

***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.

**25.1** 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 accessible 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 without prior training and those serving upon the Planning Committee who have not attended planning training within a two year period prior (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 Planning Services Manager and will seek 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. GIFTS AND 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 Code of Conduct 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, 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. Declarations of receipt of gifts and hospitality will be reviewed regularly by the Council's Monitoring Officer.

**27.4** The presumption should be that any gift is normally refused.

**Deleted:** given to

**Deleted:** and those serving upon the Planning Committee

**Deleted:** Model

**Deleted:** Development Control

**Deleted:** attempt

**Deleted:** Officers

**Deleted:** Councils should provide a hospitality book to record such offers whether or not accepted. This book should

**Deleted:** be reviewed

**Deleted:** -----Page Break-----

**Deleted:** The requirement to register any such hospitality is likely to be a feature of the statutory code of conduct for employees.¶

## 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 Equality and Human Rights Commission, or the Police. This is to ensure that the Council abides by Sections 31 and 33 of the Race Relations Act 1976, as amended.

Deleted: ¶

Deleted: for Racial Equality

**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

**Deleted:** (2006)

### FROM OTHER ORGANISATIONS

'Code of Professional Conduct' The Royal Town Planning Institute (RTPI)

**Deleted:** , (January 2001)

'Openness and transparency on personal interests', Department for Communities and Local Government.'

'Probity in Planning', Local Government Association

**Deleted:** Guidance for Good Practice on Members' Interests', the Commission for Local Administration in England, April 1994.¶

'The Role of Elected Members in Plan Making and Development Control'

**Deleted:** , 1997

'Planning Authorities and Racist Representations', RTPI

**Deleted:** , RTPI, 1997

'Lobby groups', dual-hatted members and the Code of Conduct – Guidance for members, Standards Board for England

**Deleted:** , July 1996.

**Deleted:** ¶

'Positive Engagement' – A Guide for Planning Councillors

**Deleted:** 'Probity in Planning (Update)', Local Government Association (March 2002)

'Model Members Planning Code of Good Practice – ACSeS'

**Deleted:** ¶

**Deleted:** (September 2004)

**Deleted:** (2005 – updated)

**Deleted:** (2003 –updated)

## 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. ACTIONS AGAINST LOCAL PLANNING AUTHORITIES AND MEMBERS

Actions against Local Planning Authorities and Members are necessary because duties without recourse 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 AUDIT AND GOVERNANCE COMMITTEE

Part III of the Local Government Act 2000 introduced the Ethical Framework for Local Government. This was a statutory framework within which members should operate. These provisions have now been amended through the Localism Act, 2011, but which still provides for a duty upon local authorities to promote and maintain high standards of conduct.

The Ethical Framework has the following key elements:

- (1) Codes of Conduct;
- (2) Register of Interests
- (3) Arrangements to deal with complaints received by the Council, with reports and possible hearings through the Audit and Governance Committee (see generally Article 8 and Part 3 of the Council's Constitution).
- (4) A criminal offence provision under Section 34 of the Localism Act, 2011.

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.

### (2) EXTERNAL AUDITOR

Each year the Council publishes an Annual Governance Statement to comply with the Accounts and Audit Regulations. This document is part of the Council's corporate governance framework as is the Annual Statement of Accounts as audited through the Council's external auditors. The Annual Statement of Accounts therefore contains the opinion of the external auditor on the legality and prudence of the Council's financial affairs.

Extraordinary headings of expenditure which could be raised by the external auditor 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;
- (c) costs of local public inquiries, including possible award of applicants' costs including the possible substantial compensation payments following actions by the Secretary of

Deleted: SANCTIONS

Deleted: Sanctions

Deleted: sanctions

Formatted: Font: Bold

Deleted: STANDARDS

Deleted: THE STANDARDS BOARD FOR ENGLAND AND THE ADJUDICATION PANEL

Deleted: is

Deleted: must

Deleted: 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

Deleted: four

Deleted: s

Deleted: a national regulatory and advisory organisation called the Standards Board for England;

Deleted: ¶

Deleted: the Adjudication Panel which may set up a tribunal to consider cases of misconduct by Members and;

Deleted: Local Authority Standards Committees

Deleted: (

Deleted: 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 ... [1]

Deleted: ¶

Formatted: Font: Bold

Deleted: DISTRICT

Deleted: Section 91 of t ... [2]

Deleted: ¶

Deleted: The advisory n ... [3]

Deleted: Four e

Deleted: arise

Deleted: -----Page Break-----

Deleted: in the High Court

Deleted: following use ... [4]

Deleted:

Deleted: y

State for the revocation, modification or discontinuance of a permission granted by the Council.

(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 .

**Comment [c15]:** CHECK

**Comment [e16]:** As far as I'm aware this is till the relevant direction

(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.



**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 certain 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. In accordance with the National Planning Policy Framework, approving proposals for development, should accord with the development plan. In cases, where the development plan is absent, silent or relevant policies are out of date, there is a presumption in favour of granting sustainable development unless;

Deleted: most

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies contained within the National Planning Policy Framework, or
- Specific policies in the Framework indicate development should be restricted.

Formatted: Indent: Left: 0.63 cm

Formatted: Font: 11 pt, Font color: Black

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 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.

Deleted: appropriate

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 Planning Code of Practice to maintain my impartiality and integrity and not to attempt or be seen as attempting to influence Planning Officers or fellow Councillors. I therefore cannot act as an advocate or agent on your behalf.

Deleted: not to lobby or

Deleted:

If I am a Member of Planning Committee I may refer you to another Councillor who will help you make out your case.

Deleted: the appropriate

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.

Deleted: ¶

## Scheme of Delegation

Deleted: Development Control

As of May 20~~13~~, Hartlepool Borough Council has operated a 'committee system', which although had no direct impact on the regulatory activities of its Planning Committee, has led to a review of the Council's Constitution and the way the Council is governed. The functions and responsibilities of Planning Committee are contained within Part 3 of the Constitution, which also contains those matters that can be delegated to officers (see below). In accordance with government guidelines and targets there is a requirement for the delegation of planning applications (unless otherwise stipulated) to officers.

Deleted: 02

Deleted: direct

Deleted: revised arrangements for dealing with planning applications.

Deleted: ¶  
¶

Deleted: 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.¶

<b>Planning Committee</b>	<b><u>CHECK</u></b>
<b>Membership:</b>	<b>16</b>
<b>Quorum:</b>	<b>7</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<ol style="list-style-type: none"> <li>1. All functions relating to town and country planning and development control (as set out in Part A of Schedule 1 to the Regulations).</li> <li>2. Powers relating to the protection of important hedgerows (as set out in Part I of Schedule 1 to the Regulations).</li> <li>3. Powers relating to the preservation of trees (as set out in Part I, Schedule 1 to the regulations).</li> <li>4. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.</li> <li>5. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</li> </ol>	<p><b><i>Director of Regeneration and Neighbourhoods</i></b></p> <ol style="list-style-type: none"> <li>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"> <li>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.</li> <li>ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial,</li> <li>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.</li> </ol> </li> </ol>

<b>Planning Committee</b> (continued)	
<b>Functions</b>	<b>Delegations</b>
<p>6. Powers, related to Commons Registration as set out in part B of Schedule 1 to the Regulations. [1B.37 &amp; 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>

<b>Planning Committee</b> (continued)	
<b>Functions</b>	<b>Delegations</b>
	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

<b>Planning Committee</b> (continued)	
<b>Functions</b>	<b>Delegations</b>
	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><b><i>Planning Services Manager</i></b></p> <p>Power to require proper maintenance of land.</p>
	<p><b><i>Chief Solicitor</i></b></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>

a) **STANDARDS COMMITTEE**

Since 8 May 29008 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**

-----Page Break-----

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.

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.

**Page 28: [4] Deleted**

**cesopd**

**23/12/2013 11:25:00**

following use of Secretary of State's call in powers;

(d) costs of local public inquiries together with landowner's costs and





# **HARTLEPOOL BOROUGH COUNCIL CODE OF CORPORATE GOVERNANCE**

## Appendix 7

### 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;

Deleted: -

### **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;

## Appendix 7

### 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;
- Robust performance information;

Deleted: Independently verified

Deleted: .

The Council will aim to deliver high quality services that are value for money.

## Appendix 7

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;

## Appendix 7

- 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 statutory requirements;
- 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.

Deleted: CIPFA's guidance

### 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 public<sup>1</sup>;
- 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 decisions that are made by other Committees and Officers<sup>3</sup> and making the details publicly available;

Deleted: all

## Appendix 7

- 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.

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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:

## Appendix 7

- Forming and maintaining relationships with the leaders of other organisations;
- 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.

**Deleted:** , for example, the Strategic Partners Group

### 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 of the Authority;
- (ii) assisting the Elected Members and, co-opted members to observe the Members' Code of conduct;
- (iii) advising and offering guidance to the Council on the adoption or revision of the Members' Code of Conduct;

**Deleted:** and church and parent governor representatives

**Deleted:** and church and parent governor representatives

;

**Deleted:** (iv) . monitoring the operation of the Members' Code of Conduct

;

**Deleted:** (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 from requirements relating to prejudicial or pecuniary interests set out in the Members' Code of Conduct;

**Deleted:** and church and parent governor representatives

- (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.



## Appendix 7

(viii) the exercise of (i) to (v) above in relation to the Parish Councils wholly or mainly in its area and the members of those parish councils.

Deleted: ii

Through this Committee, the Council will ensure that these arrangements are kept under continual review by:-

- The work of internal audit;
- Reports prepared by ~~Officers~~ with responsibility for aspects of this Code;
- External Audit opinion;
- Other review agencies and Inspectorates;
- Opinion from the Council's statutory Officers.

Deleted: Managers

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 made<sup>4</sup>.
- 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.

<sup>4</sup> 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](http://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**

- Budget and Policy framework, plans and strategies *(including published minutes of meetings)*
- Code of Conduct for Members
- Code of Conduct for Employees
- Whistleblowing Policy and 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
- Annual Statement of Accounts
- External Auditor's Annual Report
- Council's Risk Management Framework - Council's Anti-Fraud and Corruption Policy
- Annual Governance Statement

**Deleted:** Statement and Accounts

#### **E - Key Member, Officer Decision Making**

- Responsibility for Functions (Part 3 of the Council's Constitution)

**Deleted:** Annual Report of Policy Committees

**Deleted:** - Officer/Member Protocol  
- Council Delegation Scheme

## Appendix 7

### 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 Performance Reports

**Deleted:** Year End

**Deleted:** - Hartlepool Borough Council's Annual Report

### Hartlepool Borough Council

## Protocol for Filming, Recording and Photographing Council Meetings

### Introduction

The Council is committed to being open and transparent in the way it conducts its decision making.

Filming, recording and photography at Council meetings will therefore be allowed subject to certain restrictions and conditions.

### Background

Section 100A(7) of the Local Government Act, 1972 (as amended) allows the Council to *'permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place'*. This provision to allow reasonable facilities for the reporting of Council proceedings is also noted in guidance issued through the Department for Communities and Local Government (June 2013). Further that *'Councils may reasonably ask for the filming to be undertaken in such a way that it is not disruptive or distracting to the good order and conduct of the meeting.'*

### Procedure

#### (i) Prior to a Meeting

If a member of the public or media representative wishes to film, record or photograph proceedings, they should inform a member of the Council's Democratic Services Team prior to the start of the meeting.

Any audio/visual recording/ photography must take place from a designated position in the meeting room approved by the Chair. No zooming or panning is permitted. Setting up must be done before the meeting starts to ensure the view of members of the public is not obstructed.

Those intending to bring large equipment, or wishing to discuss any special requirements are advised to contact the Council's Democratic Services Team in advance of the meeting. The use of flash photography or additional lighting will not be allowed unless this has been discussed in advance of the meeting and agreement reached on how it can be done without disrupting the proceedings.

The Council asks those recording proceedings not to edit the film/record/photographs in a way that could lead to any misinterpretation of Council proceedings.

#### (ii) During the Meeting

The Chair will announce at the beginning of the meeting the request for the meeting to be recorded. The Chair will ask those members of the public present whether they agree to be filmed/recorded/photographed. If a member of the public is unwilling to be filmed/recorded/photographed then the Chair will comply with this request. Objections can

## Appendix 8

be raised with the Chair at any point in the meeting if this is conducive to the conduct of the meeting, where a member of the public is being filmed/recorded/photographed.

The Chair of the meeting will have absolute discretion to terminate or suspend any filming, recording and photography if any of these activities are, in their opinion, prejudicing or disrupting proceedings in any way.

The circumstances in which termination or suspension would occur could include:

- Public disturbance or suspension of the meeting. The Council's Procedure Rules provide that *'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.'*
- Information of a confidential nature. Under Schedule 12A of the Local Government Act 1972, (as amended), the Council has the right to exclude the press and the public in considering items of a confidential nature and may be excluded from items that fall within a category of 'exempt' information, and
- Where it is considered that continued filming/recording/photography might infringe the rights of an individual

Any decision taken by the Chair on the interpretation of this protocol is final.

### **(iii) After the Meeting**

Any member of the public who wishes to make comment on the filming and recording of a Council meeting should contact the Democratic Services Team on (01429) 523013 or e-mail [democratic.services@hartlepool.gov.uk](mailto:democratic.services@hartlepool.gov.uk).

### **Data Protection**

The Data Protection Act, 1998, does not prohibit the overt filming and recording of council meetings, where participants have given their consent to be so filmed or recorded. However, under no circumstances will filming, recording or photographs of children (under 18) be allowed without the expressed written consent of a parent or guardian.

If an individual films or in any way records or uses personal data from a Council meeting for a commercial purpose then they should be registered as the Data Controller for that information. It will be the responsibility of the individual concerned to ensure that they are appropriately registered and are fully compliant with applicable laws and procedures.

**For further information/clarification, contact the Democratic Services Team on (01429) 523013 or e-mail [democratic.services@hartlepool.gov.uk](mailto:democratic.services@hartlepool.gov.uk).**

**END**

**January 2014**

### GUIDANCE NOTE – POLITICAL BALANCE

#### BACKGROUND

The Local Government and Housing Act, 1989, placed a duty on a relevant authority to review the representations of the different political groups on that body. Such a review should generally take place:

- at, or as soon as practicable after, the Annual Meeting of the relevant authority, or
- as soon as practicable, where notice is received of a change in the composition of political groups.

Further, there is a duty on that authority *“as soon as practicable after the review, to determine the allocation of the different political groups into which the Members of the authority are divided of all the seats which fall to be filled by appointment made from time to time by that authority or committee”*. It is therefore incumbent upon the Council to “review” and “determine” the allocation of seats to political groups. There is no strict requirement on the Council to consult the political groups as to which Committee seats should be allocated to which group, as this only applies to the actual appointment of Members to particular seats once they are allocated to political groups. However, the Council over a number of years have held, what is termed as “Round Table” discussions amongst Councillors on the allocation of seats to Committees, provided these allocations do not conflict with the Council’s duty “to make only such determinations as give effect, as far as reasonably practicable” with the principles outlined in Section 15(5) of the 1989 Act.

Deleted: r

Deleted: t

#### THE “PRINCIPLES”

The legislation specifies certain principles in achieving political balance through the allocation of seats, as follows;

- (a) That not all the seats on the body are allocated to the same political group;
- (b) That the majority of the seats on the body is allocated to a particular group if the number of persons belonging to that group is the majority of the authority’s membership;
- (c) Subject to paragraphs (a) and (b) above, the number of seats on the ordinary Committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary Committees of that authority, as is borne by the number of Members of that group to the membership of the authority; and
- (d) Subject to paragraph (a) to (c) above, that the number of the seats upon a body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of Members of that group to the membership of the authority.

## Appendix 9

As indicated the 1989 Act requires, **as far as reasonably practicable** that decisions are made which conform with the above principles. The First Schedule to the 1989 Act also stipulates that in relation to certain appointments to “prescribed bodies” where “at least three seats” have to be filled by the local authority, the allocation of seats should be in the same proportion as that in which the Council is itself divided as specified under principle (d) above. In addition, where a Member(s) has been appointed to an “outside body” for a fixed term by the Council previously, that appointment continues (unless the Member chooses to resign from that position) and is therefore unaffected by the proportionality requirements.

### POLITICAL GROUPS

Under the 1989 Act, a ‘Political Group’ is treated as being properly constituted when there is delivered to the ‘proper officer’ (the Chief Solicitor under the Council’s Constitution) a notice in writing which;

- is signed by two or more Members of the authority who wish to be treated as a political group; and
- the notice states that the Members of the authority who have signed it wish to be treated as a political group, the name of the group and the name of one Member of the group who has signed the notice and who is to act as Leader of the group.

A copy of the requisite notice is appended to this Guidance Note. A notice may also specify the name of one other Member of the group who has signed the notice and who is authorised to act in place of the leader when the Leader is unable to act (the Deputy Leader). The name of the group or the name of the Leader or Deputy Leader may also be changed by a further notice in writing duly signed and delivered to the proper officer;

- in the case of a change in the name of the group or the Deputy Leader, by the Leader of the group or a majority of the Members of the group;
- in the case of a change in the Leader of the group, by a majority of the Members of the Group.

For the avoidance of any doubt, a political group shall cease to be constituted if the number of persons who are to be treated as Members of that group is less than two. A Member of the authority will be treated as a Member of a political group if;

- he/she has signed a notice in the form appended herewith, or
- he/she has delivered to the proper officer a notice in writing to be signed by him/her and by the Leader and Deputy Leader of the group or by a majority of the Members of the group, that he/she wishes to join the group. Conversely, a person will be treated as having ceased to be a Member of that group when that Member(s) has notified the proper officer in writing that they no longer wish to be treated as a Member of the group. Further, this would be evidenced where the Member concerned has delivered to the proper officer a notice that the Member



## Appendix 9

has joined a new political group as constituted or joined another established political group or they have delivered to the proper officer a notice in writing signed by the majority of the Members of the group that they no longer wish the Member to be treated as a Member of that political group.

### REVIEW AND ALLOCATION OF SEATS

The duty under Section 15 of the 1989 Act is to 'review' the representation of the different political groups on the Council, at certain times as prescribed through legislation. However, where a request is made through a change in the composition of the political groups through formal notice being delivered to the proper officer, such notification should be at least one month after the last review carried out in accordance with the legislation.

Under the Local Government (Committees and Political Groups) Regulations, 1990, where a political group fails to express a wish in relation to an appointment to such a seat within a period of three weeks beginning with the date on which notice was given, the authority or Committee may make such appointment to that seat as they think fit.

### Exceptions to requirements for Committees to review arrangements for allocation of seats

There are certain exceptions which apply wherein the rules on proportionality do not apply. These cases are limited and are referred to below;

- Area Committees which consist of all Members living in the area which the Committee covers. If it does not, then allocations must be proportionate to the whole Council.
- Any Working Party, Advisory Panel etc where powers have been delegated to it by a Committee of the Council, not the Council itself.
- A Health and Wellbeing Board as established under the Health and Social Care Act, 2012 (the Board is a 'Committee' of the Council but the 2012 does not apply the 1989 Act provisions).
- Proportionality also does not apply to outside bodies where the Council simply appoints representatives such as to local voluntary organisations unless statutory criteria apply (see generally Part 7 of the Council's Constitution).

### CALCULATING PROPORTIONALITY

The "principles" covering proportionality should be satisfied as is reasonably practicable to do so. Consequently the "principles" are applied as follows;

1. There should be no Committees made up of a single political group, unless every Councillor on the Council is in the same political group.
2. Where one political group has a majority, that group should have a majority on all Committees.

## Appendix 9

3. The proportion of Members to Committees should be allocated in proportion to each political group operating within the Council.
4. Places on an individual Committee should be allocated in proportion to each political group on the full Council.

Allocations should therefore be proportionate to the number of seats that each political group has on the Council, for example if there are 15 members of a political group on the Council which has 33 elected representatives, then 15 seats should be allocated to that political group in every 33. ie., the number of Councillors in a political group divided by the number of Councillors on the Council. The Council have traditionally 'grouped' together those Members who are not aligned to a 'political group' in order to ensure that the representation upon Council Committees, is so far as is reasonably practicable, broadly representative and reflective of the composition of the Council as a whole.

No political group should be over represented across the Council under point 4 above. Once the principles have been applied, then as stated, each Committee then has to be as proportionate as possible, to ensure that as far as practicable, Committees are representative of the overall makeup of the Council.

However, the calculations are never in reality exact and so there will always be some negotiation amongst Councillors, particularly where a group is under represented on one Committee but is over represented on another. This allows the opportunity for agreement through the 'Round Table' discussions, or alternatively, through a formal decision to be made through Council.

Within the Council Procedure Rules (paragraph 1.1 refers) it has been previously agreed and adopted through the Council's Constitution that apart from the appointment of the Chair and Vice Chair positions (Ceremonial Mayor and Deputy Ceremonial Mayor respectively) which by legislation are appointments reserved to the Annual Meeting, an ordinary meeting of Council will be convened prior to the Annual Meeting to make appointments to Committees etc., Those appointments then at issue will be determined at that meeting applying the Council's voting procedures (Rule 17 applies) if necessary.

## Appendix 9

### HARTLEPOOL BOROUGH COUNCIL

### LOCAL GOVERNMENT AND HOUSING ACT 1989

### LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGS

1990

{REGULATION 7 (i)}

#### NOTICE OF CONSTITUTION OF POLITICAL GROUP

1. The members of the Council whose signatures appear in the schedule wish to be treated as a political group for the purposes of sections 9, 15 and 16 of the above Act
2. The name of the group hereby constituted shall be  
{ \*1}
3. The member of the group who is to act as the leader of the group is { \*2}
4. The member of the group who is to act as the deputy leader of the group is { \*3}

#### Schedule \*4

	Name	Signature
1	Councillor _____	_____
2	Councillor _____	_____
3	Councillor _____	_____
4	Councillor _____	_____
5	Councillor _____	_____
6	Councillor _____	_____
7	Councillor _____	_____
8	Councillor _____	_____
9	Councillor _____	_____
10	Councillor _____	_____

## Appendix 9

	Name	Signature
11	Councilbr _____	_____
12	Councilbr _____	_____
13	Councilbr _____	_____
14	Councilbr _____	_____
15	Councilbr _____	_____
16	Councilbr _____	_____
17	Councilbr _____	_____
18	Councilbr _____	_____
19	Councilbr _____	_____
20	Councilbr _____	_____
21	Councilbr _____	_____
22	Councilbr _____	_____
23	Councilbr _____	_____
24	Councilbr _____	_____
25	Councilbr _____	_____
26	Councilbr _____	_____
27	Councilbr _____	_____
28	Councilbr _____	_____
<u>Date:</u>		(Date of delivery of
Proper Officer)		

\*1 Insert name of group  
of group

\*2 Insert name of Leader of group  
group each of whom should sign

\*3 If desired, insert name of deputy leader

\*4 Insert names of members of

### **BRIEFING NOTE**

#### **1. WHAT IS A 'COUNCILLOR CALL FOR ACTION' (CCFA)**

- 1.1 This is a mechanism by which a Member of the Council can refer any matter affecting their ward, within the remit of the Local Authority, to overview and scrutiny for consideration. In Hartlepool this function is fulfilled by the Audit and Governance Committee.
- 1.2 This mechanism is in essence there to help ward councillors resolve issues and problems on behalf of their residents and only comes into action when all other methods to resolve issue have failed.

#### **2. LEGISLATIVE BACKGROUND**

- 2.1 **The Local Government Act 2000** - Required that a mechanism be in place to allow any member of Overview and Scrutiny (O & S) to refer a matter to a relevant O & S Committee.
- 2.2 **The Police and Justice Act 2006** – Required creation of a 'Councillor Call for Action' mechanism to allow any Member of the Council to refer a local crime and disorder matter affecting their ward to the Crime and Disorder Committee (A&G Cttee) for consideration.
- 2.3 **The Local Government and Public Involvement in Health Act 2007** - Amended the 2000 Act to expand 'Councillor Call for Action' mechanisms to allow any Member of the Council to refer a matter within the Local Government remit to overview and scrutiny for consideration. This only came into force in 2009.
- 2.4 **The Localism Act 2011** – Re-introduced the ability to operate a 'committee system'. Under this system the requirement to operate a full CCfA mechanism was removed, with only CCfA's in relation to crime and disorder issues required by legislation (Police and Justice Act).

#### **3. CONSTITUTIONAL POSITION**

##### **Pre 2012**

- 3.1 Within the Councils original Constitution (pre 2012), the CCfA process in place complied with the requirements of the **Local Government and Public Involvement in Health Act 2007**. On this basis, all Councillors had the ability to refer a matter relating to any area of the services within the remit of the Council to overview and scrutiny for consideration. This included health and crime / disorder issues.

- 3.2 Between 2009 and 2012, only one CCfA was considered. This was refused as it did not comply with the requirements of the CCfA criteria (as a route of last resort), in that all other avenues to resolve the issue had not been explored.

### **Current (Post 2012)**

- 3.3 As part of the Council's new governance arrangements, and in accordance with the requirements of the Police and Justice Act 2006, the decision was taken to limit CCfA arrangements to the referral of local crime and disorder matters to the Crime and Disorder Committee (A&G Cttee). A "local crime and disorder matter" being:-
- (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.
- 3.4 Following consideration of a matter, the Audit and Governance Committee can then make a report or recommendations to the Council, appropriate Committee(s), the responsible authority or co-operating person / body on the matter in question.
- 3.5 Please note that since the start of the municipal year no 'Councillor Call's for Action' have been received by the Audit and Governance Committee. However, the ability for Councillors deal with issues through this additional route remains available.

## **4. ISSUE FOR CONSIDERATION – SHOULD THE CCFA MECHANISM BE EXPANDED?**

- 4.1 Members will note that the current CCfA mechanism relates solely to crime and disorder issues, as outlined in Section 3.3 above. Members are asked to consider if they would wish to expand the CCfA mechanism to include:
- **Health related issues** (the CCfA mechanism would then mirror the areas covered by the broader O&S function)
  - **All services within the Council's remit**
- 4.2 Please note that the inclusion of these areas in the CCfA mechanism is not a requirement under regulations for the operation of a Committee system. Members are asked to consider if it would be good practice to expand the current CCfA mechanism which is the case in neighbouring authorities, however, in these instances alternative governance arrangements are in place.