



Chief Executive's Department  
Civic Centre  
HARTLEPOOL

15 October, 2018

Councillors C Akers-Belcher, S Akers-Belcher, Barclay, Belcher, Black, Brewer, Brown, Buchan, Cassidy, Cook, Cranney, Fleming, Hall, Hamilton, Harrison, Hunter, James, Lauderdale, Lindridge, Little, Loynes, Marshall, McLaughlin, Moore, Dr. Morris, A Richardson, C Richardson, Robinson, Smith, Tennant, Thomas, Trueman and Young.

Madam or Sir,

You are hereby summoned to attend the COUNCIL meeting to be held on THURSDAY, 25 OCTOBER 2018 at 7.00 p.m. in the Civic Centre, Hartlepool to consider the subjects set out in the attached agenda.

Yours faithfully

G Alexander  
Chief Executive

Enc

# COUNCIL AGENDA



**Thursday 25 October 2018**

**at 7.00 pm**

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

- (1) To receive apologies from absent Members;
- (2) To receive any declarations of interest from Members;
- (3) To deal with any business required by statute to be done before any other business;
- (4) To approve the minutes of the last meeting of the Council held on the 13 September 2018 as the correct record;
- (5) To answer questions from Members of the Council on the minutes of the last meeting of Council;
- (6) To deal with any business required by statute to be done;
- (7) To receive any announcements from the Chair, or the Head of Paid Service;
- (8) To dispose of business (if any) remaining from the last meeting and to receive the report of any Committee to which such business was referred for consideration;
- (9) To consider reports from the Council's Committees and to receive questions and answers on any of those reports;
  1. Periodic Review of the Council's Constitution – Report of Constitution Committee
- (10) To consider any other business specified in the summons to the meeting, and to receive questions and answers on any of those items;
  1. Address by the Armed Forces Champion

- (11) To consider reports from the Policy Committees:
- (a) proposals in relation to the Council's approved budget and policy framework; and
  - (b) proposals for departures from the approved budget and policy framework;
    - 1. Seaton Carew Additional Car Parking Facilities – Report of Finance and Policy Committee
- (12) To consider motions in the order in which notice has been received;
- (13) To receive the Chief Executive's report and to pass such resolutions thereon as may be deemed necessary;
- (14) To receive questions from and provide answers to the public in relation to matters of which notice has been given under Rule 11;
- (15) To answer questions of Members of the Council under Rule 12;
- (a) Questions to the Chairs about recent decisions of Council Committees and Forums without notice under Council Procedure Rule 12.1
  - (b) Questions on notice to the Chair of any Committee or Forum under Council Procedure Rule 12.2
  - (c) Questions on notice to the Council representatives on the Police and Crime Panel and Cleveland Fire Authority
  - (d) Minutes of the meetings held by the Cleveland Police and Crime Panel held on 3<sup>rd</sup> July 2018



# **COUNCIL**

## **MINUTES OF PROCEEDINGS**

### **13 September 2018**

The meeting commenced at 7.00 pm in the Civic Centre, Hartlepool

**PRESENT:-**

The Ceremonial Mayor (Councillor Barclay) presiding:

**COUNCILLORS:**

C Akers-Belcher	S Akers-Belcher	Belcher
Black	Brown	Buchan
Cassidy	Cook	Cranney
Hall	Hamilton	Harrison
Hunter	James	Lauderdale
Lindridge	Little	Loynes
Marshall	McLaughlin	Moore
Dr Morris	A Richardson	C Richardson
Tennant	Thomas	Trueman
Young		

**Officers:** Gill Alexander, Chief Executive  
Hayley Martin, Interim Chief Solicitor  
Sally Robinson, Director, Children's and Joint Commissioning Services  
Ed Turner, Communications and Marketing Manager  
Angela Armstrong, Amanda Whitaker, Democratic Services Team

Prior to the commencement of the meeting, the Ceremonial Mayor referred in terms of regret to the recent death of former Councillor, Keith Fisher. Members stood in silence as a mark of respect.

#### **31. APOLOGIES FOR ABSENT MEMBERS**

Councillors Fleming, Robinson and Smith

#### **32. DECLARATIONS OF INTEREST FROM MEMBERS**

None

#### **33. BUSINESS REQUIRED BY STATUTE TO BE DONE BEFORE ANY OTHER BUSINESS**

None

#### 34. MINUTES OF PROCEEDINGS

The Minutes of Proceedings of the Council held on the 21 June 2018, having been laid before the Council.

RESOLVED - That the minutes be confirmed.

The minutes were thereupon signed by the Chairman.

#### 35. QUESTIONS FROM MEMBERS OF THE COUNCIL ON THE MINUTES OF THE PREVIOUS MEETING OF THE COUNCIL

With reference to minute 27, the Chair of Children's Services Committee reminded Members that following a Council meeting held on 15<sup>th</sup> March 2018, it had been agreed that a letter be sent to the Minister of State for Schools Standards for a fuller response to the questions which had been raised in the initial letter, regarding school funding, sent on behalf of Council to the Minister. The Chair of Children's Services Committee had expressed concern regarding the terms of the responses that had been received. It was considered that the second response had been inadequate also and showed no understanding of the needs of, and the issues faced by, the town. Council had agreed to a suggestion made at the meeting that the Leader and Chair of Children's Services Committee would convey the concerns of the Council to Mike Hill, the Member of Parliament.

The Chair of Children's Services Committee advised Members that she had, together with the Vice-Chair of Children's Services Committee, contacted the MP who was in the process of lobbying on behalf of the Council and that she would keep Council informed of the outcome.

#### 36. BUSINESS REQUIRED BY STATUTE

None

#### 37. ANNOUNCEMENTS

The Ceremonial Mayor advised Council of the following impending events:-

- Pizza and Pasta Night on 6<sup>th</sup> October
- 100<sup>th</sup> Anniversary Armistice Commemorative Dinner on 9<sup>th</sup> November

The Chief Executive announced, to ensure all Members were aware, that children's social care services in Hartlepool had been rated 'good' with 'outstanding' features by Ofsted. Following a recent inspection, Ofsted had said local arrangements were "highly effective". Ofsted had rated three categories as 'good' and a fourth category which looked at the experiences and progress of children in care and care leavers was judged to be 'outstanding'. The Chief Executive added that she was particularly pleased and proud that staff had

been recognised in the report for their determination to improve children's life experiences in Hartlepool. Members joined the Chief Executive in unanimous agreement to place on record their admiration and sincere appreciation to all those staff involved in the service.

The Chair of the Children's Services Committee added her appreciation of the commitment of staff which was particularly commendable in circumstances of reducing budgets. The Chair advised Council that following the inspection, a letter of congratulations had been received from Nadhim Zahawi MP, Parliamentary Under Secretary of State for Children and Families. The Chair proposed that a response be sent thanking the Parliamentary Under Secretary for his congratulations and indicating that the outcome of the Ofsted Inspection was not sustainable with continuously reducing resources

38. TO DISPOSE OF BUSINESS (IF ANY) REMAINING FROM THE LAST MEETING AND TO RECEIVE THE REPORT OF ANY COMMITTEE TO WHICH SUCH BUSINESS WAS REFERRED FOR CONSIDERATION.

None

39. TO RECEIVE REPORTS FROM THE COUNCIL'S COMMITTEES

None

40. TO CONSIDER ANY OTHER BUSINESS SPECIFIED IN THE SUMMONS OF THE MEETING

None

41. REPORT FROM THE POLICY COMMITTEES

(a) Proposal in relation to the Council's budget and policy framework

1. Community Safety Plan 2017-20 (Year 2)– Report of Finance and Policy Committee

Council was advised that the Safer Hartlepool Partnership was required to produce a three year Community Safety Plan to set out how it intended to tackle crime and disorder, substance misuse and re-offending in Hartlepool with a refresh of the plan being undertaken on an annual basis. The Community Safety Plan Year 2, appended to the report, provided an overview of progress made during 2017-18 with an update on end of year performance. It described some of the Partnership activity undertaken to reduce crime and improve safety during the last 12 months, and incorporated the proposed 2018-19 annual priorities. In developing the plan a strategic needs assessment had been undertaken which alongside local intelligence and analysis had included consultation with the local community (statutory, voluntary and community, and private sector) through the Safer Hartlepool Partnership Face the Public Event;

an online survey; and the Police Local Public Confidence Survey. The Plan had been agreed by the Safer Hartlepool Partnership on 22<sup>nd</sup> June and had been considered by the Audit and Governance Committee on 28<sup>th</sup> June, and the Finance and Policy Committee on 9<sup>th</sup> July.

It was moved by Councillor C Akers-Belcher and seconded by Councillor Cranney that the Safer Hartlepool Partnership Community Safety Plan 2017-20 (Year 2) be adopted.

RESOLVED - That the Safer Hartlepool Partnership Community Safety Plan 2017-20 (Year 2) be adopted

(b) Proposal for Departure from the Budget and Policy Framework

None

#### 42. MOTIONS ON NOTICE

None

#### CHIEF EXECUTIVE'S REPORT

#### 43. BY-ELECTION RESULT

The Chief Executive reminded Members that her previous report to Council had noted the resignation of Ray Martin-Wells, as Ward Councillor for the Rural West Ward and that a by-election would be held on Thursday 12 July, 2018.

Members were advised that at that election Mike Young had been duly elected to serve in the office of Councillor for that Ward until the local government elections in May, 2020.

RESOLVED – That the election of Mike Young as Borough Councillor for the Rural West Ward be noted.

#### 44. COMMITTEE AND OUTSIDE BODY – VACANCIES

Members were reminded that following a report to the June meeting of Council, it had been agreed that the vacancies arising from the resignation of Ray Martin-Wells, and other vacancies, be reconsidered by Council after the Rural West Ward by-election. The by-election had been held and as there had been no consequent change in political balance, the Committee and Outside Body conservative vacancies arising from the resignation of Ray Martin-Wells were set out in the report together with the Conservative nominations which the Chief Executive had received for each of the vacancies.

Council was advised that there continued to be a number of other Outside Body Vacancies and that resignations had been received resulting in additional vacancies as set out in the report.

Council was requested to note that Audit and Governance Committee at its meeting on 28 June 2018 had made the following appointments:-

- Councillor Tennant - Vice-Chair of the Tees Valley Joint Health Scrutiny Committee.
- The Chair of Audit and Governance Committee, Councillor Loynes and Councillor Hall to two of the three positions on the Durham Darlington and Teesside, Hambleton, Richmondshire and Whitby STP Joint Health Scrutiny Committee.
- Councillor Loynes - non-voting official observer to the Health and Wellbeing Board.

RESOLVED – (i) The following nominations for vacancies on Committees and outside bodies were approved:

Finance and Policy Committee – Councillor Young  
 Adult Services Committee – Councillor Young  
 Regeneration Services Committee – Councillor Young  
 Licensing Committee – **Chair** – Councillor Young

Planning Committee – Councillor Young  
 South and Central Community Forum – Councillor Young  
 Cleveland Fire Authority – Councillor Young

Hartlepool and District Sports Council – Councillor Little.  
 Fostering Panel – Councillor Hamilton.  
 Henry Smith Educational Charity – Councillor Moore.

(ii) The following appointments made by the Audit and Governance Committee on 28 June 2018 were noted:

Vice Chair of the Tees Valley Joint Health Scrutiny Committee – Councillor Tennant  
 Durham Darlington and Teesside, Hambleton, Richmondshire and Whitby STP Joint Health Scrutiny Committee – Councillors Loynes and Hall – 1 vacancy remains.  
 Health and Wellbeing non-voting official observer – Councillor Loynes.

(iii) That in the absence of nominations, the following vacancies remain vacant:

Teesside Pension Board – 1 vacancy;  
 Victoria and Jubilee Homes – 2 vacancies  
 Hartlepool and District Sports Council – 1 vacancy

#### 45. SPECIAL URGENCY QUARTERLY REPORT



In accordance with the requirements of the Access to Information Procedure Rule 22 of the Council's Constitution, Council was informed that that there had been one special urgency decision taken in the period May 2018 – July 2018 which was summarised as follows:-

Decision Route -

Finance & Policy Committee on 18<sup>th</sup> May 2018

Reason(s) for Urgency -

Notification was received on 2<sup>nd</sup> May 2018 from Department for Work & Pensions (DWP) that the Council had secured £15m of YEI contract value. Due to Purdah, this was the first opportunity to submit a report to Finance & Policy Committee.

A Project Change Request had to be submitted to DWP as a matter of urgency to secure £15m YEI contract value and approval was needed by Finance & Policy Committee for the contract to be accepted and the scheme to be extended. By forwarding this report as a matter of urgency to the meeting in May 2018 provided the Council with sufficient time for negotiations with DWP and enabled the extension to commence on schedule on 1<sup>st</sup> August 2018.

RESOLVED – That the report be noted.

#### 46. RESIGNATION OF COUNCILLOR

Council was reminded of the resignation of Paul Beck as a Borough Councillor for the Hart Ward and was advised that a letter of resignation had been received on 31 August 2018. A notice of a casual vacancy arising through this resignation had been published on 31 August 2018. The Chief Executive reported, at the meeting, that following a request through two local government electors, a by-election would be held on 11 October 2018.

The resignation created a series of vacancies as set out below:-

Audit and Governance Committee  
Children's Services Committee, including Corporate Parent Forum  
Vice Chair of Neighbourhood Services Committee  
Licensing Committee  
Chair of North and Coastal Community Forum

Hartlepool and District Sports Council

It was noted that Paul Beck had previously resigned from the Durham Tees Valley Airport Board and there was, therefore, a vacancy also on that Board.

RESOLVED - That consideration of the vacancies arising from the resignation of Paul Beck be deferred until after the Hart Ward by-election.

#### 47. PERIODIC REVIEW OF THE COUNCIL'S CONSTITUTION

Council was reminded that the Council's Constitution at Article 15 ("Review and Revision of the Constitution") required that the Monitoring Officer "will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect." It had been agreed by Council that in conducting a periodic review of the Council's Constitution a report should be submitted to the first ordinary meeting of Council in the new municipal year, unless otherwise directed by Council. Council resolved that ideally such a report should come before the September meeting (or a meeting approximate thereto) to ensure that any new councillors have undertaken their induction.

Members were advised that it had been necessary to change the date of the Constitution Committee from 31 August 2018 to 13 September 2018. At that meeting, the outcome of the Monitoring Officer's review will be considered. Therefore, the recommendations of the Constitution Committee will be reported to Council on 25 October 2018.

RESOLVED – That the report be noted and the report of the Constitution Committee be submitted to Council on 25 October 2018.

#### 48. PUBLIC QUESTION

None

#### 49. QUESTIONS FROM MEMBERS OF THE COUNCIL

- a) Questions to the Chairs about recent decisions of Council Committees and Forums without notice under Council Procedure Rule 12.1
- b) Questions on notice to the Chair of any Committee or Forum under Council Procedure Rule 12.2

None

- c) Questions on notice to the Council representatives on the Police and Crime Panel and Cleveland Fire Authority

None

- d) Minutes of the meetings held by the Cleveland Fire Authority and the Police and Crime Panel

Minutes of the meetings held by the Cleveland Fire Authority held on 1<sup>st</sup> June 2018 and the Police and Crime Panel on 6<sup>th</sup> February 2018 were noted.

In response to a Member asking a question, without notice, to representatives of Cleveland Fire Authority, the Chief Executive highlighted the requirements of Council Procedure Rule 12.2(ii) that a question may be asked of a Member of the Cleveland Fire Authority on any matter in relation to the discharge by the Fire Authority of its functions, subject to the required notice in writing having been submitted.

The meeting concluded at 7.20 p.m.

CEREMONIAL MAYOR

**COUNCIL**  
25 October 2018



**Report of:** Constitution Committee

**Subject:** PERIODIC REVIEW OF THE COUNCIL'S  
CONSTITUTION

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**1. PURPOSE OF REPORT**

- 1.1 To seek approval from Council to recommendations relating to proposed changes to the Constitution.

**2. BACKGROUND**

2.1 The Council's Constitution at Article 15 ("Review and Revision of the Constitution") requires that the Monitoring Officer "will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect." It was agreed by Council that in conducting a periodic review of the Council's Constitution a report should be submitted to the first ordinary meeting of Council in the new municipal year, unless otherwise directed by Council. Council resolved that ideally such a report should come before the September meeting (or a meeting approximate thereto) to ensure that any new councillors have undertaken their induction. It was necessary to change the date of the Constitution Committee from 31 August 2018 to 13 September 2018. Council agreed therefore, at its meeting on 13 September 2018, that the outcome of the Monitoring Officer's review would be considered at this Council meeting.

**3. PROPOSALS**

- 3.1 A review has been undertaken of Part 3 (Responsibility for Functions) and Part 5 (Codes and Protocols) of the Constitution. Some additional items, which have arisen during the review, are also covered in this report:-

The following items are drawn to the attention of Members:-

**Part 3 (Responsibility for Functions)**

A document reflecting the proposed changes to Section B of Part 3 is attached as **Appendix 1**. The updated document aligns, where appropriate, the responsibilities of Committee with those of Officers.

It is proposed that a comprehensive review be undertaken of Section C and be reported to a future meeting of the Constitution Committee prior to consideration by Council. The review of Section C will include the Proper Officer Functions, the Officer delegation Scheme and the Power to Act Generally.

### **Part 5 (Codes and Protocols)**

The Codes and Protocols, included in Part 5 of the Constitution, have been reviewed. However the Code of Conduct for Employees has not been included in this review having only recently been approved following a review.

The following Codes and Protocols have been reviewed:-

- **Code of Conduct for Members and Co-opted Members** – updated document attached at **Appendix 2**. The main changes to the document are as follows:-
  - Interests categorised as ‘registerable personal interests’ and ‘non-registerable interests’
  - Inclusion of guidance on use of Social Media by Members

The updated Code was submitted to Audit and Governance Committee on 25 July 2018.

- **Protocol on Member/Officer Relations** - updated document attached at **Appendix 3**. The main changes to the document are the additions of sections relating to the following:-
  - Undue Influence
  - Access to Councillors
  - Internet and Social Networking Use

The updated Code was submitted to Audit and Governance Committee on 25 July 2018.

- **Planning Code of Practice** – A copy of the updated document, submitted to the Committee, is attached at **Appendix 4**. The main changes to the document relate to the following:-
  - Declarations of Interests by Members at Committee
  - Site Visits
  - Enacting Decisions of the Planning Committee

- **Subject to approval of the Code, there will be a consequential change on Part 3 of the Constitution.**

The Committee was advised that the changes had been referred to the Planning Committee at its reconvened meeting on 5 September 2018. The Planning Committee agreed as follows:-

- That all suggested amendments to the Planning Code of Practice be recommended for approval with the exception of the following:
- That Members' ability to question speakers as part of the Committee meeting process be retained
- That the minimum number of material planning objections received for an application to be referred to Committee be retained at more than 2.
- That references to 'Members' within the document be altered to read 'Elected Members'
- That pre-conditions requiring prior approval which are delegated to the Director of Regeneration and Neighbourhoods be done so in consultation with the Chair or Vice-Chair
- **Guide to Pre-Application Developer Forums** – the document has been reviewed with the only change recommended being to update to delete reference to the name of the former Planning Services Manager – document attached at **Appendix 5**
- **Code of Corporate Governance** – updated document attached at **Appendix 6**. The updated Code was submitted to Audit and Governance Committee on 25 July 2018 for the views of the Committee. The main change to the document is the addition of a Statement on Modern Slavery and Human Trafficking to demonstrate arrangements to ensure such practices are not a feature of the Council's business or its supply chains (Statement **appended** to the report).
- **Guidance for Members and Officers Serving on Outside Organisations and Other Bodies** – updated document attached at **Appendix 7**. The document has been updated to reflect updates in company law and to ensure guidance on Registerable Personal Interests and Non-Registerable Personal Interests is consistent with guidance included in the Code of Conduct for Councillors and Co-opted Members.
- **Filming, Recording and Photographing Council Meetings Protocol** – the Protocol has been updated to reflect Data Protection requirements in accordance with the Data Protection Act 2018 – document attached at **Appendix 8**.
- **Public Questions to Council Meetings** – Minor amendments have been made to the document attached at **Appendix 9**.
- **Guidance Note – Political Balance** – The Guidance Note is attached at **Appendix 10** for consideration. No amendments have been made.

## **Additional Changes**

### **(i) Proposed Changes to the Financial Procedure Rules**

Council agreed, at its meeting on 27 October 2016, to an additional paragraph being added to the Financial Procedure Rules. The addition followed discussions with the Council's Chief Executive Officer and Director of Finance and Policy. Council agreed a recommendation that officer delegation related to specific circumstances (as detailed below) be provided for, within the Council's Financial Procedure Rules, whilst ensuring that financial controls and due consultation are features of these proposals.

#### *4.6 Financial Management of Self Funded Business Cases*

*The Council delivers a range of projects which do not require funding from the General Fund budget and are funded from either specific grant funding or specific income streams. It is necessary, to ensure good financial management and the making of timely business case decisions, where in the professional opinion of the Chief Executive, Director of Finance and Policy and Chief Solicitor, to delegate decision making where there is a robust and self funded business case to do so and which does not add a recurring financial commitment to the General Fund budget. Delegated authority shall be exercised by the Chief Executive, Director of Finance and Policy, and Chief Solicitor in consultation with the Chair of the Finance and Policy Committee. This delegation will also apply where revisions are needed to existing business cases but where such revisions still meet the objectives of the original business case and the tests above are satisfied. Details of business cases approved, or amendments to previously approved business cases, shall be reported to the next scheduled meeting of the Finance and Policy Committee for information.*

In order to provide clarity in terms of delegated authority, the following amendment to the paragraph is proposed:-

Replace:-

*...Delegated authority shall be exercised by the Chief Executive, Director of Finance and Policy, and Chief Solicitor in consultation with the Chair of the Finance and Policy Committee.....*

With:-

*....Delegated authority shall be exercised by the Chief Executive, with agreement from the Director of Finance and Policy and the Chief Solicitor in consultation with the Chair of Finance and Policy Committee....*

### **(ii) Proposed Changes to the Contract Procedure Rules**

A document reflecting the proposed changes to the Contract Procedure Rules is attached as **Appendix 11**.

There are various reasons for the proposed changes which are summarised below:-

Document will become outdated therefore made reference to the link where the latest document will be.

It is considered that there is no need for all the staff identified to be present on an electronic tendering system which is locked down anyway until the deadline has passed. (the proposed change has been approved by Chief Internal Auditor).

Pre-Qualification Questionnaire no-longer in existence as per Public Contracts Regulations.

Table had not been updated with changes introduced last year when the Quotation Values were changed.

Reflects changes to Quotation Values.

Clarifying the Rules on Extensions as agreed this with the Director of Finance and Policy.

Agreed with Chief Internal Auditor to remove the reference to Chief Internal Auditor as this doesn't apply.

### **(iii) Proposed change to the Articles**

**Article 4** – The plans and strategies which are included in the Policy Framework have been reviewed with particular reference to the Local Authorities (Committee System) (England) Regulations 2012 which specifies for the purposes of Regulation 3 those functions to be discharged by the Local Authority. The review has resulted in the following changes to the existing list set out in Article 4:-

~~Children and Young People's Plan~~

~~Vision for Adult Social Care~~

~~Youth Justice Strategic Plan~~

Child and Family Poverty Strategy

Health and Wellbeing Strategy

Council Plan

~~Sustainable Community Strategy~~

Community Safety Plan

The plans and strategies which together comprise the Local Plan

Housing Strategy

~~Local Transport Plan~~

~~Economic Regeneration Strategy~~



Local Council Tax Support Scheme  
~~Community Engagement and Cohesion Strategy~~  
~~Health and Social Care Plan~~  
~~Early Years and School Infrastructure Plan~~  
~~Education Improvement Strategy~~  
~~Culture, Leisure and Heritage Strategy~~  
~~Clean and Green Strategy~~  
~~Climate Change Strategy~~  
 Medium Term Financial Strategy  
~~Workforce Strategy~~  
 Licensing Policy  
 Statement of Licensing Principles (Gambling Act) – to be considered further  
 Annual Library Plan (if required)

The Committee noted that the Plans and Strategies, proposed to be removed from the Policy Framework, would continue to be submitted to the appropriate Policy Committee.

**Article 7** – has been amended to clarify the functions of the Adult and Community Based Services Committee, following changes to the delegation scheme as follows:-

Previously:-

“Responsible for adult social care and related services

Replaced with:-

*“Responsible for services provided to adults with eligible social care needs and their carers, including adult safeguarding, social work and occupational therapy and care packages that support people in the community. Delivery of preventative and community based services for all Hartlepool residents that support people to live active, healthy lives and to participate in their local communities.”*

**Article 9** – has been amended to clarify the functions of the Education Improvement Board as follows:-

“The Board will be responsible for the development of a “Charter” with key stakeholders outlining the commitment to every child and young person in the Borough based on inspiration, aspiration and ambition and as outlined in the Education Commission’s final report (September 2015) to provide a first class education for every Hartlepool learner. To create and shape an action plan based on the recommendations in the Education Commission’s report, to identify and commit the necessary resources required to carry out the relevant actions and activities as recommended and to monitor the progress of the action plan”.

Replaced with:-

“The Board will provide strategic oversight of the delivery of the Education Improvement Strategy to realise the ambition to provide a first class education for every Hartlepool learner. The Board will determine an annual action plan measuring outcomes against the strategy and identify and commit the necessary resources required to carry out the relevant actions and activities.”

**Article 12** – has been updated to include the role of the Data Protection Officer with the addition of the following:-

### **12.08 Functions of the Data Protection Officer**

#### **Compliance and Subject Access Requirements**

- To inform and advise the Council’s leadership of its obligations relating to Data Protection.
- To monitor the Council’s compliance with Data Protection law, including the management of internal Data Protection policy and activities, awareness-raising, training delivery of audits and provision of assurance reports to management teams and Finance and Policy Committee.
- To provide advice and guidance to the Council’s information governance team on delivering best practice in Data Protection through its various activities.
- To handle enquiries from data subjects on issues relating to data protection practices, subject access, withdrawal of consent, objections to and restrictions on processing and related rights.

#### **Key Stakeholders**

- To work with Departments to ensure that the Council maintains a proactive approach to Data Protection, ensuring that Data Privacy Impact Assessments (DPIAs) are undertaken when required, in delivering its strategic objectives.
- To serve as the contact point for the Information Commissioner’s Office (ICO) on issues relating to notifications, data processing and ensuring prompt consultation with the ICO once a data breach has occurred, or determine whether a DPIA is necessary.

The Committee supported the proposed changes and highlighted that any references to “officers and employees” should be consistent throughout the Constitution.

### **3. RECOMMENDATIONS**

3.1 That Council approve the recommendations of the Committee as follows:-

- the proposed changes to Part B of the delegation scheme are approved by Council and that a further report be submitted following the comprehensive review of Part C of the scheme.
- the proposed changes to the Codes and Protocols, appended to the report, be approved and the changes proposed for the Planning Code of Practice by the Planning Committee be supported.
- the proposed additional changes be approved.

3.2 That the Monitoring Officer be authorised to make the consequential changes to Part 3 of the Constitution as set out in the report.

### **4. REASONS FOR RECOMMENDATIONS**

- 4.1 It is the responsibility of the Monitoring Officer to monitor the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **5. BACKGROUND PAPERS**

Hartlepool Borough Council's Constitution  
Council Report and Minutes – 8 September 2016  
Article 39, General Data Protection Regulations (EU) 2016/679, Tasks of Data Protection Officer  
Constitution Committee Minutes – 18 September 2018

### **6. CONTACT OFFICERS**

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## Part 3

# Responsibility for Functions

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## RESPONSIBILITY FOR FUNCTIONS

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## **B. COUNCIL FUNCTIONS AND DELEGATION SCHEME**

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

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

<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 and the Director of Regeneration and Neighbourhoods/ <del>Director of</del> <b>Public Health</b>
6. Functions relating to health and safety at work.	Finance and Policy Committee and the Chief Executive
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 <del>Chief Solicitor</del> <b>Chief Executive</b>

<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: - Director of Regeneration and Neighbourhoods - Chief Solicitor
13. Functions relating to Sea Fisheries.	Finance and Policy Committee
14. Power to make standing orders.	
15. To approve the appointment of the Head of Paid Service and power to appoint Directors and Chief Officers, and to engage such staff (as the Chief Executive as Head of Paid Service considers necessary to carry out the Council's functions) and to determine the terms and conditions of those employees (on which they hold office (including procedures for their dismissal).	Appointments Panel (appointment of Directors and Chief Officers) and Chief Executive (all other officer appointments) in accordance with the Officer Employment Procedure Rules.
16. Power to make standing orders as to contracts.	
17. Duty to make arrangements for proper administration of financial affairs.	

<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. <del>"Duty to designate officer as the Monitoring Officer, and to provide staff."</del> <u>"Duty to designate officers as statutory officers, and to provide staff"</u>	
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

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

<b>Council (continued)</b>	
<b>FUNCTION</b>	<b>DELEGATION</b>
<p>35. The appointment of any individual:</p> <ul style="list-style-type: none"> <li>a) to any office other than an office in which he/she is employed by the Authority;</li> <li>b) to any body other than – <ul style="list-style-type: none"> <li>i) the Authority</li> <li>ii) a joint Committee of two or more Authorities; or</li> </ul> </li> <li>c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment.</li> </ul>	
<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 Ceremonial 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, as amended, 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 Local Council Tax Support Scheme.	
43. The determination of Departmental staffing proposals where service areas are being amalgamated and/or a service area is created or modified due to additional grant funding.	Finance and Policy Committee
44. Functions relating to the preparation, approval and subsequent publication of a Pay Policy Statement under Section 38 of the Localism Act 2011.	
45. To approve the dismissal of an officer designated as the Head of the Authority's Paid Service, or as the Authority's Section 151 Officer, or as the Authority's Monitoring Officer, before notice of dismissal is given to that person.	
46 Functions reserved to Council by law	

<b>Finance and Policy Committee</b>	
<b>Membership:</b>	<p>11</p> <p><b>Councillors:</b>  C Akers-Belcher, (Chair) Leader of the Council);  Cranney, (Vice Chair) Deputy Leader of the Council/Chair of Regeneration Services Committee);  Thomas (Chair of Adult <u>and Community Based</u> Services Committee); Harrison (Chair of Children's Services Committee);  S Akers-Belcher (Chair of Neighbourhood Services Committee).</p> <p><b>Plus Councillors:</b>  Brown, Cassidy, Marshall, <u>Martin Wells</u>, Moore and Smith.</p>
<b>Quorum:</b>	3
<b>FUNCTION</b>	<b>DELEGATION</b>
<p>1. Responsibility for the financial and other resources of the Authority, for formulating, 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 these in respect of Council</p>	



Finance and Policy Committee (Continued)	
<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 <del>Executive</del>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>STAFFING</b></p> <p>7. Functions relating to Local Government pensions, etc, except those reserved to the Audit and Governance Committee</p> <p>8. Consideration of any staffing proposals requiring compulsory redundancy of one or more staff.</p> <p>9. Power to make agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities.</p> <p>10. Functions relating to health and safety at work (as set out in Part C of Schedule 1 to the Regulations).</p> <p><b>FINANCE ADMINISTRATION</b></p> <p>11. Writing-off of debts above the limits allocated to Officers.</p>	<p>Director of Finance and Policy Power to write off debts within the approved limit of £1,000.</p>

Finance and Policy Committee (Continued)	
<p><b>GRANTS</b></p> <p>Allocation of Grants of over £500 from the following funds:-</p> <ul style="list-style-type: none"> <li>• Community grants pool <ul style="list-style-type: none"> <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> </ul> </li> <li>• Youth advisory grants</li> </ul> <p>The sponsorship of new grant-aided schemes related to community services functions.</p> <p><b>PROCUREMENT</b></p> <p>12. To receive and examine quarterly reports on the monitoring and outcome of contract letting procedures including outputs, values, value for money considerations and performance (incorporating if necessary provider comparative analysis) where lowest/highest price is not payable/receivable.</p> <p>13. To receive and examine reports on any exemptions granted to these Contract Procedure Rules.</p> <p><b>Policy Framework</b>  Community Engagement and Cohesion Strategy  <u>Community Safety Plan (moved from neigh services Cttee)</u>  Council Plan  Health and Social Care Plan  Health and Wellbeing Strategy  Medium Term Financial Strategy</p>	<p>Chief Executive, <u>Director of Finance and Policy</u>, Director of Children's and Joint Commissioning Services and Director of Adult and Community Based Services, Director of Regeneration and Neighbourhoods, <u>and</u> Director of Public Health, <u>Assistant Director of Joint Commissioning Services and Chief Solicitor (1-4)</u></p>

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Sustainable Community Strategy Workforce Strategy	1. Variations to existing policies and procedures together with
<b>Finance and Policy Committee (Continued)</b>	
	new policies/procedures which do not have significant service or corporate impact.

<p><b>Service Area</b>  Child Poverty  Financial Management (Corporate)  Accountancy  Financial Management  Benefits (incl Fraud and control) and means tested services  Revenues collection  Payments / Payroll  Insurances  Social Fund  Legal  Land Charges  Members Services  Public Relations  ICT  Policy / Performance / Partnerships  Complaints / Consultation  Democratic Services  Human Resources Business Team  Organisational Development  Customer Services / Hartlepool Connect  Registrars  Equality / Diversity  Health, Safety and Wellbeing</p>	<ol style="list-style-type: none"> <li>2. Approval of Departmental service plans.</li> <li>3. Strategic service level financial and performance monitoring.</li> <li>4. <u>In consultation with Chair of Committee, s</u>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> <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> </ol>
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<b>Finance and Policy Committee (Continued)</b>	
<p>Strategic Procurement and Reprographic  Asset and Property Management  Facilities Management (Cleaning, Catering and Security)  School Catering  Business Continuity  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  <del>Children's public health 0-5 years and 5-19 years</del>  Accidental injury prevention  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  Community Safety (moved from neigh</p>	<p>9. Allocations, scheme designs and specifications within agreed programmes of works.</p> <p>10. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee.</p>

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<b>Adult and Community Based Services Committee</b>	
<b>Membership:</b>	<b>7</b> <b>Councillors:</b> <b>Thomas (Chair)</b> <b>McLaughlin (Vice Chair)</b>  <b>Plus Councillors:</b> <b>Hamilton, Little, Martin-Wells,</b> <b>C Richardson and Tennant</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 <u>related services-Preventative and Community Based Services.</u></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</b>  <u>Vision for Adult Social Care</u></p> <p><b>Service Areas</b>  Child Poverty *  <u>Adult Safeguarding</u>  <u>Housing Related Support</u>  <u>Adult Social Work support for</u></p> <ul style="list-style-type: none"> <li>• <u>Older people</u></li> <li>• <u>People with mental health needs</u></li> <li>• <u>People with substance misuse issues</u></li> <li>• <u>People with learning disabilities, physical disabilities or sensory impairment and</u></li> <li>• <u>Carers</u></li> </ul> <p><u>Commissioning of Adult Services</u>  <u>Occupational Therapy</u>  <u>Intermediate Care and Reablement</u>  <u>User Property and Finance</u></p> <p>➤ <u>Performance</u></p>	<p>Chief Executive, <u>Director of Finance and Policy</u>, Director of Children's and Joint Commissioning Services and Director of Adult and Community Based Services, Director of Regeneration and Neighbourhoods and Director of Public Health/<u>Assistant Director of Commissioning and Chief Solicitor (1-4)</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. <u>In consultation with Chair of</u></li> </ol>

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<p><u>Management</u></p> <p><del>Older People's Commissioning</del>  <del>Mental Health Commissioning</del>  <del>Commissioning for Working Age Adults</del>  <del>Social Care Transformation</del>  <del>Adult Social Work Teams</del></p> <ul style="list-style-type: none"> <li><del>• Older People</del></li> <li><del>• Learning Disabilities</del></li> <li><del>• Physical Disabilities</del></li> <li><del>• Sensory Loss</del></li> </ul> <p><del>Safeguarding Vulnerable Adults</del>  <del>Integrated Mental Health Services</del>  <del>Occupational Therapy</del>  <del>Early Intervention and Reablement</del>  <del>Assistive Technology</del>  <del>Direct Care and Support Services for Vulnerable Adults</del></p>	<p><u>Committee, s</u></p> <p>Setting of fees and charges that have not been determined as part of the budget process, where the in-year additional</p>
<p><b>Adult and Community Based Services Committee (Continued)</b></p>	
	<p>income or expenditure does not have a gross full year effect greater than £100,000</p>
<p><del>Day Services</del>  <del>Commissioned Services Team</del>  <del>Performance Management and Management Information</del>  <del>Housing Related Support</del></p> <p><u>Community Hubs incorporating a library offer; information and advice; and access to a range of health and employment support.</u>  <u>Leisure Centres</u>  <u>Learn to Swim programme</u>  <u>Carlton Outdoor Education Centre</u>  <u>Summerhill Outdoor Activity Centre</u>  <u>Sport and Physical Activity Team</u>  <u>Strategy Development and Implementation (Playing Pitch Strategy, Indoor Facilities Strategy)</u></p>	<p>ie where key decision test (i) does not apply.</p> <p>5. Matters relating to bids for funding which do not have major financial or strategic significance, or which have either been approved in principle by the relevant Policy Committee or as part of the approved budget and policy framework.</p> <p>6. Involvement in grant allocations and other allocations of funding within the terms of a scheme or method of allocation previously agreed by the Council.</p> <p>7. Improvement plans and other</p>

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	<p>key reports.</p> <p>8. External Audit and other inspection reports on service and non-strategic corporate matters.</p> <p>9. Policies, plans and strategies which are not part of the budget and policy framework.</p>
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<b>Children's <u>and Joint Commissioning ??</u> Services Committee</b>	
<b>Membership:</b>	<p><b>7</b></p> <p><b>Councillors:</b>  <b>Harrison (Chair)</b>  <b>Trueman (Vice Chair)</b></p> <p><b>Plus Councillors:</b></p> <p><b>Beck, James, Lauderdale, Little and Moore</b></p> <p>Observer – Chair of Adult <u>and Community Based</u> Services Committee</p> <p>Education Representatives (when discharging education functions): Mark Tilling (Secondary), David Turner (Primary), <u>Zoe Westley</u> <u>Alan Chapman</u> (Special) (term of office 4 years from commencement of Municipal year (term expires 20<u>2218</u>))</p> <p>2 Church Representatives (voting on education matters only): Jo Heaton, C of E Diocese and Stephen Hammond, RC Diocese representatives (term of office 4 years from commencement of Municipal year (term expires 20<u>2218</u>))</p> <p>3 Parent Governor Representatives (voting on education matters only): (term of office 4 years from commencement of Municipal Year 20<u>1814</u>-20<u>2218</u>) (1 from each of the following representing: Primary, Secondary and Special Schools within the Borough): 3 vacancies</p> <p>The Committee to co-opt such individuals onto the Committee who would benefit the workings of the Committee on particular education themes. Such 'co-option' would be</p>

	for such period as the Committee determines and the appointments would be at the discretion of the Committee and such co-optees, in
<b>Children's and Joint Commissioning?? Services Committee (continued)</b>	
	<p>the absence of a scheme, would not have voting rights. Such other co-optees as the Committee may appoint for such term of office as the Committee shall determine (none voting positions)</p> <p>6 Young Persons' Representatives</p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<ol style="list-style-type: none"> <li>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.</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> <li>3. Power to nominate persons for appointment as Local Authority school governors under the Schools Governance (Constitution and Federations) (Amendment) Regulations 2014.</li> </ol>	

<b>Children's <u>and Joint</u> Commissioning ??Services Committee</b> (continued)	
<b>Policy Framework</b> Child and Family Poverty Strategy Children and Young People's Plan Early Years and School Infrastructure Plan Education Improvement Strategy Youth Justice Strategic Plan  <b>Service Area</b> Child Poverty Safeguarding, Assessment & Support Children looked after and leaving care <del>Children with disabilities</del> Fostering and adoption Safeguarding and Review / Independent Reviewing Officers Local Safeguarding Children Board Children's Strategic Commissioning <del>Integrated</del> Youth Support Services Youth Offending Service Early <del>Intervention and Prevention Help</del> <del>Services</del> including children's centres <del>and 0-19 healthy child programme and</del> <del>extended services</del> Monitoring of Schools Causing Concern School Improvement Support & Challenge Curriculum development and enrichment Performance management and self- evaluation Pupil Referral Unit ICT in schools Transformation of Learning School Capital Programmes Social and Educational Inclusion School Transformation Special Educational Needs <u>and</u> <del>Disabilities</del> Educational Psychology Early Years Foundation Stage School Capital (in partnership with R&N)	Chief Executive, <u>Director of Finance and Policy</u> , Director of Children's and Joint Commissioning Services, Director of Adults and Community Based Services, Director of Regeneration and Neighbourhoods and Director of Public Health/ <del>Assistant Director of Joint Commissioning Services and Chief Solicitor (1-4)</del>  <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. <u>In consultation with Chair of Committee, s</u>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. 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</li> </ol>

School Admissions and School Place Planning <a href="#">Homelessness and Housing Advice</a>	method of allocation previously agreed by the Council.
<b>Children's Services Committee</b> (continued)	
	<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>	<b>13</b>  <b>Elected Members of the Children's Services Committee</b> Observer - Chair of Adult <a href="#">and Community Based</a> Services Committee 2 Children and Young People who are, or have been, looked after; 2 Foster Carers; Assistant Director (Children's and Families' Services); Policy Link Officer
<b>Quorum:</b>	<b>3 Councillors and 1 representative from the Children, Young People and Foster Carers</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
1. This Sub-Committee of the Children's Services Committee is responsible for the formulation, development, implementation and review of the Council's Corporate Parent Strategies and policies in order to ensure that the Council's duty as a 'Corporate Parent' is discharged properly, effectively and consistently.  2. To advise and make recommendations to the Council's decision-making bodies and other partner agencies on any issues that affect children and young people who are Looked After by Hartlepool Borough Council.  3. To oversee the exercise of the Council's responsibilities as Corporate Parent and ensure that the interests of Looked After Children are appropriately reflected in all Council policies and the work of the Children's Strategic Partnership.	

<b>Regeneration Services Committee</b>	
<b>Membership:</b>	<b>7</b> <b>Councillors:</b> <b>Cranney (Chair)</b> <b>Lindridge (Vice Chair)</b>  <b>Plus Councillors:</b> <b>Brown, Cook, Martin-Wells, Moore and Smith.</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
<ol style="list-style-type: none"> <li>1. Responsible for <del>public protection</del>, housing policy including housing market renewal and strategy, economic development and regeneration, building control and planning (except for development control and management functions delegated to the Planning Committee) and sustainability, <del>trading standards</del>, culture, <del>leisure</del> and tourism.</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</b>  <del>Culture, Leisure and Heritage Strategy??</del>  Economic Regeneration Strategy  Housing Strategy  The plans and strategies which together comprise the Local Plan</p> <p><b>Service Areas</b>  Child Poverty *  <del>Environmental Health and Protection</del>  <del>Building Control</del>  <del>Economic Regeneration</del></p>	<p>Chief Executive, <del>Director of Finance and Policy</del>, Director of Children's and Joint Commissioning Services , Director of Regeneration and Neighbourhoods and Director of Public Health/<del>Assistant Director of Joint Commissioning Services and Chief Solicitor (1-4)</del></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> </ol>



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Regeneration Services Committee (Continued)	
<p> <a href="#">Housing Services</a>  <a href="#">Homelessness and Housing advice</a>  <a href="#">Public Protection</a>  <a href="#">Planning Services</a>  <a href="#">Housing Management</a> </p> <p> <a href="#">Adult Education</a>  <a href="#">Community Centres</a>  <a href="#">Culture &amp; Information Services:-</a> <ul style="list-style-type: none"> <li>• <a href="#">Libraries &amp; Community Hubs</a></li> <li>• <a href="#">Museums &amp; Art Gallery</a></li> <li>• <a href="#">Theatre &amp; Arts Development</a></li> <li>• <a href="#">Strategic Events &amp; Independent Safety Advisory Group</a></li> <li>• <a href="#">Tourist Information &amp; Box Office</a></li> <li>• <a href="#">Leisure Centre management</a></li> <li>• <a href="#">Sport &amp; Physical Activity</a></li> <li>• <a href="#">Carlton Outdoor Education Centre</a></li> <li>• <a href="#">Outdoor Activities &amp; Summerhill</a></li> <li>• <a href="#">Primary Swimming</a></li> </ul> </p> <p> <a href="#">Planning and Development</a> <ul style="list-style-type: none"> <li>• <a href="#">Development Control</a></li> <li>• <a href="#">Local Plans</a></li> <li>• <a href="#">Building Control</a></li> <li>• <a href="#">Strategic Housing</a></li> </ul> </p> <p> <a href="#">Strategic Asset Management</a> <ul style="list-style-type: none"> <li>• <a href="#">Estates</a></li> <li>• <a href="#">Housing Regeneration and Management</a></li> <li>• <a href="#">Economic Regeneration</a></li> <li>• <a href="#">Business Support</a></li> <li>• <a href="#">Regeneration Projects</a></li> <li>• <a href="#">Culture</a></li> <li>• <a href="#">Art Gallery and Museum</a></li> <li>• <a href="#">Town Hall Theatre</a></li> <li>• <a href="#">Borough Hall</a></li> <li>• <a href="#">Culture and Events.</a></li> </ul> </p> <p> <a href="#">Learning and Skills</a> <ul style="list-style-type: none"> <li>• <a href="#">Adult Education</a></li> <li>• <a href="#">Hartlepool Working Solutions</a></li> </ul> </p>	<ol style="list-style-type: none"> <li>Approval of Departmental service plans.</li> <li>Strategic service level financial and performance monitoring.</li> <li><a href="#">In consultation with Chair of Committee, s</a>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>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>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>Improvement plans and other key reports.</li> <li>External Audit and other inspection reports on service and non-strategic corporate matters.</li> </ol>

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<b>Regeneration Services Committee (Continued)</b>	
<p>Tees Archaeology;-</p> <ul style="list-style-type: none"> <li>• Historic Environment Record (HER)</li> </ul> <p>Conservation areas/listed buildings - Conservation Grant Scheme</p>	<p>9. Allocations, scheme designs and specifications within agreed programmes of works.</p> <p>10. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee</p> <p>Assistant Director (Regeneration and Economic Growth) in consultation with the Chair of Regeneration Services Committee to approve conservation grants on the Council's Conservation Grant Scheme</p>

<b>Neighbourhood Services Committee</b>	
<b>Membership:</b>	<b>7</b> <b>Councillors:</b> <b>S Akers-Belcher (Chair)</b> <b>Beck (Vice Chair)</b>  <b>Plus Councillors:</b> <b>Belcher, Cassidy, James, Loynes and T Richardson</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTION</b>	<b>DELEGATION</b>
1. Responsible for waste and environmental services, coastal protection and flood defence, transport and traffic infrastructure including highways and traffic management, building design and construction <del>and community safety</del> <u>public protection and trading standards.</u> 2. To recommend schemes for the general improvement of the area from a Ward Member budget specifically allocated for this purpose. 3. Responsibility for the formulation, development and implementation of the Policy Framework, other Strategies and Plans and service areas as detailed below.  <b>Policy Framework</b> Clean and Green Strategy Climate Change Strategy Local Transport Plan <u>Community Safety Plan (moved to F and P Cttee)</u>	Director of Regeneration and Neighbourhoods – Approval of Ward Member Budget submissions  Chief Executive, <u>Director of Finance and Policy</u> , Director of Regeneration and Neighbourhoods and Director of Public Health/ <u>Assistant Director of Joint Commissioning Services and Chief Solicitor (1-4)</u>  1. Variations to existing policies and procedures together with new policies/procedures which do not have significant service or corporate impact.

Neighbourhood Services Committee (Continued)	
<p><b>Service Areas</b>  Cemeteries and Crematorium  Highways and Traffic  Street Lighting  Car Parking  School Crossing Patrol  Road Safety  Engineering Design and Management  Emergency Planning Unit  Parks and Countryside  Waste and Environment  Community Safety (moved to F and P Cttee)  Building Design and Construction  Environmental Health and Protection</p>	<ol style="list-style-type: none"> <li>2. Approval of Departmental service plans.</li> <li>3. Strategic service level financial and performance monitoring.</li> <li>4. <u>In consultation with Chair of Committee, s</u>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 and other inspection reports on service and non-strategic corporate matters.</li> <li>9. Allocations, scheme designs and specifications within</li> </ol>

	agreed programmes of works.
<b>Neighbourhood Services Committee</b> (Continued)	
	10. Policies, plans and strategies which are not part of the budget and policy framework or otherwise reserved to a Policy Committee.

<b>Audit and Governance Committee</b>	
<b>Membership:</b>	<p>7 Members of the Authority (chair and vice-chair to be a Member not in the majority group and comprising Members not on Finance and Policy Committee).</p> <p><b>Councillors:</b>  <b>Loynes (Chair)</b>  <b>Tennant (Vice Chair)</b></p> <p><b>Plus Councillors:</b>  <b>Beck, Belcher, Cook, Hall and Hamilton</b></p> <p>Plus (Independent Persons) 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</u><u>Determining the</u></li> </ol>	



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<a href="#">arrangements</a> for appointment of the External Auditor.	
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<b>Audit and Governance Committee (Continued)</b>	
<p>3. Monitoring audit performance by including reporting schedules and action on recommendations.</p> <p>4. Power to approve Authority's statement of accounts and Annual Governance Statement</p> <p>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.</p> <p>6. Consider the overall effectiveness of the Council's corporate governance arrangements, risk management and anti-fraud and anti-corruption arrangements and to seek assurance that action is taken on risk related issues identified by internal and external audit.</p> <p>7. Functions relating to the scrutiny of contracts.</p> <p>The monitoring of contracts (at the discretion of the Committee) subject to the formal quotation and tendering procedures under the Council's Contract Procedure Rules.</p> <p>8. Making appointments to the Independent Remuneration Panel as established under the provisions of the Local Government Act 2000.</p> <p><b>STANDARDS</b></p> <p>9. Promoting and maintaining high standards of conduct by Members and Co-opted members of the Authority.</p>	

<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><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 there under and associated guidance.</p>	<p>Chief Solicitor acting as the Council's Monitoring Officer</p> <p>Chief Solicitor acting as the Council's Monitoring Officer</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>Personnel Sub-Committee</p> <p>Personnel Sub-Committee</p>

<b>Personnel Sub-Committee</b>	
<b>Membership:</b>	Three members selected from a rota of Audit and Governance Committee Members maintained by the Democratic Services Team Manager. <del>The member of any Sub-Committee should not include both the Chair and Vice-Chair of the Audit and Governance Committee at the same time.</del>
<b>Quorum:</b>	3
<b>FUNCTION</b>	<b>DELEGATION</b>
<ol style="list-style-type: none"> <li>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> </li> <li>Functions relating to local government pensions, etc. relating to the determination of individual cases.</li> </ol>	<p>Director of Finance and Policy</p> <p>Individual early retirement decisions within the scheme with the agreement of the Chief Executive Officer and/or in consultation with the appropriate Director.</p>

<b>North and Coastal Community Forum</b>	
<b>Membership:</b>	<p>Elected representatives of the following Wards: De Bruce, Hart, Headland and Harbour, Jesmond and Seaton</p> <p>Chair: Cllr Beck Vice Chair: Cllr Harrison</p> <p>Plus Councillors:</p> <p>Belcher, Black, Brown, Cassidy, Cook, Fleming, Little, McLaughlin, Moore, Robinson, Smith, Tennant and Thomas</p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
1. To be a focal point for local consultation on the provision of Council Services and neighbourhood issues.	

<b>South and Central Community 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: Cllr Marshall Vice Chair: Cllr Lindridge</p> <p>Councillors: C Akers-Belcher, S Akers-Belcher, Barclay, Buchan, Cranney, Hall, Hamilton, Hunter, James, Lauderdale, Loynes, <b>Martin-Wells</b>, Morris, C Richardson, T Richardson and Trueman</p>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
1. To be a focal point for local consultation on the provision of Council Services and neighbourhood issues.	

<b>Licensing Committee</b>	
<b>Membership:</b>	<b>12</b> <b>Councillors:</b> <b>Martin Wells</b> (Chair) <b>Cook</b> (Vice Chair)  <b>Plus Councillors:</b>  <b>Barclay, Beck, Brown, Buchan, Fleming, Hall, Hamilton, Hunter, Morris and T Richardson.</b>
<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>Director of Regeneration and Neighbourhoods &amp; <del>Director of Public Health/Assistant Director of Joint Commissioning Services</del></p> <p>Power to carry out all of the functions of the Committee with the exception of the power to refuse, revoke or suspend any licence or registration.</p> <p>Power to refuse, revoke or suspend any licence or registration in cases where eligibility criteria are not met or in cases where there is judged to be a clear risk to the well-being of the public which needs to be addressed as a matter of urgency.</p>

<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 (Continued)</b>	
<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>11</b> <b>Councillors:</b> <b>Cook (Chair)</b> <b>Brown (Vice Chair)</b>  <b>Plus Councillors:</b> <b>S Akers-Belcher, Barclay, Belcher, Buchan, Fleming, James, Loynes, Martin-Wells and Morris</b>
<b>Quorum:</b>	<b>5</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 has a significant adverse impact outside of established policy guidelines.</li> <li>iii) the refusal of an application or refusal of an application relating to a prior notification in consultation with the Chair of the Committee (or in the event that the Chair is not available the Vice Chair of the Committee).</li> </ol> </li> </ol>

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

<b>Planning Committee (continued)</b>	
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
	<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>

<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 and Development 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.

<b>Safer Hartlepool Partnership</b>	
<b>Membership:</b>	<ul style="list-style-type: none"> <li>• *Two Elected Members, including the Leader of the Council</li> <li>• *Chief Executive, Hartlepool Borough Council</li> <li>• *Director of Regeneration and Neighbourhoods, Hartlepool Borough Council</li> <li>• *<del>Head of Community Safety and Engagement</del><u>Assistant Director, Environment and Neighbourhood Services</u> , Hartlepool Borough Council</li> <li>• *Neighbourhood Partnership and Policing Command, Cleveland Police</li> <li>• *Youth Offending Board - Chair of Management Board</li> <li>• *Representative of Hartlepool and Stockton on Tees Clinical Commissioning Group</li> <li>• *Head of Area, Cleveland National Probation Service</li> <li>• *Director of Operations, Durham Tees Valley Community Rehabilitation Company</li> <li>• *Cleveland Fire Authority - District Manager</li> <li>• Director of Public Health/<del>Assistant Director of Joint Commissioning Services</del>, Hartlepool Borough Council</li> <li>• Office of the Police and Crime Commissioner</li> <li>• VCS Representative – Chief Executive, Safe in Tees Valley</li> <li>• Thirteen Group – Director of Customer Support</li> <li>• Director of Children's and Joint Commissioning Services, Hartlepool Borough Council</li> <li>• <del>Magistrates Court – Chair of the Bench</del></li> <li>• <u>Director of Adult and Community Services</u></li> </ul>

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	<i>* indicates Responsible Authority member</i>
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<b>Safer Hartlepool Partnership (Continued)</b>	
<b>Quorum:</b>	3 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>Anti-Social Behaviour Strategy  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  Reducing Reoffending Strategy  Community Cohesion Framework  Troubled Families Programme</p>	

Health and Wellbeing Board	
<b>Membership:</b>	<b>Prescribed Members:</b>  Elected Members, Hartlepool Borough Council*, including the Leader of the Council and Chair of Children's Services Committee(4); Representatives of Hartlepool and Stockton-on-Tees Clinical Commissioning Group (2)**; Director of Public Health/ <del>Assistant Director of Joint Commissioning Services</del> , Hartlepool Borough Council (1); Director of Children's and Joint Commissioning Services, Hartlepool Borough Council (1) Director of Adults and Community Based Services, Hartlepool Borough Council (1); Representatives of Healthwatch (2).  <b>Other Members:</b>  Chief Executive, Hartlepool Borough Council (1); Director of Regeneration and Neighbourhoods, Hartlepool Borough Council (1); Representative of the NHS England Representative of Hartlepool Voluntary & Community Sector (1); Representative of Tees, Esk and Wear Valley NHS Trust (1); Representative of North Tees and Hartlepool NHS Trust (1); Representative of Cleveland Police (1); Representative of GP Federation (1); Representative of Head Teachers (1); Observer – Representative of Audit and Governance Committee; Hartlepool Borough Council (1)  <u>Observer – Representative of North East Culture Partnership</u>

\* 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>	
<b>Quorum:</b>	5 prescribed Members with at least 1 representative from each of the 3 prescribed Member organisations
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<p>Responsibility for the preparation and implementation of a Health and Wellbeing Strategy for the Borough.</p> <p>Responsibility for ensuring the development and use of a comprehensive evidence based Joint Strategic Needs Assessment (JSNA) for Hartlepool and that a pharmaceutical needs assessment is undertaken.</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>	

<b>Appointments Panel</b>	
<b>Membership:</b>	<b>8</b> <b>Leader of the Council, Councillor</b> <b>C Akers-Belcher (Chair)</b> <b>Ceremonial Mayor, Councillor</b> <b>Barclay</b> <b>Plus Councillors:</b> <b>Black, Cook, Cranney, James,</b> <b>Loynes and Tennant</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
1. To exercise those functions as set out within the Officer Employment Procedure Rules (Part 4 of the Constitution refers).	

<b>Constitution Committee</b>	
<b>Membership:</b>	<b>9</b> <b>Leader of the Council, Councillor</b> <b>C Akers-Belcher (Chair)</b> <b>Ceremonial Mayor, Councillor</b> <b>Barclay</b> <b>Plus Councillors:</b> <b>Cook, Fleming, James, Loynes,</b> <b>Marshall, Moore and C Richardson</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
To review, monitor, and where necessary, recommend changes to the Constitution to full Council, as set out in Article 15, so that the aims and principles of the Council's Constitution are given full effect.	Chief Solicitor in the capacity of Monitoring Officer to present the Committee's recommendations for the consideration of Council.

<b>Civic Honours Committee</b>	
<b>Membership:</b>	<b>5</b> <b>Co-opted Member:</b>
<b>Quorum:</b>	<b>3</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
<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 and Honorary Alderwoman 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>	

## **8. Decision Making by Joint Bodies**

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

- The North East Procurement Organisation via the Collaborative Procurement Sub-Group
- 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 Director of Finance and Policy, 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 Director of Finance and Policy.
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 Director of Finance and Policy 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 and this does not commit the Council to recurring expenditure commitments.



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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**

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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 Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.
8. Exercise the powers to make a Community Protection Notice under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.
9. To act as the Council's representative on such 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.

#### **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.
4. To receive and record declarations of hospitality received from Officers.

#### **Director of Finance and Policy**

1. To exercise all of the powers of the Chief Executive under the Constitution, in the absence of the Chief Executive.
2. 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.
3. 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 the Chief Executive, Directors/Chief Officers as appropriate.
4. The arrangement of insurance cover and settling of claims within the framework of the approved Insurance Strategy.
5. To administer the billing and collection of Council Tax and Non-Domestic Rates in accordance with the Local Government Finance Acts 1988 and 1992.
6. 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.
7. 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.
8. To determine applications in respect of empty allowances for part-occupation of non-domestic hereditaments under Section 44A of the Local Government Act 1988.
9. To make proposals for the alteration of the Local Valuation List and to lodge appeals against decisions of the Valuation Tribunal and Lands Tribunal.
10. To take Court proceedings for the recovery of, Council Tax, Non-Domestic Rates and Sundry Debts.

11. To write off irrecoverable Council Tax, Non-Domestic Rates and other irrecoverable debts which are uneconomic to collect, within the approved limit of £1,000.
12. To manage the borrowing, financing and investment requirements of the Council in accordance with approved council policy.
13. To make all necessary banking arrangements on behalf of the Council.
14. 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.
15. To administer and grant Council Tax support to working age adults under the approved Local Council Tax Support Scheme.
16. To determine sanctions in fraudulent benefit cases in accordance with the Social Security Administration Act 1992.

#### **Director of Children's and Joint Commissioning Services**

1. Exercise responsibilities and duties in order to promote and safeguard the interests and well being of children, for whom the Local Authority has a social services function.
2. Agree child 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.
3. Determine contracts and arrangements for social care services relating to children and adults 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.
4. Establish and operate registers of children in need, condition or service.
5. Exercise duties as Responsible Individual and matters relating to registration and operation of social care services in connection with children.
6. 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.

7. 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.
8. Exercise responsibilities and duties conferred as or exercisable by the Local Authority in their capacity as Local Education Authority.
9. Determine:
  - Whether to make an assessment of a child's Special Educational Needs and Disability (SEND).
  - Whether to make a plan for SEND 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 SEND 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.
10. 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.
11. 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.
- ~~12. 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.~~
13. Exercise responsibilities and duties conferred as or exercisable by the Local Authority in their capacity as Local Education Authority.
14. 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.

15. 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.
16. To administer and grant Local Welfare Support grant payments.
17. In consultation with the Chair, to authorise works where an emergency (eg risk of school closure) or a significant risk to health and safety is likely.~~To authorise works where an emergency eg. Risk of school closure, or a significant risk to health and safety is likely.~~

#### **Director of Adults and Community Based Services**

1. Exercise responsibilities and duties in order to promote and safeguard the interests and well being of 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 adult 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 Care Act 2014 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 relating to adults 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 adults in need, condition or service.

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7. Exercise duties as Responsible Individual and matters relating to registration and operation of social care services in connection with adults.

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### **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.
4. To exercise the Council's functions in respect of dangerous and dilapidated buildings and other structures including authorising service of Notice under the Public Health Acts 1936 and 1961 and the Building Act 1984.
5. To determine all forms of planning and other applications under Part III and Part VIII and Part VIII (Chapter II) of the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning Act 2008 or under any related secondary legislation except those reserved to the Planning Committee.
6. To undertake the Council's powers and duties in relation to high hedge complaints under the Anti-Social Behaviour Act 2003.
7. 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)).
8. Exercise responsibilities in relation to applications for Child Safety Orders under Section 11 of the Crime and Disorder Act 1998.
9. Power to apply for an Injunction to Prevent Nuisance and Annoyance (IPNA) and Criminal Behaviour Orders (CBOs) under Parts 1 and 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.
10. To respond to any Police consultation in respect of the making by the Police of a Dispersal Order under Part 3 of the Anti-Social Behaviour, Crime and Policing Act 2014.
11. Power to designate an area as a Public Space Protection Order and to undertake such consultation in respect thereof under

Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

12. Exercise responsibilities in consultation with the Chief Solicitor in relation to Drink Banning Orders under the Violent Crime Reduction Act 2006.
13. 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.
14. 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.
15. To exercise those functions and responsibilities in relation to the seizure of stray dogs under Part VIII of the Environmental Protection Act 1990 and such other ancillary and related powers under the Act.
16. 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.
17. Where applicable the power to designate an area as a Public Space Protection Order and to undertake such consultation in respect thereof under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.
18. To exercise the Council's functions with regard to temporary markets under Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.

**Director of Public Health/~~Assistant Director of Joint~~  
~~Commissioning Services~~**

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.

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3. To prepare an Annual Report on the health of the local population and for the Council to publish that report.
4. Responsibility relating to pharmaceutical needs assessment and consultation requirements thereon (including but not limited to the preparation, maintenance and publication of required pharmaceutical and other lists and arrangements for applications in respect thereof)

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## CODE OF CONDUCT FOR COUNCILLOR MEMBERS AND CO-OPTED MEMBERS

### INTRODUCTION

This Code of Conduct is a key part of the Authority's discharge of its statutory duty to promote and maintain high standards of conduct by its Members, Co-opted Members and Independent Persons. The code is part of the Council's Constitution and is to be considered in conjunction with other Codes of Conduct included in Part 5 of the Constitution, particularly the protocol on Member/Officer relations.

This code applies to you as a Member of Hartlepool Borough Council and when you act in your role as a Member it is your responsibility to comply with the provisions of this code. The code will also have application to voting co-opted members and to those Independent Persons appointed to Standards Committee the Audit and Governance Committee.

You are a representative of this Authority and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

#### Interpretation

In this Code;

"Disclosable Pecuniary Interest" has the meaning and description as detailed in the Schedule to this Code of Conduct.

"Meeting" means any meeting of;

- (a) the Authority;
- (b) any of the Authority's Committees, Sub-Committees, Joint Committees or Area Committees;
- (c) whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.

"Member" includes a co-opted member and any appointed Member.

"Co-opted Member" means any person who is a member of any committee or sub-committee of the Authority with a right to vote but who is not one of its Elected Members.

~~This Code is adopted through the requirement for Hartlepool Borough Council to promote and maintain high standards of conduct by its Members, under Section 27 of the Localism Act, 2011. The Code has application to those "principles of public life" as set out below under paragraphs (i) — (vii) as specified under the Localism Act, 2011 and the Council has decided to incorporate the additional principles as set out within paragraphs (viii) — (x).~~

#### NOLAN PRINCIPLES OF PUBLIC LIFE

This code is adopted through the requirement for Hartlepool Borough Council to promote and maintain high standards of conduct by its Members, under Section 27 of the Localism Act, 2011. The code has application to those “principles of public life” as set out below under paragraphs (i) – (vii) as specified under the Localism Act, 2011 and established by the Committee on Standards in Public Life, otherwise known as the Nolan Committee. In addition to these principles, the Council has decided to incorporate the additional principles as set out within paragraphs (viii) – (x).

Preamble      The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally and all people appointed to work in the civil service, local government, the police, courts and probation services, Non Departmental Public Bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

#### **(i) SELFLESSNESS**

Holders of public office should act solely in terms of the public interest.

#### **(ii) INTEGRITY**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**(iii) OBJECTIVITY**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**(iv) ACCOUNTABILITY**

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

**(v) OPENNESS**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**(vi) HONESTY**

Holders of public office should be truthful and declare any private interests which might affect their work for the Council.

**(vii) LEADERSHIP**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**(viii) RESPECT FOR OTHERS**

Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's Statutory Officers and its other employees.

**(ix) DUTY TO UPHOLD THE LAW**

Members should uphold the law and, on all occasions act in accordance with the trust that the public is entitled to place in them. This principle (which is to have general application) is intended to apply through a Member's election and their acceptance of the office of Councillor/Member and following the appointment of a Co-opted Member to the Authority.

**(x) PERSONAL JUDGEMENT**

Members may take account of the view that others, including their political groups, but should reach their conclusion on the issues before them and act in accordance with those conclusions.

As a Member your conduct will in particular address the statutory principles of this Code of Conduct, as set out above by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me – and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a Member/co-opted member of this Authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional Officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other Members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public and engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

[Extracted from the Local Government Association 'Template Code and Guidance Note on Conduct'.]

## GENERAL OBLIGATIONS

1. When acting in your role as a Member of the Authority:
  - 1.1 You must treat others with respect.
  - 1.2 You must not conduct yourself in a manner which is contrary to the Authority's duty to promote and maintain high standards of conduct amongst its Members.
  - 1.3 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe or are reasonably aware, is of a confidential nature, except where –
    - (i) you have the consent of the person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is –
      - (a) reasonable and in the public interest; and
      - (b) made in good faith and in compliance with the reasonable requirements of the Authority; and
      - (c) you have consulted with the Authority's Monitoring Officer prior to its release.
  - 1.4 You must not prevent any other person from gaining access to information to which that person is entitled by law.

- 1.5 **Members should be responsible for the Health and Safety of themselves, colleagues and officers of the Council.**

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- 1.6 Members should consider this code in conjunction with the Officer/Member protocol.

## 2. Resources

- 2.1 When using or authorising the use by others of the resources of the Authority: –
- 2.24 You must act in accordance with the Authority's reasonable requirements including the requirements of the Authority's applicable information technology policy and those related policies, copies of which have been provided to you and which are deemed to have been read;
- 2.32 You must ensure that such resources are not used improperly for political purposes (including party political purposes); and



2.43 You have regard to any applicable Code of Recommended Practice on Local Authority publicity issued under Section 4 of the Local Government Act, 1986.

### 3. Use of Social Media by Members

3.1 The growing popularity of personal web logs (blogs) and social networking sites, such as Facebook and Twitter, may raise issues for the Council, particularly where Members choose to write about their work and the Council in which they are appointed.

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3.2 Internet access for personal use is at the Council's discretion and must not affect a Member's performance or productivity when at work as a Member.

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3.3 The Council may monitor the use of the internet for legitimate business reasons, including compliance with this Code. By using the internet Members are deemed to have consented to the monitoring, recording and auditing of internet use.

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#### You must:

- ✓ adhere to the council's **Personal Information Security Policy** and the **Corporate Social Media Policy** when using social networking sites for personal use.
- ✓ make it clear when posting information or comments on social networking sites that any personal views expressed do not represent those of the Council.
- ✓ inform the Monitoring Officer within good time if you have acted inappropriately when using social media, even if the mistake has since been resolved.
- ✓ report to the Monitoring Officer any instances where you believe another Member has posted inappropriate or offensive comments on social networking sites.

#### You must not:

- \* post information on social networking sites which is confidential to the Council, its suppliers, customers or contractors.
- \* post entries on social networking sites about colleagues, managers/officers, customers, contractors, service services or any other person linked to the Council which are derogatory, defamatory, confidential, discriminatory or offensive in any way or which could bring the Council into disrepute.

3.4 Member's should ensure that they do not publish or incite or allow anyone else to publish material which may criticise a fellow Member, officer or body which would bring the Council into disrepute.

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3.5 Further guidance on social media is attached as Appendix 1 to this Code.

### 34. REGISTRATION OF INTERESTS

43.1 You must register in the Authority's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means:

- (a) any Disclosable Pecuniary Interest as set out in **Appendix 42**; or
- (b) any other interest held by you as set out in **Appendix 23**.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Authority; and
- any change taking place in your registerable personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)

34.2 Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

### 54. NON-REGISTERABLE INTERESTS

54.1. ——— You will have a non-registerable personal interest when you attend a meeting of the Council, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 465.2 to a greater extent than most inhabitants of the area affected by the decision.

54.2 The persons referred to in paragraph 45.1 are:

- (a) a member of your family;
- (b) any person with whom you have a close association;
- (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

(a) "A member of your family" means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your

grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.

(b) You have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

- 54.3 When you attend a meeting of the Council or one of their committees or sub-committees, and you are aware that you have a non-registerable interest in an item of business (as defined in paragraph 45.1) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

## 56. NON-PARTICIPATION IN AUTHORITY BUSINESS

- 56.1 When you attend a meeting of the Council, or one of their committees or sub-committees, and you are aware that the criteria set out in paragraph 56.2 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must:

- (a) Declare that fact to the meeting;
- (b) Not participate (or further participate) in any discussion of the matter at the meeting;
- (c) Not participate in any vote (or further vote) taken on the matter at the meeting; and
- (d) Leave the room whilst the matter is being discussed.

- 56.2. The criteria for the purposes of paragraph 56.1 are that:

- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; and either
- (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 54.2 or in any of your register entries; or
- (c) The matter concerns a request for any permission, licence, consent or registration sought by yourself or any of the persons referred to in paragraph 45.2 or in any of your register entries.

- 56.3. If an Authority function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by you in that way which meets the criteria set out in paragraph 56.2, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraphs 56.1 to 56.3 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)

56.4. Paragraphs 56.1 to 56.3 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Authority:

- (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
- (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;
- (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members; and
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

## 7. PRE – DETERMINATION OR BIAS

67.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as Member, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

7.7.2 At all meetings, when making a decision, you need to consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

## 8. STATUTORY SCRUTINY COMMITTEE MEETINGS

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88.1. In any business before Statutory Scrutiny Committee of your Authority (or of a Sub-Committee of such a Committee) where –

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees; and
- (b) at the time the decision was made or action was taken, you were a member of a Committee, Sub-Committee, Joint Committees or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

you may only attend a meeting of the Statutory Scrutiny Committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room thereafter, if requested to do so by the Statutory Scrutiny Committee.

## 9. OFFENCES

**9.1**—Under Section 34 of the Localism Act, 2011, a person commits an offence if, without reasonable excuse, that person fails to comply with an obligation imposed on them in respect of the disclosure of pecuniary interests on taking office and must disclose that interest (other than in the case of certain sensitive interests, to which a different procedure applies) or participate in any discussion or votes or takes any steps in contravention of the above. The person will therefore commit an offence if they provide information that is false or misleading and the person knows that that information is false or misleading or is reckless as to whether the information is true and not misleading. A person guilty of an offence under this Section is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000) and a Court may order the disqualification of that person from being or becoming a Member or Co-opted Member of a relevant authority for a period not exceeding five years.'

## Appendix 1

### Guidance on use of Social Media by Members

Social media is a collective term used to describe easy ways to create and publish on the internet. People generally use the term to describe how organisations and individuals share content – text, video and pictures – and create conversations on the web.

**It has grown substantially over recent years as a means of communicating and sharing information.** Popular sites include Twitter, Facebook, Pinterest, Blogger, Wordpress and YouTube

The important thing to remember about social media is that it's social. It's about communication.

Training is available via the Elected Members Development Programme which explains what social media is and how you can protect yourself when using it.

#### 1. Maintaining good 'netiquette'

Members, just like anyone, should take due regard of internet security and to ensure that communications remain proper and appropriate, the following practical points may assist:

- Make your commenting policy clear

You will need to take note of the comments that other people make on your site. It may be a fine line to tread, but if you allow offensive or disrespectful comments to stand on your site then it can put off other members of your community, and you may even be called to account under the Code of Conduct for Members. For blogs, the easiest way to handle this is to moderate comments and to state clearly on your site that you're doing so and reasons why comments may be rejected. For Facebook or other social networks, including multi-media sites like YouTube and Flickr where people can post public or semi-public messages to your profile, you will need to regularly check on messages (you can be notified by email) or disable message posting.

- Allow disagreement

Some comments may not accord with your views, but on the other hand deleting the comments of people who disagree with you will backfire. You cannot stop them from posting the same comment elsewhere, then linking back to your site and saying you are gagging those who disagree with you.

- Think before you publish

Words cannot be unspoken and even if you delete a hastily fired off blog post or tweet, it will probably have already been read and will be referenced or duplicated in places on the web beyond your reach.

- “Following” and “friending”

Some of the terminology in social media, like ‘following’ or ‘friending’ can imply an intimacy that’s not really there. Both terms just mean you have linked your account to someone else so you can share information. Experienced internet users are used to this, but some members of the public may feel uneasy when their Member begins following them on Twitter before establishing some sort of online relationship. Some Members wait to be followed themselves first.

Do make use of other communication functions that social media allows you. Twitter’s ‘list’ function, for example, can help you to follow local people in a less direct way. Bloggers are, however, almost invariably happy for you to link to them.

You must think carefully about who you request to be ‘friends’ with or accept ‘friend’ requests from. Requesting or accepting, for example, an officer of the Authority as a ‘friend’ on a social network site must not compromise the professional and impartial relationship between officers and elected members. Generally this should be avoided.

- If you make a mistake:

Social media is transparent, the best bloggers admit mistakes rather than try to cover them up (which is not possible online). Amending your text and acknowledging your mistake – perhaps by putting a line through the offending words and inserting a correction, or providing an update section at the bottom of a blog post - shows you are not pretending it never happened, and it’s much better than just deleting it when dealing with online misfires.

- Avoid the difficult users

As you begin to use social media, you’ll find some argumentative characters out there. Don’t get bogged down. You don’t have to respond to everything. Ignore if necessary.

## 2. Legal Considerations

In the main, Members have the same legal duties online as anyone else (see below), but failures to comply with the law may have more serious consequences. There are some additional duties around using a Member’s website for electoral campaigning and extra care needs to be taken when writing on planning, licensing and other quasi-judicial matters.

### a) Libel

If you publish an untrue statement about a person which is damaging to their reputation they may take a libel action against you. This will also apply if you

allow someone else to publish something libellous on your website if you know about it and don't take prompt action to remove it. A successful libel claim against you will result in an award of damages against you.

#### b) Copyright

Placing images or text on your site from a copyrighted source (for example extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about, or seek permission in advance. Breach of copyright may result in an award of damages against you.

#### c) Data Protection

Avoid publishing the personal data of individuals unless you have their express written permission.

#### d) Bias and pre-determination

If you are involved in determining planning or licensing applications or other quasi-judicial decisions, avoid publishing anything on your blog that might suggest you don't have an open mind about a matter you may be involved in determining. If not, the decision runs the risk of being invalidated.

#### e) Obscene material

It goes without saying that you should avoid publishing anything in your blog that people would consider obscene. Publication of obscene material is a criminal offence.

#### f) Bullying and Discriminatory comments

Behaving in a discriminatory, bullying or harassing way towards any individual including making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, sexual orientation, religion or belief or age via social media by posting images or links or comments could, in certain circumstances, result in criminal sanction.

#### f) Electoral periods

The Electoral Commission requires that candidates provide a return of expenditure on any form of advertising or campaign literature and that includes web advertising. And there are additional requirements, such as imprint standards for materials which can be downloaded from a website. Full guidance for candidates can be found at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

While the above list is not exhaustive it does highlight some of the more obvious issues. If you are in any doubt, speak to the Monitoring Officer. Almost all of these



pitfalls can be avoided if your online content is objective, balanced, informative and accurate.

### 3. The Members' Code of Conduct

It is worth pointing out that Members can have 'blurred identities' when they have a social media account where they comment both as a Member and as a private individual.

For example you may have a Facebook account where you've posted about a great night out (in your personal/private capacity) and another time explained the Authority's position on pothole repair (in your Member capacity). It may be clear in your mind when you are posting in a private capacity or as a Member, but it could be less clear to others.

Such blurred identities might, for example, have implications where your views are taken as those of the Authority or political party, rather than your personal opinion. So it is important to be clear in your social media accounts/profiles, then you can be confident as to what you can and cannot say while you are representing the Authority or political party.

How you use your online identity will also determine how online content will be treated in respect of the Members' Code of Conduct. Members are expected to communicate politically. As explained above there is a difference between communicating on behalf of the Authority, for example blogging as an elected Mayor/Member or as a private citizen, and the former will be held to a higher standard than the latter.

The key to whether your online activity is subject to the Code of Conduct for Members is whether you are giving the impression that you are acting as a Member, and that is the case whether you are in fact acting in an official capacity or simply giving the impression that you are doing so.

One way to separate your personal/private business from your activities as a Member is to have two separate accounts. One for personal/private business and the other for Member activities. The latter account would have the title of Member in the profile name to clearly identify the role you are undertaking when using that account. This separation of accounts will assist in managing friends lists and the content of any tweets/post etc.

Aspects of the Members' Code of Conduct will apply to your online activity in the same way it does to other written or verbal communication you undertake. Members should comply with the general principles of the Code in what they publish and what they allow others to publish.

You will need to be particularly aware of the following sections of the Code:

- Treating others with respect. Avoid personal attacks and any disrespectful, rude or offensive comments.
- Refraining from publishing anything you have received in confidence.

- Ensuring you do not bring the Authority, or your Member role, into disrepute.

Further information in relation to this guidance is available from the Council's Monitoring Officer.

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## APPENDIX 24

### SCHEDULE – DISCLOSABLE PECUNIARY INTERESTS

A “disclosable pecuniary interest” is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or

longer.

#### Corporate tenancies

Any tenancy where (to M's knowledge) –

(a) the landlord is the relevant authority; and

(b) the tenant is a body in which the relevant person has a beneficial interest.

#### Securities

Any beneficial interest in securities of a body where –

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either –

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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

[Extract from 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, 2012]

**Appendix 32**  
**Other Registerable Personal Interests**

The other interests which you must register under paragraph 34.1(b) of the code are:

1. Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Authority;
2. Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
3. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as an elected or co-opted member of the Authority.

Note: These mean only your interests and not those of your spouse or civil partner

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## APPENDIX 2

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## REMOVED AND REPLACED FROM CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

### INTERESTS

3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests. However when performing your public role as a Member, you should act solely in terms of the public interest and should not act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
4. You are required to register “pecuniary” and such other interests as directed. A failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly provide false or misleading information about a pecuniary interest this will also be a criminal offence.
5. There will be a requirement for you to formally declare or register any gifts and hospitality to the Monitoring Officer over £25. *Further, you should also have regard to the following considerations;*
  - *you should not accept any gift or hospitality which might interfere with or be perceived as impacting on Council business or services,*
  - *you should not accept significant personal gifts from any contractor and/or outside suppliers or agents thereof,*
  - *you should only accept hospitality if there is a genuine need to impart information or to represent the Council (or a body to which you are appointed by Council) in the community*
  - *you should also be particularly sensitive to receiving gifts and/or hospitality which may relate to the timing of a decision which the Council may be taking which affects those from whom the gift and/or hospitality was received,*
  - *the advice of the Council’s Monitoring Officer should be obtained where necessary or desirable.*

#### (i) **Notification of Interests**

- (1) You must, within 28 days of –
  - (a) this Code being adopted by or applied to your Authority; or
  - (b) your election or appointment to office (where that is later);

notify the Monitoring Officer of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and The Relevant Authorities

(Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests, and

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

- (2) You have a personal interest in any business of your Authority where either –
  - (a) it relates to or is likely to affect –
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your Authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
    - (iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1) above, or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

**(ii) Disclosure of interests**

- (1) Subject to sub-paragraphs (2) to (5) below, where you have a personal interest described in paragraph (2) above or in paragraph (2) below in any business of your Authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) (A) You have a personal interest in any business of your Authority
  - (i) where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority



of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or

- (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.
- (B) In sub-paragraph (2)(A) (i), a *relevant person* is –
  - (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in paragraph (i) (2)(a)(i) or (ii).
- (3) Where you have a personal interest in any business of your Authority which relates to or is likely to affect a person described in paragraph (i) (2)(a)(i) or (i) (2)(a)(ii)(aa) above, you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest but, by virtue of paragraph (iv), sensitive information relating to it is not registered in your Authority's Register of Members' Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have a personal interest in any business of your Authority and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **(iii) Register of interests**

Any interests notified to the Monitoring Officer will be included in the Register of Interests.

A copy of the Register will be available for public inspection and will be published on the Authority's website.

### **(iv) Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the Register, copies of the Register that are made available for inspection and any published version of the Register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

**(v) Non participation in case of pecuniary interest**

- (1) Where you have a personal interest in any business of your Authority you also have a pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business –
    - (a) affects your financial position or the financial position of a person or body described in paragraphs **(i)** (2) or **(ii)** (2) ;or
    - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph **(ii)**.
  - (2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority –
    - a) You may not participate in any discussion of the matter at the meeting.
    - b) You may not participate in any vote taken on the matter at the meeting.
    - c) If the interest is not registered, you must disclose the interest to the meeting.
  - d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- Note:** In addition Council Procedure Rule 23 requires you to leave the room where the meeting is held while any discussion or voting takes place.
- (3) Where you have a pecuniary interest in any business of your Authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
  - (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your Authority in respect of –
    - (i) housing, where you are a tenant of your Authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent

governor of a school, unless it relates particularly to the school which the child attends;

- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to Members;
- (v) any ceremonial honour given to Members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

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**OFFICER/MEMBER PROTOCOL ON MEMBER/OFFICER RELATIONS****1 INTRODUCTION****2**

**1.1** Hartlepool Borough Council (the 'Council') expects high standards of conduct from its Members and Officers which are articulated throughout this document. This Protocol is designed to provide a guide to good working relations between Members and Officers. The Protocol is part of the Council's Constitution and is to be considered in conjunction with other Codes of Conduct included in Part 5 of the Constitution, particularly the Code of Conduct for Councillors and Co-opted Members and the Code of Conduct for Employees.

**1.2** All Councils are required to have an Officer/Member protocol included in the written Constitution. The matters which the protocol must cover are set out in the statutory framework and are therefore not within the discretion of the Council. The relevant matters to be addressed are set out below.

- Roles of Members.
- Roles of Officers.
- Principles underlying Member/Officer relations.
- Undue Influence.
- Relationships between Chairs/Members of the Policy and other Committees including Audit & Governance, Licensing and Planning Committees and Community Forums and Officers.
- Ceremonial Mayor.
- Officer relationships with party groups.
- Members in their ward role and Officers.
- Councillor access to documents and information.
- Members and Officers who are members of Outside Organisations and other bodies.
- Publicity material, media relations and press releases.
- Correspondence.
- Internet and Social Networking Use.
- Breaches of the protocol.
- Concluding comments.

**1.32** ~~Although Councils have discretion as to the exact nature of the provisions which they make under each of these headings, they must be in line with national requirements included in other codes, such as the Member Code of Conduct. Protocols are also expected to reflect accepted good practice e.g. in relation to promoting and maintaining high ethical standards and courteous behaviour.~~

**1.43** The protocol combines relevant topics covered in existing guidance for Members and Officers and statutory advice on the production of new Constitutions. It recognises and is consistent with other procedures/protocols included elsewhere in the Constitution, particularly the Articles in

Part 2 and the Responsibility for Functions in Part 3 which define particular roles for Members and Committees and the Rules of Procedure in Part 4, and provides a written statement of current practice and convention. Given the variety and complexity of Officer/Member relations, it does not seek to be comprehensive, but gives specific advice on issues which may arise and is intended to provide guidance on the approach to dealing with other issues of a similar nature. This protocol also applies where relevant to co-opted members of the Council.

## 2. ROLES OF MEMBERS

### 2.1 All ~~Councillors~~ Members will:

- i) Collectively be the ultimate policy-makers and determine the budget and policy framework operating at all times in accordance with the principles of decision making set out in Article 13 of the Constitution;
- ii) Represent their communities and bring their views into the Council's decision-making process, ie become the advocate of and for their communities;
- iii) Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- iv) Effectively represent the interests of their ward and of individual constituents;
- v) Be available to represent the Council on other bodies; and
- vi) Maintain the highest standards of conduct and ethics;
- ~~vii) Members may also belong to a political party and/or group represented on the Council;~~
- ~~viii) Members in positions which include the chairing of meetings, will seek to ensure that relevant codes are adhered to and all meeting participants, both Council and non-Council, behave courteously at all times.~~

### 2.2 The role of ~~Councillors~~ Members is fundamentally different to that of Officers. In addition to a decision making role as part of the Council and, where relevant, as part of a Committee or Sub-Committee, ~~Councillors~~ Members also have a responsibility to represent the interests of their ward and of individual constituents. This representative role may be carried out in a number of ways, and Officers will offer assistance to ~~Councillors~~ Members acting in a ward capacity. However, individual ~~Councillors~~ Members are not empowered to instruct Council Officers to take a particular course of action unless they are exercising properly authorised decision making powers, as set out in the Council's delegation scheme.

### 3. ROLES OF OFFICERS

#### 3.1 The Council's Senior Management Team (set out in Parts 3 and 8 of the Constitution) will:

- i) Provide professional, impartial advice to the Council and all of its constituent bodies as set out in Part 3 of the Constitution and subject to the Access to Information Procedure Rules in Part 4 of the Constitution.
- ii) Report to the Council or any of its constituent bodies on any matter judged to be in the Council's interests.
- iii) Undertake day to day and operational management of the services and functions for which the Council has given them responsibility and take any other decisions as allocated in this Constitution.
- iv) Determine when the Constitution requires decisions to be taken by ~~Councillors~~ Members and refer matters as required.
- v) Exercise the statutory responsibilities placed upon statutory and Proper Officers where the post held includes such responsibilities.
- vi) Provide informal support and assistance ~~to Councillors~~ Members within the scope of legislative requirements and this protocol.
- vii) Determine the detailed arrangements which will apply within their Departments for the provision of advice and support to Members by other Officers.
- viii) Authorise other Officers within their management control to act on their behalf as appropriate.
- ix) Respect the role that all Members play within the Council with particular consideration for the roles of the Leader, Ceremonial Mayor and Chairs of Committees.
- x) In all matters, Officers will give advice in accordance with their professional expertise and any relevant professional codes of conduct. Officers will not be required to reduce options, withhold information, or make recommendations which they cannot professionally support, to any body of the Council.

#### 3.2 Officers have a statutory responsibility to undertake day-to-day decision making and operational management of services within their area of responsibility. They also have additional decision making powers as set out in the delegation scheme contained in Part 3 of the Constitution. Officers are able to provide informal support and assistance to all ~~Councillors~~ Members. However both legislation and the Council's protocol place some limit on the support which may be provided, in order to take account of matters such as resource limitations and confidentiality issues. These limits are dealt with

further in the following sections and elsewhere in the Constitution, particularly in Part 4 - Rules of Procedure.

#### 4. PRINCIPLES UNDERLYING MEMBER/OFFICER RELATIONS

- 4.1 Mutual respect between Officers and Members is essential to good local governance. Inappropriate relationships between Officers and individual Members can damage the reputation of the Council as well as individuals and should be avoided. Officers are reminded of the guidance contained within section 3 of the Code of Conduct for Employees 'Political Neutrality'.

The following principles ~~are drawn from the existing national code and focus on those elements particularly relevant to the Member/Officer relationship.~~ They underpin the detail contained in individual sections which deal with specific aspects of Member/Officer relations.

- i) Members and Officers will treat each other with courtesy and respect at all times in both formal and informal situations.
  - ii) Council Officers will give impartial advice to the whole Council including all political groups, Committee and non-Committee Members. Formal recommendations will only be made to the body empowered to take the decision in question.
  - iii) Members and Officers will not seek to use their positions to exercise inappropriate influence e.g. to secure an improper advantage for themselves or any other person.
  - iv) Members and Officers will at all times observe the requirements of the Council's Constitution.
- 4.2 Amongst other things, this means that both Officers and Members will refrain from shouting, aggression, threats (either explicit or implied), and references, which could reasonably be perceived as insulting. Formal and informal situations encompass: formally constituted meetings either inside or outside of the Council, telephone conversations, personal contact, e-mail, letters or references in the media. It does not mean that Members and Officers may not hold or express differences of view, but that they should do so in accordance with accepted standards of courteous behaviour.

Additionally, in relation to issues within an Officer's area of responsibility, Members should recognise and respect the Officer's expertise and professionalism – failure to do so may place the Council at risk of a formal legal challenge and/or damage to its reputation. Officers' professional advice should not be ignored and should only be rejected for valid reasons. This does not mean that an Officer's recommendations are not open to question or examination, but an Officer's advice should not be rejected arbitrarily or for other than good reasons relevant to the issue in question. What amounts to a valid basis to reject advice cannot be generally defined other than as a

reasonable belief based on adequate grounds that the judgement of the Officer is flawed in some way material to the decision to be taken. The adequacy of the grounds will vary according to the nature of the issue and the degree of expertise involved in making the relevant judgement.

Providing an outcome which is satisfactory to an individual constituent or group of constituents does not, of itself, constitute a valid reason for rejecting professional advice – the decision must be based on an objective assessment of the issues relevant to the matter in question, public approval only being a determining factor when the merits and demerits are finely balanced.

## **5. UNDUE INFLUENCE**

- 5.1 In any dealings between Members and Officers, neither should try to take advantage of their position.**
- 5.2 In their dealings with Officers, Members should be aware that it is easy for Officers to be overawed and feel at a disadvantage. This can be even more so where Members hold leading roles. However, it is also possible for Members, particularly newer Members to be overawed by Officers. Members and Officers must always be mutually respectful regardless of their role within the Authority.**
- 5.3 Members must not attempt to influence any Officer to do things s/he has no power to do, or to work outside of normal duties.**
- 5.4 Apart from decisions that are clearly illegal, Officers should usually carry out decisions of Committee and Council. However, instructions should never be given to Officers to act in a way that is unlawful as ultimately this could damage the Authority's interests. Officers have a duty to express their reservations in this sort of situation, and the Monitoring Officer or Chief Finance Officer may get involved as they have a statutory duty to intervene where illegality or maladministration is possible. To assist Members in decision making they should be informed of all legal and financial considerations, and be warned of the consequences even if it is unpopular. If a Member has a concern that an Officer is not carrying out a particular Committee or Council decision, the Member concerned should draw this to the attention of the Chief Executive.**

## **6. RELATIONSHIPS BETWEEN CHAIRS/MEMBERS OF THE POLICY AND OTHER COMMITTEES INCLUDING AUDIT & GOVERNANCE, LICENSING AND PLANNING AND COMMUNITY FORUMS AND OFFICERS**

- 6.1 Relationships between Chairs/Members of Committees and Officers will operate in line with the relevant codes of conduct and the principles contained in the protocol.**



- 6.2 Members in positions which include the chairing of meetings, will seek to ensure that relevant codes are adhered to and all meeting participants, both Council and non-Council, behave courteously at all times.

## **POLICY COMMITTEES**

- 6.3 In making their decisions, Members of the Policy Committees must seek and have regard to the professional advice given by Officers. Members must at all times pay due regard to the advice given by Statutory Officers and be aware of, and take account of, their statutory responsibilities.
- 6.4 Members should respect the principle that Officers serve the full Council and therefore have responsibilities to its Policy, Regulatory and other Committees.
- 6.5 Members should at all times take full responsibility for their political decisions within the Council and as representatives on other agencies or bodies.
- 6.6 Members must follow all of the statutory and constitutional requirements governing the decision making process.
- 6.7 Members, Officers and representatives of outside bodies providing information to a Committee will be treated courteously at all times and will treat such individuals with courtesy and respect. MembersCouncillors asking questions will act in accordance with the Member Code of Conduct and the Contract Procedure Rules. It will be the responsibility of the Chair to ensure that members of the public and other non-Council attendees behave appropriately.
- 6.8 Directors and Chief Officers may be required to attend the Committee and may be asked questions as to policies and decisions. They may be required to explain advice given to Members and the objectives of policies. Comment should however, be consistent with the requirement for Officers to be politically neutral and Officers may not be held accountable for decisions taken by Members. Other Officers may attend the Committee at the discretion of their Director/Chief Officer in order to provide information which will assist. The Committee should not be used to address issues of the individual performance of employees. It will not be the purpose of any Committee to require Officers to personally account for their actions in circumstances where general management provisions including the appraisal and disciplinary processes may apply.
- 6.9 Although professional advice on Council services will generally be provided to a Committee from within the existing Officer structure, circumstances may arise where specific experience is unavailable in-house. Appropriate expertise may then be commissioned subject to budgetary provision being available.

- 6.10 At the request of another Committee a Policy Committee Chair may attend meetings to explain the objectives of policies and the reasons for their Committee's decisions, relevant to their remit.
- 6.11 A Committee may commission independent advice on matters outside of the Council's direct responsibility where budgetary provision exists and where it is either required or advisable and the Council's Statutory Scrutiny Officer has been duly consulted.
- 6.12 A Committee may invite, but not require, the attendance of representatives from other Councils or agencies.

## **REGULATORY AND OTHER COMMITTEES**

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

- 6.13 The Audit and Governance Committee may require a variety of information and advice in order to carry out their work effectively (particularly that relating to the undertaking and discharge of their statutory scrutiny functions) and mechanisms to ensure this is achieved are addressed in detail in other sections of the Constitution. However in planning their work the Audit and Governance Committee must recognise that Officers and outside agencies providing information and Members, Officers and outside agencies requested to attend Committee meetings, may have other commitments which may restrict their ability to meet the requests of the Committee within specified timescales. This is particularly the case where very detailed/complex information is requested or where a number of individuals are requested to attend a Committee meeting. The Committee should be conscious of such circumstances and plan, consider and programme their work accordingly.

### **(ii) Planning and Licensing Committees**

- 6.14 Particular issues arise in relation to the Planning and Licensing Committees, when Members are determining applications for permissions, licences etc. Although Members act in an administrative role in the Planning Committee and a quasi-judicial role in the Licensing Committee, similar issues arise regarding the status of Officers' recommendations on the merits of an application.
- 6.15 When acting in a quasi-judicial capacity (for example in relation to licensing), Members will pay particular regard to the requirements of natural justice and the procedural advice issued by the Monitoring Officer.
- 6.16 The Planning Committee through the Planning Code of Practice has endorsed the following principles:-

"Members are entitled to reject the Officer's advice but they should only do so on the basis of an objective consideration of the planning issues. Planning is not a defined science and frequently involves decisions based on

judgements relating to a wide variety of issues – traffic, appearance, character of the area, environmental impact etc. Members are entitled to bring their local knowledge into play in weighing considerations that often compete with each other. Their judgement on a particular issue may be different from that of the Planning Officer.

“However, the Committee must recognise the importance of factors such as:-

- the local planning scene as set out in the Local Plan;
- the national planning regime as set out in legislation and planning decisions and case law;
- the Council’s own guidance to developers;
- previous decisions of the Committee.

6.17 The Planning Officer’s advice will reflect these factors. Whenever Members depart from the Officer’s advice and recommendation they increase the potential for undermining the integrity of the local planning scene and the ability of the Committee as the Local Planning Authority to require and enforce relevant standards of development – in the interests of the community as a whole.”

6.18 The Licensing Committee in their licensing statement have endorsed the following principles: -

The role of the Officer in the context of the Licensing Committee’s consideration of applications presented to it for determination is to provide the information available to the Council to enable the Members to form their own judgement of the issues relevant to the application. The factual content of the information comprises the evidence presented on behalf of the Council. It is the practice for the Officer to make a recommendation whether the application should be granted or refused. The recommendation represents the Officer’s opinion, in the light of the information available in advance of the hearing and with the benefit of his/her professional training and experience.

6.19 However, as the proceedings of the Committee are quasi-judicial, the Committee would be acting improperly if it failed to pay due regard to information and evidence presented by the parties (applicant and/or objectors). The Committee are required to make a determination by reference to all the evidence presented to them at the hearing, and they are required to take note also of the evidence submitted by or on behalf of the parties (applicants and objectors). The Committee are entitled to, and should, form a view as to the weight they attach to the evidence presented.

6.20 In assessing the weight to be given to the evidence, the Committee is also entitled to recognise that information presented by the Officer and the Officer’s recommendations have the particular merit of being: -

- objective;
- based on a knowledge of the local licensing scene as a whole;

- informed by the previous decisions of the Committee;
- aimed towards the benefits to the community as a whole and not influenced by the benefits to the applicant, or his/her business or an objector or a section of the community.

### **(iii) Community Forums and other Committees**

- 6.21 Members and Officers providing information to Community Forums will be treated courteously at all times and will treat the Forum with courtesy and respect. It will be the responsibility of the Forum Chair to ensure that members of the public and other non-Council attendees behave appropriately.
- 6.22 Members and Officers attending Community Forums (and Face the Public Events) will seek to assist Forums by providing information about Council policy and activities. It will not however, be the purpose of a Forum to address issues of individual performance of employees of the Council. Officers may not be held accountable for decisions taken by Members.
- 6.23 Policy Committee Members who accept invitations to attend Community Forums, will, upon request, seek to explain the objectives of Council policies and actions insofar as they are relevant to their Policy Committee.

## **7. THE CEREMONIAL MAYOR**

- 7.1 The Ceremonial Mayor will act as the Council's first citizen attending civic and ceremonial events and carrying out the role and function as established in Part 2, Article 5 - The Ceremonial Mayor. In fulfilling the duties of the role, the Ceremonial Mayor:
- i) shall expend civic funds reasonably and within financial limits, subject to the advice of the Chief Executive.
  - ii) shall have priority in use of the civic vehicle, but at all other times this should be made available for other council duties, subject to the agreement of the Chief Executive.
  - iii) will be entitled to wear the chain of office.
  - iv) will, where more than one civic function is occurring at the same time, determine which function if any, should be accepted/carried out by the Deputy Mayor.
  - v) shall seek to ensure that the business of the Council is conducted effectively and that any procedural difficulties are discussed with the Chief Executive and the Council's Monitoring Officer.

## 8. OFFICER RELATIONSHIPS WITH PARTY GROUPS

- 8.1 No Officer of the Council shall attend any party political group as an employee of the Council without the agreement of the Chief Executive and party political groups will not have the power to require attendance of individual Officers unless agreed by the Chief Executive.
- 8.2 Officers attending any group meetings, shall not divulge to other groups the contents of any discussion or debate which takes place.
- 8.3 No reports should be produced by Officers specifically for party groups without the express permission of the Chief Executive and Officers shall not conduct research for party political purposes.
- 8.4 Officers will provide publicly available attendance details relating to individual Councillors-Members to group officials from the same party or in the case of other parties (or independents) with the authorisation of the Member concerned. Members will always be notified that such information is being provided.
- 8.5 Officers are not permitted to allow the use of Council resources for party political purposes, other than where such use has been properly authorised and where relevant, the appropriate charge has been made.

## ~~7. MEMBERS IN THEIR WARD ROLE AND OFFICERS ACCESS TO MEMBERS BY OFFICERS~~

- ~~7.1 All Members are entitled to raise matters of local concern, either as representatives of the Council or on behalf of individuals or groups of constituents. Specific departmental protocols for dealing with such approaches may be introduced by the relevant Director or Chief Officer in order to facilitate an appropriate response to such enquiries.~~

An Officer, as a member of the public, is entitled to raise with their Councillor any complaint about the services of the Council. Employees are expected to do this in their own time. If an Officer complaint concerns any aspect of their work with the Council, this should always be discussed with their line manager in the first instance (where this is not appropriate then another appropriate manager). If this does not lead to the concerns being adequately addressed then the Officer should make use of the Council's appropriate HR procedures. An Officer must not approach Councillors to raise any work related issues as this could lead to disciplinary action for not following council procedures for managing such issues. In circumstances where concerns relate to potential allegation of fraud, corruption, safeguarding or other serious concern these can be raised through the Council's 'Whistle Blowing' policy and procedure.

- Roles of Members.
- Roles of Officers.
- Principles underlying Member/Officer relations.

- Undue Influence.
- Relationships between Chairs/Members of the Policy and other Committees including Audit & Governance, Licensing and Planning Committees and Community Forums and Officers.
- Ceremonial Mayor.
- Officer relationships with party groups.
- Members in their ward role and Officers.
- Councillor access to documents and information.
- Members and Officers who are members of Outside Organisations and other bodies.
- Publicity material, media relations and press releases.
- Correspondence.
- Internet and Social Networking Use.
- Breaches of the protocol.
- Concluding comments.
- 
- In the event that an Officer approaches a Member regarding any aspect of their work with the Council, the Member must not become involved in this issue and should advise the officer to follow the procedures detailed in the previous section.

## **79. MEMBERS IN THEIR WARD ROLE AND OFFICERS**

- 9.1 All Members are entitled to raise matters of local concern, either as representatives of the Council or on behalf of individuals or groups of constituents. Specific departmental protocols for dealing with such approaches may be introduced by the relevant Director or Chief Officer in order to facilitate an appropriate response to such enquiries.
- 9.2 Members will receive advice and assistance in their pursuit of local matters which is consistent with their responsibilities as elected Members and local representatives. Individual Members may not however, seek to obtain a disproportionate amount of Officer time in dealing with ward matters. This provision is intended to avoid a situation in which the demands of a small number of CouncillorsMembers become so great that the interests of other CouncillorsMembers, or the Council as a whole, may be compromised or damaged. There are provisions in the protocol for discussing and resolving differences of view about how much input can reasonably be required from Officers in responding to issues raised by Ward Councillors. If a Director or Chief Officer feels that the demands of Members in these circumstances are unreasonable, and this cannot be resolved informally, he/she will set out in writing the reasons, together with proposals for resolving matters. If agreement cannot be reached the matter will be referred to the Chief Executive to determine.
- 9.3 Consultation meetings with residents to discuss matters of local interest may be convened in a number of circumstances, for example by Members, Officers or residents themselves. Officers shall only attend such meetings with the agreement of the appropriate Director or Chief Officer. When

Officers convene such meetings, they will ensure that all Ward Members and any other ~~Members~~Councillors who might reasonably have an interest in the subject (e.g. relevant Policy Committee Chair) will be advised of the meeting and invited to attend.

- 9.4 Ward Members and others with a particular interest will be invited as a matter of course to any public meetings called by Officers to discuss local issues. They may also ask to be kept informed of key developments relating to local issues in which they have a particular interest. Such requests must be reasonable and not conflict with Officers' day to day management and decision making responsibilities. Members are not entitled to insist that they be invited to all meetings which Officers convene in order to discharge their responsibilities.
- 9.5 When Members or local residents convene local meetings, Officer attendance will be at the discretion of the relevant Director or Chief Officer and will take account of the purpose of the meeting as stated by the convenor.
- 9.6 In all circumstances, the role of Officers at such meetings is to provide information on the topic under consideration and any decision making process which might be relevant, but not to offer or share judgements. Officers will seek to assist in the effective engagement of the community in the consultation process but will be mindful at all times of the integrity of the formal decision making process.
- 9.7 Members attending local consultation meetings, which may on occasion give rise to heated debate, should be mindful of the restrictions on the responses available to Officers and both Officers and Members should act at all times in accordance with their respective codes of conduct.
- 9.8 Officers may not permit the use of Council resources on Ward matters unless authorised to do so for all Members. The only basis upon which the Council can lawfully provide support services (e.g. stationery, postage, typing, printing, photocopying, transport etc) to Members, is to assist them in discharging their role as Members of the Council. Such support services must therefore be used on Council business only. They should never be used in connection with party political or campaigning activity or for private purposes.
- 9.9 ~~Councillors~~Members and Officers will be mindful and have regard to any applicable Code of Recommended Practice on Local Authority publicity as issued by the Secretary of State under section 4 of the Local Government Act 1986.



## **10. COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION**

- 10.1 Officers will follow the Access to Information Procedure Rules as set out in Part 4 of the Constitution and will make available to Members any information to which a statutory right of access exists as soon as practicable.
- 10.2 Members will also be provided with non-statutory information in accordance with the agreed policy.
- 10.3 Where there is uncertainty as to the statutory position, the matter will be referred to the Council's Monitoring Officer for determination.
- 10.4 Non-statutory information requests from Members will be met within a reasonable timescale taking into account the scale of the request, providing that the information is not confidential, does not constitute party political research or require an unreasonable amount of officer time. Where an Officer considers the request is likely to require an unreasonable amount of Officer time, and the matter cannot be resolved informally, it should be referred to the Chief Executive (or Monitoring Officer).
- 10.5 Members are entitled as of right to a wide range of information but not to everything that they may wish to see. All Members have rights of access to documentation relating to business transacted at meetings of the Council, Committees etc. The statutory provisions entitle Members to access documents such as reports, files and accounts, which are relevant to the business in question and are identifiable. They do not entitle an individual Member to require an Officer to undertake research on the Member's behalf or to extract information from records – though in some circumstances an Officer may judge that extraction of information is more efficient than providing access to documents. Beyond those statutory rights, Members' entitlement to information is determined to some degree by the particular role which they carry out. A Member who is on a particular Committee will have access rights which are different from a non-decision making Councillor, owing to the matter being categorised either as being 'exempt' under statute or being otherwise confidential.
- 10.6 Officers who are asked for information will sometimes need to take advice from colleagues, in particular the Monitoring Officer, as to whether or not the Member concerned is entitled to see information which they have asked for. Sometimes they will need to explore whether the information is available at all. It is important to bear in mind, that if a Member is not automatically entitled to information, then equally, the Officer is not at liberty to provide it unless satisfied that there is some valid justification for doing so, and that disclosure does not infringe any law (e.g. Data Protection Act), Council policy or confidentiality. Where Officers seek further information from Councillors-Members before making a response to a request for information, this is in order that the position can be checked. Members should not see this as Officers being unhelpful. Where Members feel they have not been given the correct response to a request, they are encouraged to refer the



matter to the Monitoring Officer for determination as the Statutory Officer responsible.

## **11. MEMBERS AND OFFICERS OTHER INDIVIDUALS WHO ARE MEMBERS OF OUTSIDE ORGANISATIONS AND OTHER COUNCIL BODIES**

11.1 All representatives or other individuals invited or appointed to serve on Council bodies will have the relevant Codes of Conduct, procedures and protocols drawn to their attention and be required to observe them. Included in Part 5 of the Constitution is a Guide for Members and Officers serving on Outside Organisations and Other Bodies. The Guide is intended to give a general overview of the issues which affect Members and Officers who are appointed to outside organisations and other bodies (see also Part 7 of the Council's Constitution). The Council's Monitoring Officer will be able to provide further advice to expand upon any of the issues raised.

## **12. PUBLICITY MATERIAL, MEDIA RELATIONS AND PRESS RELEASES**

12.1 The Council's Public Relations Unit Communications and Marketing Team will follow the same principles as other Officers of the Council in serving Members impartially. They will also follow the Local Authority Code on Recommended Practice for Local Authority Publicity.

12.2 Appropriate press releases and publicity material will be prepared and distributed. Where any conflict exists publicity will incorporate a balanced and accurate account of the outcome of the formally constituted meetings.

12.3 Public Relations Communications and Marketing Officers will observe the provisions of the code of recommended practice on Local Authority publicity. One of the key provisions of the code is that the opinions of individual Councillors-Members cannot be promoted unless they are speaking on behalf of the Council. Public Relations Communications and Marketing Officers will therefore continue to incorporate in press releases only the views of individuals holding posts, which authorise them to speak on behalf of the Council.

12.4 Public Relations Communications and Marketing Officers will however, offer informal advice to all Councillors-Members on media relations.

12.5 In accordance with the general provisions on confidentiality, both Officers and Members will refrain from making confidential information available to the media.

12.6 Draft press releases will be finalised following consultation with any Councillor-Member who is to be quoted.

12.7 Photographic services will be available for major civic events and at other events where budgetary provision has been identified.

- 12.8 Members communicating with the media ~~by letter or otherwise~~ in any form, including social media, will not make references to Officers which are personal in nature or could be construed as offensive. Any matters relating to individual performance by an Officer of the Council should be raised through the appropriate mechanisms and not in the media. Officers who are in communication with the media in the course of their employment, will similarly refrain from any such references to ~~Members~~ Councillors. Members are encouraged to check the factual accuracy of any media submissions with the appropriate Officer. Factually inaccurate statements mislead the public and may damage the reputation of anyone who is the subject of, or associated with, such inaccuracies.

### 13. CORRESPONDENCE

- 13.1 Correspondence between an individual Member and Officer should not normally be copied by the Officer to another Member, unless the Member has him/herself sent copies to other Members, in which case Officers may copy the response to the same Members. Correspondence between Members and Officers should not be shared on social media without prior agreement from all parties involved.
- 13.2 Where copies of correspondence are sent to other Members, this should be made clear to the original Member. In other words, a system of “silent” or “blind” copies should not be used.
- 13.3 In all matters relating to the copying of correspondence, access to information legislation and the Council policy on access will be observed.
- 13.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representation to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should be sent out by the relevant Officer.

### 14. INTERNET AND SOCIAL NETWORKING USE

- 14.1 Members and Officers should have due regard to internet security and ensure that communications remain proper and appropriate in accordance with the guidance set out in the respective code of conducts.

### 15. BREACHES OF THE PROTOCOL

- 15.1 Potential breaches of the protocol may come to light in a number of ways. They may, for example, be raised by Members, Officers, non-Council officials, groups or individual members of the public.

### **Alleged Breaches of the Protocol by Officers**

- 15.2 The matter should be raised with the relevant member of the Council's Corporate Management Team who will investigate the circumstances.
- 15.3 If it is judged that the alleged breach may be a disciplinary matter or come within the scope of any other existing Council procedure (e.g. for dealing with potentially criminal acts) then the appropriate procedure will be initiated and followed in the usual way.
- 15.4 Where it is not appropriate to use an existing procedure, the investigating officer will report back to the person making the allegation with a suggested course of action.
- 15.5 If matters cannot be resolved, they will be referred to the Chief Executive for consideration, who will in any event be advised of all alleged breaches of the code.

### **Alleged Breaches of the Code by Members Councillors or Co-optees**

- 15.6 Details of the allegation should be reported to the Chief Executive, via a Departmental Manager if appropriate.
- 15.7 The Chief Executive will consider what, if any further action is appropriate in the circumstances, having regard to any existing procedures such as the Council's complaints procedure and/or the options included within 12.8.
- 15.8 Options may include:
  - Invoking an existing procedure.
  - Informal discussions with the individual who is the subject of the allegation to arrive at an agreed response.
  - Referring the matter to the relevant Group Leader with a recommendation for action.
  - Referring the matter to the Council's Monitoring Officer to consider action under the Code of Conduct.
  - Referring the matter to an appropriate body or agency.

## **16. CONCLUDING COMMENTS**

- 16.1 The Officer/Member protocol is not intended to deal with every situation that might arise. It does however contain a significant amount of material which can act as a pointer to how to deal with a wide range of issues. For

example, it is clear in the sections covering the role of Members and the role of Officers, that strategic decision-making is undertaken by Members and not Officers. On the other hand, day to day choices on the action necessary to implement Member decisions are the responsibility of Officers not ~~Councillors~~Members. This is made very clear in statutory guidance to Councils. In Hartlepool, Officer/Member relations have traditionally been very strong and constructive, based on mutual respect for the different roles of each, together with a recognition of the need to work together for the good of the community. It is the joint responsibility of both Officers and Members to maintain that tradition into the future.

DRAFT

# **HARTLEPOOL BOROUGH COUNCIL**

## **PLANNING CODE OF PRACTICE**

**Hartlepool Borough Council  
Civic Centre  
Victoria Road  
HARTLEPOOL  
TS24 8AY**



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<p><b><i>The main points of advice about the conduct expected of Members and Officers are emphasised in bold italics, like this sentence.</i></b></p>
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## 1. INTRODUCTION

1.1 The Local Government Act 2000 introduced a new ethical framework to local government, including a Model Code of Conduct for CouncillorMembers. 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 councillorMembers 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 CouncillorMembers 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 CouncillorMembers on a Planning Committee involves balancing/representing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals which give rise to great tensions.

## 2. THE NEED FOR A CODE

2.1 Decisions on planning applications rely on informed judgement within a firm policy context. The determination of planning applications can be highly contentious because the actual decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (ie it actively invites public opinion before taking decisions) and the legal status of development plans, decision notices and enforcement action. It is important, therefore, that the planning process is characterised by open, fair, impartial, transparent and defensible decision making.

2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that planning authorities should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should be able to show that

decisions have been taken in an impartial, unbiased and well-founded way.

### 3. SCOPE OF THE CODE

3.1 This guidance note sets out the practices which Hartlepool Borough Council follows to ensure that its planning system is fair and impartial, and explains the conduct expected of Borough Council Officers and Members on planning matters.

3.2 It applies to both ~~Councillor~~Members 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 ~~Councillor~~Members 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 ~~Councillor~~Members. 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 and Development 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. ~~COUNCILLOR~~MEMBERS AND OFFICERS

4.1 ~~Councillor~~Members and Officers have different, but complementary, roles. Both serve the public. ~~Councillor~~Members 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 ~~Councillor~~Members, 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 ~~Councillor~~Members 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 ~~Councillor~~Members should not give instructions to Officers on planning matters.**
- **Officers' actions will follow Council policy and Committee decisions.**

- **Political group meetings should not be used to decide how Members should vote on applications and enforcement cases and ~~Councillor~~Members are not mandated on these matters by a political group.**

**4.3** The Code of Conduct sets out the requirements on ~~Councillor~~Members 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 ~~councillor~~Members participate in the planning process. Of particular relevance to ~~councillor~~Members 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 ~~Councillor~~Members 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. ~~Councillor~~Members 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
- 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 **CouncillorMembers** 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 Council. The key is to demonstrate that each Council and **CouncillorMember'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 advises that 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 2018 (April 2006) and the policies contained within 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 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.

## **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 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 COUNCILLOR MEMBERS**

**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 CouncillorMembers 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 CouncillorMembers 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 CouncillorMember being called into question.

**8.2** CouncillorMembers 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 **CouncillorMember** 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 **CouncillorMember** ... to the whole local community'. However, the following guidance will be appropriate in most cases.

8.5 **CouncillorMembers** 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 **CouncillorMembers** 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 and Development Manager or the Director of Regeneration and Neighbourhoods.*

8.6 **CouncillorMembers** 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:

- **CouncillorMembers** 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 **CouncillorMembers** - such actions can easily be misunderstood by parties to the application and by the general public;
- **CouncillorMembers** 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;
- **CouncillorMembers** 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 **CouncillorMember** is involved in a particular planning matter, she/he should take care not to appear to try to influence other Members, and should declare an interest at the relevant Committee meeting.
- Whenever a Member is approached or lobbied on any particular application Members should consider distributing the draft letter attached as Appendix 3 which makes clear the neutral stance which Members need to adopt to remain impartial pending consideration of all the material facts at the Committee meeting.
- If Members attend private site meetings in their ward at the request of the applicant they should express no opinion on the merits of the application and should normally advise the applicant that the Member may also speak to other interested parties including objectors, again, without expressing any opinion on the merits of the application prior to determination before Planning Committee.

- Members should not normally undertake private site inspections in another Member's ward without prior notice to the Ward Member. Again Members should express no opinion on the merits of the application.

## 9. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS

9.1 The Council encourages pre-application discussions between Planning Officers and potential applicants. These bring advantages to all parties: they can avoid applications being made which are clearly contrary to policy, and so avoid unnecessary worries for those who could be affected; they can avoid abortive work for the Council and applicants by giving clear information about applicable policies, etc before proposals are designed; and so they can improve the quality of applications and development.

9.2 However, discussions might be seen (especially by objectors) as part of a lobbying process. In order to avoid such problems, pre-application discussions should take place within clear guidelines. Although the term 'pre-application' has been used, the same considerations apply to any discussions which take place before a decision is taken:

- The Officer should always make it clear at the outset that the discussions will not bind a Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, neither will formal consultations with interested parties have taken place.
- Advice should be consistent and based upon the development plan and material considerations.
- Where the Director of Regeneration and Neighbourhoods is the decision-maker (for delegated matters - see later), he/she should normally not meet the applicant,

*agent or objectors to discuss a case without another Officer present. A written note should be made of all discussions. A follow up letter is advisable, at least when documentary material has been left with the Council. A note should also be taken of telephone discussions.*

- *Whilst CouncillorMembers will not normally be involved in pre-application or pre-decision discussions, if a CouncillorMember is present he/she should be accompanied by an Officer. The CouncillorMember should be seen to be advised by the Planning Officer on development plan and other material considerations, and the Officer should take a note of the meeting.*

**9.3** Applicants and potential applicants sometimes ask for advice on whether planning permission will be granted in particular circumstances. Advice may also be sought on the lawful use of land. For clarity, and to avoid a future decision on a planning application being compromised:

- *Officers should normally ask someone requesting advice to put the request in writing - so that it is clear on what proposal or circumstances advice is being given.*

- *Written replies to such requests will contain a caveat that advice cannot bind a future decision of the Council on any subsequent application.*

- *Persons seeking advice about the lawful use of land should be advised that Parliament has provided a procedure for a Local Planning Authority to certify what a lawful use of land is by means of an application for a Certificate of Lawfulness of Existing Use 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 and Development 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 CouncillorMembers to be presented with development proposals at an early stage. A local protocol is set out in 9.5 regarding CouncillorMember involvement. Without this, councillorMember involvement may unnecessarily open any CouncillorMember 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:

- CouncillorMembers 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);
- CouncillorMembers & 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;
- The Developer is invited to attend and present their proposals
- Interested Parties are invited to speak
- 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~~Member 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.

#### of Conduct for Members and Co-opted Members.

A register of members' interests will be maintained by the Council's Monitoring Officer, which will be available for public inspection. A member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.

## 10. REGISTRATION OF INTERESTS

**10.1** The Localism Act 2011 places an obligation on members to register and declare certain disclosable pecuniary interests and such other interests as set out within the Code of Conduct for Members and Co-opted Members. ~~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 ~~councillor~~Members 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~~Member.

**10.2** You must register in the Authority's Register of Members Interests information about your registerable personal interests. A definition of a registrable personal interest is contained within the Code



## 11. DECLARATION OF INTERESTS BY MEMBERS AT COMMITTEE

11.1 Information regarding 'your registrable and non-registrable personal interests' is contained in the Code of Conduct for Councillors and Co-opted Members.

11.2 Members of the Planning Committee should consult the Code of Conduct for Members and Co-opted Members to determine their registrable and non-registrable personal interests to determine, what, if any, effect these interests could have at a Planning Committee meeting.

### Pre-determination and Bias

11.3 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as Member, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

11.4. At all meetings, when making a decision, you need to consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

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

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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 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.



**11.106** 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.

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.**

## 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 ~~Councillor~~**Members** who are members of a Parish Council as well as the Borough Council. By taking part in a Parish Council meeting when their comments on an application are agreed, a Borough ~~Councillor~~**Member** 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

## 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 and Development Manager or the Director of Regeneration and Neighbourhoods of the breach in writing.

**13.2** Breaches of planning or listed building control involving a Member or an Officer should be promptly investigated by the Planning and Development Manager and the Director of Regeneration and

Neighbourhoods and be the subject of an enforcement report to Planning Committee.

#### 14. OFFICER REPORTS TO COMMITTEE

**14.1** To ensure that Committees give due consideration to the development plan and other material considerations, all Committee decisions on planning applications, enforcement cases and other proposals will normally be taken only after the Committee has received a written Officer report. Written Officer reports will be agreed through the Planning and Development Manager and will reflect the collective view of the Department - not the view of the individual author.

**14.2** Reports should be accurate and should:

- cover, amongst other things, the substance of objections and the views of people who have been consulted;
- include reference to relevant material and applicable policies and their implications for the case; the site or related history (where relevant) and any other material considerations;
- have a written recommendation of action; oral reporting should be rare and be carefully minuted when it occurs;• contain an appraisal of the planning considerations which clearly justifies the recommendation and broadly indicates the weight which can be given to any opposing considerations;
- if the recommendation is contrary to the provisions of the development plan, clearly state the material considerations which justify this;
- describe the purpose and content of any conditions, planning agreement or obligation proposed in association with the planning permission.

#### 15. COMMITTEE PROCEDURES

**15.1** Decisions relating to planning applications (other than those matters dealt with under the Council's Scheme of Delegation) are taken by the Council's Planning Committee. The procedure for processing planning applications may be summarised as follows:

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 or Applicant 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~~

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~~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. Similarly if an item is deferred to a future Committee whether for a Site Visit or any other reason when the item is resumed at that Committee any Members who were not present for all the proceedings relating to that item at the original Committee Meeting should also take no part in the discussion or voting on that item**

**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,

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~~Member. 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~~Member 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.*
- *Any Member who requests or votes for a site visit thereby indicates that they do not have sufficient information with which to make a decision, in the event that the Member does not then attend the site visit he/she should, when the item is resumed, indicate that they either made alternative arrangements to view the site or they should take no part in discussion of the matter or any subsequent vote*

16.3 Site visit meetings will be conducted in a formal manner:

- *The Chairman should start by explaining the purpose and conduct of the site inspection .*
- *The Officer will describe the proposal and highlight the issues*

*relevant to the site inspection and other material planning considerations.*

- *The Officer will be asked to point out relevant features which can be observed. Members may also wish to point out features which can be observed, or to ask factual questions of the Officer.*
- *To avoid giving an impression of being lobbied, Members should not listen to or talk to any individuals whilst on site, unless being addressed as a group. Any comments should be made to the whole group through the Chair.*
- *The public, applicant or objector may attend the site inspection and will be invited by the Chair to draw Members' attention to any salient features or to any relevant factual information.*
- *Other than to draw Members' attention to any salient feature or to clarify a factual point, through the Chair, the public, applicant and objector will not be allowed to speakparticipate.*
- *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.*

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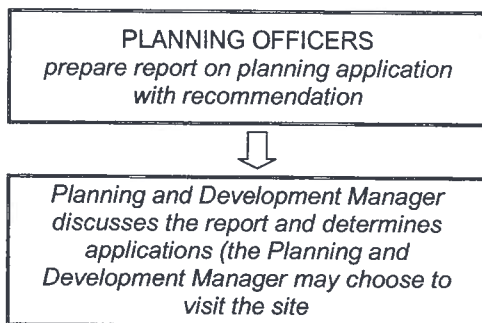
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## 17. DECISIONS DELEGATED TO OFFICERS

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 and Development Manager or the Assistant Director (Economic Growth and Regeneration) some in consultation with the Chair of the

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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:



## 18. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

18.1 Planning decisions must normally be taken in accordance with the Development Plan (see paragraph 5.3).

18.2 If Officers are recommending granting planning permission contrary to the development plan:

- The decision will always be taken by Committee, and not as a delegated decision.
- The Officer's report to the Committee must clearly identify the material planning considerations and how they justify overriding the Development Plan.
- The application will have been advertised by a site notice and a local newspaper advertisement, in accordance with Part 3 (18) of The Town and Country Planning (Development Management Procedure) (England) Order 2010

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..

## 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 they should also reflect the actual discussion which took place (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

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where so requested by the Planning and Development Manager on behalf of the Director of Regeneration and Neighbourhoods. This deferral period enables Officers to prepare clear and convincing planning reasons for refusal;

- If any of the conditions required by Planning Committee are 'Pre-Conditions' for which prior agreement is required from the applicant prior to imposition then the Committee Meeting should either be adjourned for a short time to allow for the signing of the appropriate document or the matter should be delegated to the Director of Regeneration and Neighbourhoods to agree the conditions and issue the permission.
- 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.
- If a Committee is minded to approve an application subject to the entering into of a S106 Agreement the matter shall be delegated to the Director of Regeneration and Neighbourhoods to execute the S106 Agreement and issue the permission. In the event that the Applicant does not enter into the Agreement within six months of the Committee date the delegation shall require that Director of Regeneration and Neighbourhoods shall refuse permission.

**19.2** If a Committee wishes to amend or add conditions to an approval, Officers should be requested to draft the detailed wording of the conditions in line with the Committee's wishes. Both reasons for refusal and reasons for supporting conditions need to clearly refer to

applicable Development Plan policies, where relevant.

## 20. APPROVING REPEAT APPLICATIONS FOR DEVELOPMENT PREVIOUSLY REFUSED

**20.1** One complaint that frequently arises, and has been investigated by the Local Government Ombudsman, is the approval of a planning application where an application for substantially the same development has previously been refused, where there has not been a significant change in circumstances.

**20.2** The principles which can be distilled from Ombudsman cases are as follows:-

- there is perversity and maladministration, if a Local Planning Authority approves a planning application, which has previously been refused, where there has not been a significant change in the planning circumstances;
- the fact that there has been a significant change in the membership of the Planning Committee does not justify inconsistency between current and previous decisions;
- the perversity of approving a planning application, which has been previously refused, where there has been no significant change in the planning circumstances, is maladministration if:-
  - insufficient weight has been given to Officers' recommendations and Central Government guidance; and
  - there is a failure to give and record reasons for the authority's change of mind.

**20.3** Members are advised that a serious risk of challenge is posed by a failure to give and record clear and convincing planning reasons for the approval of planning applications for which there is a history of refusals by the Council and Inspectors appointed by the Secretary of State where there has been no significant change in the planning circumstances.

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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 COUNCILLOR MEMBERS AND OFFICERS

21.1 Proposals to their own authority by serving and former CouncillorMembers 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 CouncillorMembers (which are otherwise deemed by the Director of Regeneration and Neighbourhoods, or their 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 CouncillorMembers 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 CouncillorMembers, and the Officers report to the Committee will show that the applicant is a CouncillorMember.*
- *CouncillorMembers 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 and Development Manager to the proposal.*

21.4 Where a planning proposal directly affects the property or personal interests of a CouncillorMember, she/he should play no part in the decision-making process. This would apply, for example if a CouncillorMember submitted comments, as a neighbour, on a planning application.

21.5 Similarly, an Officer should have no involvement in processing a planning proposal which directly affects her/his property or personal interests.

## 22. THE COUNCIL'S OWN DEVELOPMENTS

22.1 Proposals for the Council's own development have to be treated in the same way as those by private developers.

- All applications for the Council's own development will be reported to Committee where the application does

not accord with the Scheme of Delegation.

- All applications for the Council's own development will be the subject of a written Officer report, as with other applications.

## 23. THE MEDIA

**23.1** The principles of this Code also apply to press contact. ~~Councillor~~Members 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 ~~Councillor~~Members 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

~~escalated 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 and Development Manager.*
- *A written note should be kept of all potentially contentious meetings and telephone conversations: this may be in the form of a follow-up letter. Whilst it will be impossible to keep a full note of every meeting, conversation and site visit, a record should be kept of significant events and site visits which have taken place. The extent of the note should be in proportion to the significance of the event.*

24.3 Section 14 gives more details on what reports contain.

## 25. TRAINING

25.1 As section 5 above explains, the planning system is a complex mixture of statute and case law, and of local and national policy, balancing private and public interests. The declaration of interests is also an area which demands the exercise of well-informed judgement.

- A copy of this Code of Practice will be accessible to each ~~Councillor~~Member and Officer in the Regeneration and Neighbourhoods Department, including new ~~Councillor~~Members and employees.
- The Council will provide periodic training events for ~~Councillor~~Members 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 and Development 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.

25.2 A Member shall not participate in decision making at meetings of the Planning Committee if they have not attended the mandatory training prescribed by the Council. Members of the Committee shall also endeavour

to attend any other specialised training sessions provided, since these are designed to extend the knowledge of the Member on planning law, regulations, procedures, Codes of Practice and Development Plans and generally assist the Member in carrying out their role properly and effectively.

## 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 ~~Councillor~~Members and Officers are advised to treat with extreme caution any offer or gift, favour or hospitality which is made to them personally.

27.2 ~~Councillor~~Members 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 £2550, 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.

## **28. RACIST COMMENTS**

**28.1** The Council will follow the procedures in the RTP1 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.

**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

### FROM OTHER ORGANISATIONS

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

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

'Probity in Planning', Local Government Association..

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

'Planning Authorities and Racist Representations', RTPI.

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

'Positive Engagement' – A Guide for Planning Councillors.

'Model Members Planning Code of Good Practice – ACSeS

Planning Policy Guidance – DCLG (March 2014)



## APPENDIX 2; DUTIES AND ACTIONS

### 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 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 .

(6) **THE POWERS OF THE SECRETARY OF STATE TO REVOKE OR MODIFY A PLANNING PERMISSION**

Where planning permission has already been granted by the Council, the Secretary of State has powers to revoke or modify planning permission, or to require a discontinuance of a land use. This power is used if the original decision is judged to be grossly wrong. Cases giving rise to intervention include those where some important wider planning objective is at stake, such as protection of fine countryside.

Cases involving revocation and modification almost invariably require a local public inquiry before the Secretary of State's decision is confirmed. In addition to costs falling on the Council for the inquiry, where a planning permission is revoked or modified, there would be a liability for compensation to those with an interest in the land to be paid by the Local Authority.

## APPENDIX 3;

### DRAFT LETTER FOR LOBBYISTS

Dear Sir/Madam

#### **The Role of a ~~Councillor~~Member in a Planning Application**

Thank you for seeking my advice as a Borough ~~Councillor~~Member 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~~Member 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;

- 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.

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.

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 ~~Councillor~~Members. I therefore cannot act as an advocate or agent on your behalf.

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

If I am involved in making a decision on an application I cannot accept any gifts or hospitality from you or be seen to meet you or to meet you on or off site or otherwise give the impression of influence or bias.

I hope this clarifies my role as ~~Councillor~~Member in the planning process.

## APPENDIX 4; SCHEME OF DELEGATION

### **Scheme of Delegation**

As of May 2013 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.

Planning Committee	
Membership:	<p>11</p> <p>Councillors: Cook (Chair) Brown (Vice Chair)</p> <p>Plus <u>Councillor</u>Members:</p> <p>S Akers-Belcher, Barclay, Belcher, Buchan, Fleming, James, Loynes, Martin-Wells and Morris</p>
Quorum:	5
FUNCTIONS	DELEGATIONS
<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><del>Director of Regeneration and Neighbourhoods</del></p> <p><del>1. Power to carry out all of the functions of the Committee in paragraphs 1-5 adjacent, subject to the following exceptions:</del></p> <p><del>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.</del></p> <p><del>ii) any matter which falls significantly outside of established policy guidelines or which would otherwise be likely to be controversial,</del></p> <p><del>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.</del></p>



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



Planning Committee (continued)	
FUNCTIONS	DELEGATIONS
	<p>3. <del>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.</del></p> <p>4. <del>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.</del></p> <p>5. <del>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.</del></p> <p>6. <del>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.</del></p> <p>7. <del>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.</del></p>

	<p><del>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</del></p> <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 provisions:</li> <li>2) Matters which must be referred to Committee for decision;- <ol style="list-style-type: none"> <li>a) Any application which any member requests in writing should be referred to the Committee for decision, such request to be received within 21 days of the publication of details of the application or such later time with the permission of the Chair of the Committee.</li> <li>b) Any application which has received more than five material planning objections.</li> <li>c) Any application with an officer recommendation to approve which is materially contrary to current planning policy.</li> </ol> </li> <li>3) Matters which may be refused by the Director of Regeneration and Neighbourhoods <ol style="list-style-type: none"> <li>a) Any application which is materially contrary to planning policy</li> <li>b) Any application relating to prior notification for Permitted Development.</li> </ol> </li> </ol>
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	<p>4) Powers which may only be exercised by the Director of Regeneration and Neighbourhoods in cases of urgency, exercise of such powers to be reported for information to the next available meeting of the Committee</p> <ul style="list-style-type: none"> <li>a) power to require the discontinuance of a use of land</li> <li>b) power to serve a stop notice (including a temporary stop notice)</li> <li>c) power to issue an enforcement notice</li> <li>d) power to apply for an injunction restraining a breach of planning control</li> <li>e) power to serve a building preservation notice and related powers</li> <li>f) power to issue enforcement notice in relation to demolition of unlisted building in conservation area</li> <li>g) powers to acquire a listed building in need of repair and to serve a repairs notice</li> <li>h) power to apply for an injunction in relation to a listed building</li> <li>i) power to defend Planning Appeals and Enforcement Notice Appeals</li> </ul> <p>5) Power to formulate and issue decision notices following decisions made in principle by the Committee.</p> <p>6) 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>7) 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.</p> <p>8) 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>9) 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>
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	10)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 and Development 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.





## Hartlepool Planning Services

Regeneration and Neighbourhoods

Civic Centre

Victoria Road

Hartlepool

TS24 8AY

## APPENDIX 5

# HARTLEPOOL BOROUGH COUNCIL'S

## **GUIDE TO PRE-APPLICATION DEVELOPER FORUMS**



## **FOREWORD**

This guide illustrates the structured approach to the way that Hartlepool Borough Council intends to operate its Pre Application Developer Forum.

Constructive pre-application discussions between potential applicants and planning officers have long been recognised as a means of helping to ensure all relevant considerations are addressed when an application is submitted in order to enable determination of the application in a timely manner bringing more certainty into the process.

The document 'Positive Engagement – A Guide for Planning Councillors' promotes the involvement of Councillors in pre-application discussion stating 'The engagement of local Councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.'

Officers can benefit from Councillors being more fully informed as this may well be able to assuage any unfounded fears their local communities may have for pre-application developer forums as a proposal emerges.

This forum along with any pre-application advice is given in good faith, however any advice given will not fetter the discretion of the Local Planning Authority in the actual determination of any planning application.

This guide has been prepared to set out the Council's procedures to ensure the process is transparent and consistent.

## **WHAT ARE PRE-APPLICATION DEVELOPER FORUMS?**

Pre-Application Developer Forums are part of the Council's One Stop Shop, pre-application advisory service which provides advice on planning matters prior to the submission of a formal planning application.

The forums will be open meetings to allow potential developers to present their planning proposals prior to the submission of a formal planning application.

These forums provide a clear context for Councillors to listen to proposals and offer views as to what issues need to be dealt with in any formal submission of a planning applications. They are arranged, publicised and chaired by the authority.

## **WHO CAN ATTEND?**

The developer/applicant for a significant planning proposal is invited to attend and present their proposal.

The public can attend but not to speak to keep the meeting focused on issues to be considered.

Interested parties such as consultees, parishes, amenity societies, and public representatives (such as a representative of a residents group as outlined in the Council's Statement of Community Involvement 2010) are invited to speak, following an officer introduction and developer explanation of the emerging proposals.

## **WHEN WILL A PRE-APPLICATION DEVELOPER FORUM BE HELD?**

A guiding principle to development which would be the subject of a 'Pre Application Development Forum' should be that the proposals are of a significant scale and complexity to necessitate such an event.

## **WHAT IS THE PROCESS FOR THE FORUM?**

The Chair of the Pre-Application Developer Forum (who is also the Chair of the Planning Committee) will introduce the applicant/developer to the forum. Councillors will be reminded that this is an information gathering exercise and is not an opportunity to express their support or otherwise for a proposal. If members do



express a view either for or against a proposal, this may automatically exclude them from voting on the application when it comes before the Planning Committee formally.

The applicant/developer will present the proposal for a maximum of 15 minutes to the forum. Powerpoint will be available for use by the applicant/developer.

Councillors will be given an opportunity to seek clarification on a proposed submission, however this is not a forum to express their views.

Interested parties will also be given the opportunity to seek clarification or raise issues. A time limit of 4 minutes is attached to this which is inline with the Planning Committee procedures. It should be noted that this is not a forum for objecting to a proposal it is to seek clarification or raise planning issues which should be considered in any formal planning submission. Any interested party wishing to participate in the forum should declare their interest to the Planning Technician, Gill Scanlon (contact details contained at the end of this guidance) in advance of the forum.

Minutes of the meeting will be taken by an officer present and these will be made publicly available on the Council's website.

Applicants/Developers of significant proposals are encouraged to consult publicly on any proposal separate to this process.

In order to keep the event focused the forum will run for approximately 45minutes to 1 hour.

## **WHAT ARE THE BENEFITS OF A PRE-APPLICATION DEVELOPER FORUM?**

Early discussions between applicants/developers and planning officers will provide the opportunity to steer projects in the right form that will be attractive to the community and acceptable to the Local Planning Authority. They can be of great

benefit to the applicant by identifying the key planning issues, avoiding abortive work and speeding up the statutory process.

There are tangible benefits from well managed engagement prior to the submission of a planning application. These include:

- improved quality of the proposed development;
- opportunities for better co-ordination of investment in an area;
- improved efficiency for all users by reducing wasted time and money spent on abortive work or going over old ground;
- avoidance of incomplete/invalid applications;
- identification of who should be involved from the early stages and opportunities created for them to be heard in an effective way;
- additional clarity and certainty for both applicants and the community;
- Reinforcing Members roles in their communities.

Pre-application discussions are not a substitute for the formal consultation and the processing of an application and they are not held to conduct negotiations in public, or to allow objectors to frustrate the process

## **ADVICE TO COUNCILLORS**

Councillor engagement in pre-application discussions is not intended to bring forward their views on the proposal as such.

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.

Any Planning Committee Member who elects to support a view for or against the development being discussed will pre-determine their position to the extent they will be advised to declare a prejudicial interest, and be free to represent their community views to the planning committee in the event of the committee considering a subsequent application, but not to engage in the debate or vote on the application.

## **DISCLAIMER**

As part of the One Stop Shop service the Council offers any advice given by Council officers at pre-application developer forums is not a formal planning decision by the Council as Local Planning Authority. Officers will provide the best advice possible based on the information available. This advice will be offered in good faith and to the best of officers ability, without prejudice to any formal consideration of any planning application following statutory consultation and the evaluation of all available information.

Officers cannot guarantee that any application subsequently received will be made valid or approved. However, pre-application advice should assist in helping applicants ensure that all necessary information, including the correct fee is provided. This will reduce the risk of any subsequent application being declared not valid and it should assist applicants by increasing their awareness of the relevant

planning issues which will inform any subsequent decision as to whether or not an application will be approved.

## **SERVICE COMPLAINTS**

The Local Planning Authority is committed to providing an effective and efficient pre-application planning service. If you are not satisfied with the service provided by officers you should write to or discuss any concerns with the Planning and Development Manager. If the concerns are not addressed to your satisfaction the Council has a formal complaints procedure, details of which are on the Council's website or can be produced on request.

## **CONTACTS**

If you have any queries or comments on this Guide or any other aspect of the Pre-Application Developer Forum or the One Stop Shop process please contact:

Gill Scanlon  
Planning Technician  
Planning Services  
Hartlepool Borough Council  
Regeneration and Neighbourhoods  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

Tel: 01429 523741

Email: [developmentcontrol@hartlepool.gov.uk](mailto:developmentcontrol@hartlepool.gov.uk)

Finally if you have any complaints about the service please contact:

Jim Ferguson  
Planning & Development Manager  
Hartlepool Borough Council  
Regeneration and Neighbourhoods  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

Tel: 01429 523274

Email: [jim.ferguson@hartlepool.gov.uk](mailto:jim.ferguson@hartlepool.gov.uk)

DRAFT

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

DRAFT

## **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;~~ Hartlepool Borough Council is committed to applying the core principles as set out in the Society of Local Authority Chief Executives (SOLACE)/Chartered Institute of Public Finance and Accountancy (CIPFA) Good Governance Framework which comprises the following key elements;

##### **Focusing on the Council's Purpose and Community Needs**

- focussing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area;

##### **Having Clear Responsibilities and Arrangements for Accountability**

- Members and Officers working together to achieve a common purpose with clearly defined functions and roles;

### **Good Conduct and Behaviour**

- promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;

### **Informed, Transparent Decision Making and Managing Risk**

- taking informed and transparent decisions which are subject to effective scrutiny and management of risk;

### **Developing Skills and Capacity**

- developing the capacity and capability of Members and Officers to be effective; and

### **Engaging Stakeholders**

- engaging with local people and other stakeholders to ensure robust public accountability.

2.2 Each of these Principles is an important part of Hartlepool Borough Council's Corporate Governance arrangements. This statement describes how the Council will meet and demonstrate its commitment to good Corporate Governance. Also described in this document is how and by whom the Council's Corporate Governance arrangements will be monitored and reviewed.

## **3. THE COUNCIL'S CORPORATE GOVERNANCE PRINCIPLES**

### **3.1 Focusing on the Council's Purpose and Community Needs**

The Council will explain and report regularly on activities, performance and the Council's financial position. Timely, objective and understandable information about the Council's activities, achievements, performance and financial position will be provided.

The Council will do this by annually publishing:

- A Council Plan;
- Externally audited accounts;
- Robust performance information

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

The Council will do this by:

- Delivering services to meet the needs of the local community, and put in place processes to ensure that they operate effectively in practice;
- Directing resources to those that need services most;
- Ensuring that timely, accurate and impartial financial advice and information is provided to assist in decision making and to ensure that the Authority meets its policy and service objectives and provides effective stewardship of public money and value for money in its use;
- Ensuring that the Authority maintains a prudential financial framework; keeps its commitments in balance with available resources; monitors income and expenditure levels to ensure that this balance is maintained and takes corrective action when necessary;
- Ensure compliance with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code;
- Developing effective relationships and partnerships with other public sector agencies and the private and voluntary sectors, and consider outsourcing where it is efficient and effective to do so;
- Responding positively to the findings and recommendations of external auditors and statutory inspectors and putting in place arrangements for the implementation of agreed actions;
- Comparing information about our services with services provided by similar organisations and assessing why levels of efficiency, effectiveness and quality are different elsewhere.

### **3.2 Having clear responsibilities and arrangements for accountability**

The Council will ensure that the necessary roles and responsibilities for the Governance of the Council are identified and allocated so that it is clear who is accountable for decisions that are made.

The Council will:

- Appoint Committees to discharge the Council's Policy responsibilities;
- Appoint Committees to discharge the Council's Regulatory and statutory responsibilities;
- Appoint Committees to discharge joint responsibilities with other authorities;
- Have in place a scheme of delegated Council responsibilities to Officers;
- Have in place effective and comprehensive arrangements for the review and overseeing of services;
- Ensure that the Director of Finance and Policy (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 Director of Finance and Policy (hereinafter referred to as the CFO) and the



Council's Monitoring Officer direct access to the Chief Executive and to other members of the Corporate Management Team;

- Ensure that the CFO leads the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively;
- Ensure that the budget calculations are robust and reserves adequate, in line with 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.

### 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.
- [A Statement on Modern Slavery and Human Trafficking to demonstrate the arrangements to ensure such practices are not a feature of the Council's business or its supply chains.](#)

### 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;
- 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:

- 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 Community Forums.

## 4. MONITORING AND REVIEW

The Council has Committees that are responsible for monitoring and reviewing the Council's Corporate Governance arrangements. These Committees and their functions are set out below. In addition, the Council has an Independent Remuneration Panel to advise and make recommendations to the Council on the scheme of allowances.

### 4.1 The Audit and Governance Committee is responsible for the Council's arrangements relating to:

- Approving the Council's Accounts;
- External audit;
- Policies and practices that ensure compliance with statutory and other guidance;
- Internal audit.

The Committee also has responsibility for the following roles and functions:

- (i) promoting and maintaining high standards of conduct by Elected Members and co-opted members 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;
- (iv) 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;
- (v) 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.
- (vi) 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.

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.

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;

Gill Alexander  
Chief Executive, Chief Executive's Department, Hartlepool Borough Council,  
Civic Centre, Hartlepool, TS24 8AY

Hayley Martin  
Interim Chief Solicitor and Monitoring Officer of Hartlepool Borough Council,  
Civic Centre, Hartlepool TS24 8AY

Chris Little  
Director of Finance and Policy, 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
- Statement on Modern Slavery and Human Trafficking

### **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

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

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

**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

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## **Statement on Modern Slavery and Human Trafficking**

### **2018**

#### **1. Introduction**

Modern slavery and human trafficking is a crime and a violation of fundamental human rights. It takes various forms, such as slavery, servitude, forced and compulsory labour and human trafficking, all of which have in common the deprivation of a person's liberty by another in order to exploit them for personal or commercial gain.

#### **2. Our Commitment**

Hartlepool BC is committed to the highest level of ethical standards and governance. It will act with integrity in all its business relationships to ensure compliance with the Modern Slavery Act 2015 in ensuring that there is no modern slavery or human trafficking in its supply chains or in any part of its business and will take all reasonable and practical steps to so comply.

Hartlepool BC has a zero tolerance approach to slavery and human trafficking and all forms of corruption and bribery and will not deal with any business knowingly involved in modern slavery practices in any part of its operations.

If you have any concerns about Modern Slavery or Human Trafficking taking place within the Council's business (or supply chain) please contact the Council's Monitoring Officer.

#### **3. Definition of the Act**

Modern Slavery is a term used to encapsulate offences in the Act such as slavery; servitude; forced or compulsory labour; and human trafficking

The Modern Slavery Act 2015 gives law enforcement the tools to fight modern slavery, ensuring perpetrators can receive suitably severe punishments and enhance support and protection for victims.



Section 54 of the Modern Slavery Act 2015 requires specified organisations to develop an annual slavery and human trafficking statement, which sets out what steps the organisation have taken to ensure modern slavery is not taking place in their business or supply chains (see duty to notify).

Further details of the types of offences are set out in section 1 and section 2 of the Act, which can be found at: <http://www.legislation.gov.uk/ukpga/2015/30> . The Government have also produced a guidance document which can be found at <https://www.gov.uk/government/.../transparency-in-supply-chains-a-practical-guide>

#### **4. Duty to Notify**

From 1 November 2015, under Schedule 3, Section 43 of the Act, the following specified public authorities have a duty to notify the Secretary of State of any individual encountered in England and Wales who they believe is a suspected victim of slavery or human trafficking.

- a) A chief officer of police for a police area
- b) The chief constable of the British Transport Police Force
- c) The National Crime Agency
- d) A county council
- e) A borough council
- f) A district council
- g) A London borough council
- h) The Greater London Authority
- i) The Common Council of the City of London
- j) The Council of the Isles of Scilly
- k) The Gangmasters Licensing Authority

Home Office staff with UK Visas and Immigration, Border Force and Immigration Enforcement are also required, as a matter of Home Office policy, to comply with the duty to notify. Additional public authorities can be added through regulations. This duty is intended to gather statistics and help build a more comprehensive picture of the nature and scale of modern slavery.

Organisations which do not meet the requirements in Section 43 can still choose to voluntarily produce a 'slavery and human trafficking statement'. These organisations are asked to be open and transparent about their recruitment

practices, policies and procedures in relation to modern slavery and may be asked by their suppliers to provide a statement or policy. The statement or policy should be consistent and proportionate with their sector, size and operational reach, setting out their approach to tackling modern slavery, whilst also demonstrating a level of assurance to customers.

## 5. **Supplier Contracts**

It is proposed to include in the Council's supplier contracts or other terms, a clause specifying "the Supplier shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes including but not limited to the Modern Slavery Act 2015 and maintain throughout the term of the agreement its own policies and procedures to ensure its compliance".

Hartlepool BC expects its suppliers to implement due diligence procedures for its permitted direct subcontractors, and suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains. The clause enables the firm to undertake audits of suppliers' records and any other information and to meet with suppliers' personnel to review their compliance with its obligations under this clause. The clause also gives the firm the right to terminate the agreement with immediate effect if the supplier commits a breach of the anti-slavery policy or this clause or applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

## 6. **Recruitment**

Our workforce is mainly employed on a permanent or temporary contract basis. Our recruitment processes include direct advertising via North East Jobs, A Casual Staff Register and using reputable agencies. All employees are subject to checks, including the verification of identity, references and evidence of qualifications where appropriate.

## 7. **Whistleblowing**

Hartlepool BC staff and suppliers are encouraged to report any concerns they may have in relation to fraud, corruption or any other wrongdoing. The Council's Anti-Fraud and Anti- Corruption Strategy and Whistle Blowing Policy and Procedure detail how people can make disclosures without fear of retaliation.

## 8. **Our Commitments**

- To ensure that The Act and its implications are embedded within all relevant governance and policy frameworks to ensure compliance and reduce potential risk (eg Transparency, Procurement, Recruitment/ Selection, Code of Conduct, Anti-Fraud and Anti-Corruption, Whistleblowing, and the Corporate Risk Register
- Strengthen the effectiveness of the policy framework in identifying and tackling modern slavery issues
- Add “compliance with the Modern Slavery Act 2015” to the Corporate Risk Register and relevant Council Policies and Procedures ensuring appropriate reporting procedures are in place to report non compliance
- The Procurement Team will implement and enforce effective governance systems and controls to minimise the risk of modern slavery taking place by:
  - ✓ strengthening the process from sourcing to contract award
  - ✓ review our existing supplier contracts/agreements and assess the risk associated with those suppliers
- To act ethically and with integrity in all of its business relationships.
- To encourage our staff, partners and suppliers to report any malpractice or wrongdoing in line with our Anti-Fraud and Anti-Corruption Strategy (whistleblowing)
- To promote and further increase staff awareness through training to enable them to recognise and identify victims within the community and what actions they need to take if they suspect people are being exploited.
- Ensure appropriate reporting procedures are in place for non- compliance.
- To ensure our recruitment processes and new starter and contractor documentation is checked and verified
- Ensure our organisational values reflect the principles of the Act
- To notify the Chief Officer of Police of any suspected victims of slavery or human trafficking under the agreed procedure

**GUIDANCE FOR MEMBERS AND  
OFFICERS SERVING ON OUTSIDE  
ORGANISATIONS AND OTHER BODIES**

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## 1. Introduction

- 1.1 This guide is intended to give a general overview of the issues which affect Members and Officers who are appointed to outside organisations and other bodies (see also Part 7 of the Council's Constitution). The Council's Monitoring Officer will be able to provide further advice to expand upon any of the issues raised.
- 1.2 Members are appointed by Council to a range of outside bodies. In addition, Members may be appointed directly by the outside body itself to serve in a private capacity (for instance as a member of the community) rather than as an Elected Member of the Council, or they may be a serving member of that body before being elected as a Member of the Borough Council.
- 1.3 The roles of Members or Officers on outside bodies will depend upon the legal nature of that organisation and the capacity in which they are appointed to act. It may, for example, involve acting as a company director, the trustee of a charity, or a member on a management committee.
- 1.4 In participating in outside bodies, Members and Officers may take account of the Council's wishes but they must ultimately make independent judgements in line with their duty of care to the outside body. They must also act according to the framework set by the outside body and take an active and informed role in the management of the outside body's affairs. This involves attending meetings on a regular basis and carrying out their duties to the best of their abilities. In addition, they must follow as far as applicable the Council's Code of Conduct and such other codes and protocols that might apply.
- 1.5 Members should be aware that they will have to disclose membership of the outside body in their dealings with the Council and where a conflict of interest arises it is likely (see Council Procedure Rule 23) that they will have to withdraw from any consideration by the Council of any matter affecting the outside body. Members should bear this in mind when deciding whether or not to accept a particular nomination. In ~~the~~ the case of Officers, arrangements should be made to refer the matter to another officer to deal with whenever a conflict of interest arises.

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- ~~1.6 Whilst there is no legal obligation on Members or Officers to report back to the Council on their involvement in outside companies to which they have been nominated by the Council, it is good practice to do so; this is best achieved by way of a report to the relevant committee. In the case of Officers, their participation should be discussed on a more regular basis with their line manager at supervision or appraisal meetings.~~



1.67 The most common types of outside bodies in which Members or Officers may become involved are considered in more detail below and include:-

- (a) Limited Liability Companies
- (b) Charities
- (c) Unincorporated Associations

1.78 Indemnities and Insurance.

1.78.1 The primary responsibility for providing proper indemnities and insurance cover to protect Members and Officers when acting for outside bodies lies with those bodies. However, a form of indemnity from the Council may exist to provide protection to the Council's appointee or nominee.

1.78.2 An indemnity will only be provided by the Council to those Officers or Members whom the Council has appointed or nominated to an outside body. Where a Member or Officer is serving on an outside body having been nominated by the body itself, or where the Member/Officer was already serving on the body when elected a Member of the Council/employed by the Council, an indemnity would apply only where that Member or Officer was acting at the request of, or with the approval of, the Council.

## 2. Companies

2.1 The obligations imposed by company law are onerous and there are severe penalties for non-compliance with many of the duties imposed on directors. It is important for Members and Officers appointed to act as company directors to ensure that they understand the duties and obligations which the law imposes on them.

2.2 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. A company is distinct from its members, who may be either shareholders or guarantors.

2.3 Whether a company is limited by shares or by guarantee, the day to day management of the company is usually vested in the directors. The members ultimately control the company by electing the directors and deciding the major issues at general meetings. The main differences are as follows:-

- in a company limited by shares the shareholders share the ownership of the company and its profits and if the company is wound up each shareholder is liable to pay an amount equivalent to the nominal value of his or her shareholding;
- a company limited by guarantee does not normally seek to make a profit and in the event of the company being wound up, the members guarantee

to make a payment to the level of their guarantee (usually a nominal figure of £1.00). Hence companies limited by guarantee are more commonly used for voluntary and public bodies, especially where charitable status is sought.

- 2.4 A company is controlled by reference to its 'constitution', which is contained in the Memorandum and Articles of Association. These documents will set out the powers of the company, and the rules by which it is to be managed. Any act carried out by the company that is outside the powers set out in the Memorandum will be unlawful, and a director involved in such an act **may be personally liable** for any resulting losses.
- 2.5 In general Members and Officers should avoid taking executive or managerial responsibility for the company's activities because the duties of executive or managing directors can be particularly onerous. This is because executive directors are directly responsible for particular aspects of the company's affairs. For example, a finance director will have responsibility for the company's financial position, which could give rise to liability for allowing the company to trade while insolvent if the company goes into liquidation. However, all directors, including part-time and non-executive directors, are required to make themselves fully aware of the company's financial position and should attend Board meetings regularly. Ignorance of transactions entered into by the company through a failure to make proper enquiries may not be an adequate defence to a charge of negligence brought against such a director.
- 2.6 In some situations, the Council may nominate Members or Officers to act as "observers" on the board of directors of a company. Although such observers have no specific legal status, Members and Officers should be aware that if an observer's involvement increases to such an extent that it could be said that there is an active engagement in the management of the company, he or she may be deemed to be a "shadow or defacto director" which may entail liabilities. Any person appointed to this role should therefore ensure that the extent of their role as an observer is clearly defined and agreed to avoid involvement in managing or directing the management of the company.
- 2.7 Under the Companies Act 2006 ('the Act'), directors owe a number of legal and fiduciary duties to their company. These are duties to:
  - Act within powers (section 171 of the Act)
  - Promote the success of the company (section 172)
  - Exercise independent judgement (section 173). Although it is permissible to take account of the interests of a third party (in this case the Council), a director cannot vote simply in accordance with the Council's instructions.
  - Exercise reasonable skill, care and diligence (section 174)
  - Avoid conflicts of interest (section 175). There may be actual or potential conflicts between the interests of the company and those of the Council. A Member or Officer cannot waive their statutory responsibilities as a director; hence they may have to cease to act as a Member or officer in relation to the particular matter. In extreme cases, the only proper way for

the conflict to be resolved may be for the Member or Officer to resign either from the company or from the Council.

- Not accept benefits from third parties (section 176)
- Declare interest in a proposed transaction or arrangement with the company (section 177). Directors must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association. Equally, Officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council.

Members acting as directors should be aware of these duties, particularly those which could lead to:

- A conflict with their role as Member of the Local Authority (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
- Personal liability for the debts of the company.

The fact that a director is appointed to a company board as a representative of the council does not diminish these duties.

#### Liabilities and Indemnities

- 2.8 Directors cannot be indemnified by a company against liability arising out of negligence, fraud or breach of duty or trust. The company's Articles of Association may however allow for directors to be indemnified by the company in respect of the cost of defending such proceedings, where the director concerned is granted relief by the court or acquitted.
- 2.9 The Council does have limited powers to provide indemnities for Members or Officers when appointing them to act as directors. It is also appropriate for a company to purchase insurance to protect its directors against claims of negligence, breach of trust or duty, or other default. Before taking up an appointment, directors should ensure that such insurance is in place and that the provision of the insurance is within the powers of the company.

### **3. Charities**

- 3.1 Many outside bodies with which Members or Officers will be involved will be charities. A charity is not a separate form of legal entity rather it is a legal status and may take the form of an- unincorporated associations, company or Charitable Incorporated Organisation.
- 3.2 A charitable organisation is one which is formed for one or more of the following charitable purposes:
- the relief of poverty and human suffering

- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community.

3.3 —It must operate for the public benefit and have exclusively charitable purposes. ~~Where required by law, it must be registered with the Charity Commissioners.~~  
The ~~Commissioner~~ Charity Commission oversee the operations of all charities, and grant consent to various transactions involving charities, where the law requires this.

3.4 The law relating to charities imposes a number of duties and liabilities on those controlling the organisation. They are normally referred to as 'trustees' which will include the directors (of a company limited by guarantee) and the management committee of an unincorporated association.

#### Trustees' Duties

3.5 Trustees have the following duties:

- (1) A duty to act in accordance with the charities governing instrument and to protect the charity's assets.
- (2) A duty to comply with the Charities Acts and other legislation affecting the charity including having regard to guidance issued by the Charity Commission.
- (3) A duty not to make a private profit from their position (unless authorised by law).
- (4) A duty to act with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (5) A duty to ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that annual accounts and returns are completed and sent.
- (6) Where charitable income exceeds £10,000, a duty to ensure that letters, adverts, cheques etc. bear a statement that the organisation is a registered charity.
- (7) A duty not to put themselves in a position where their interests (whether personal or as a fiduciary) conflict (or may conflict) with his duties as trustee.

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#### Trustees' Liabilities and Indemnities

3.6 Trustees have the following liabilities:

- (1) To make good any deficiency where trust property has been used for the trustee's own purposes, or for purposes not in accordance with the purposes of the trust.
- (2) Personal liability for losses or claims where the trustee has acted outside the scope of the trust deed.
- (3) Personal liability where the trustee has not shown the required standard of care.

- 3.7 An indemnity may be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts. If premiums are to be paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.
- 3.8 Further guidance and advice can be obtained from the Charities Commission. A trustee who seeks advice from the Charity Commissioners in a particular situation and acts on that advice will generally avoid personal liability.

#### **4. Unincorporated Associations**

- 4.1 An unincorporated association is an informal organisation which may arise whenever several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
- 4.2 The rules governing the members' duties and liabilities will usually be set out in a written constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the Constitution will provide for the election by the members of a management committee, which will be responsible for the everyday running of the organisation. The Constitution may also provide for members to have annual general meetings, to deal with business such as the accounts and the appointment of the management committee.
- 4.3 As the association is not a separate legal entity from its members, it cannot hold property in its own name. Any property which it controls will therefore have to be vested in an individual, or individuals, who are usually called the trustees of the association. They will hold the asset, subject to the direction of the members, or (more usually) the management committee.
- 4.4 Where an unincorporated association is a registered charity the members of the management committee may also be charity trustees. As such their role and responsibilities will be determined not only by the association's Constitution but also by the general law relating to trusts and charities as referred to above.

##### **Duties**

- 4.5 The members of the management committee, and the trustees appointed to hold any assets for the association, must act within the Constitution, and must take reasonable care in exercising their powers.

##### **Liabilities and Indemnities**

- 4.6 Generally management committee members are liable for the acts or omissions of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.

- 4.7 Management committee members will have personal liability if they act outside the authority given to them or if they do not comply with the law.
- 4.8 It is possible (subject to the rules in the constitution) for insurance to be taken out, to cover trustees and members of the management committee for their potential liabilities. As with other outside bodies, Members and Officers should satisfy themselves that the organisation has adequate insurance cover in this respect.

## 5. Registration and Disclosure of Outside Interests for Members

- 5.1 In accordance with Chapter 7 of the Localism Act, 2011, the Council has adopted a Code of Conduct for Members. The Code of Conduct for Members is set out in full in the Council's Constitution (Part 5). The provisions of the Code will continue to apply to Members in respect of their appointments to outside bodies. In addition through an appointment to another public body, a Member will also need to adhere to that authority's Code of Conduct.

### Registration of Interests

- 5.2 The Code of Conduct for Members requires every Member to notify the Monitoring Officer of any disclosable pecuniary or other interest which he/she holds, within 28 days of election or appointment. In addition, the Member must notify the Monitoring Officer of any change in his/her registerable interests within 28 days of becoming aware of that change. ~~A copy of the relevant declaration form and a form for amendments are set out in the Council's constitution at Part 9.2.~~

### Disclosure of Interests

- 5.3 There are a number of rules which Members must be aware of, which may limit the extent to which they are able to take part in debates or votes on issues. These rules extend to matters involving outside bodies. The rules require that, in certain situations, Members should disclose the fact that they have an interest in the matter under discussion. They may also be required not to take part in any debate or discussion on the matter, and may have to leave the meeting during the item.

### Registrable Personal Interests

- 5.4 A Member appointed to an outside body will have a registrable personal interest in that body, and therefore the interest must be registered in the Register of Member's Interests. See the Members Code of Conduct, in part ??? of the Constitution for the definition of a registrable personal interest. Provided that it is not also a prejudicial interest (see below), the Member only needs to declare the personal interest if and when he/she speaks on the matter at a Council meeting.

### Non Registrable Personal Interests

5.5 Members will have a non-registerable personal interest when they attend a meeting of the Council, or one of their committees or sub-committees, and they are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting their well being or financial position, or the well being or financial position of a person, as described below, to a greater extent than most inhabitants of the area affected by the decision.

The persons referred to above are:

- (a) a member of their family;
- (b) any person with whom they have a close association;
- (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

5.6 When a Member attends a meeting of the Council or one of their committees or sub-committees, and they are aware that they have a non-registerable interest in an item of business they must disclose that interest to the meeting before consideration of that item begins or (if later) when they become aware of the interest.

#### Non-participation in Authority Business

5.7 When a Member attends a meeting of the Council, or one of their committees or sub-committees, and they are aware that the criteria set out in paragraph 5.8 are satisfied in relation to any matter to be considered, or being considered at that meeting, they must:

- (a) Declare that fact to the meeting;
- (b) Not participate (or further participate) in any discussion of the matter at the meeting;
- (c) Not participate in any vote (or further vote) taken on the matter at the meeting; and
- (d) Leave the room whilst the matter is being discussed.

5.8. The criteria for the purposes of paragraph 5.7 are that:

- (a) they have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice their judgement of the public interest; and either
- (b) The matter will affect the financial position of themselves or one of the persons or bodies referred to in paragraph 5.5 or in any of their register entries; or
- (c) The matter concerns a request for any permission, licence, consent or registration sought by themselves or any of the persons referred to in paragraph 5.5 or in any of their register entries.

#### Prejudicial Interests

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~~5.5—~~

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~~A Member will probably have a prejudicial interest in a matter relating to the outside body if he/she is a member of or in a position of general control or management on the outside body and the interest falls into one of the following two categories:-~~

- ~~(a) the matter affects the financial position of the outside body (e.g. an application for grant funding to the outside body); or~~
- ~~(b) the matter relates to an approval, consent, license, permission or registration that affects the outside body (e.g. an application by the outside body for planning permission).~~

~~5.6 If a Member has a prejudicial interest in a matter under discussion he/she must declare the nature of that interest as soon as it becomes apparent to him/her. The Member should then leave the meeting room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If that is the case, the Member can make his/her representations, in accordance with the decision making bodies rules, but must then immediately leave the meeting room. A Member with a prejudicial interest cannot remain in the public gallery to observe or vote on the matter.~~

### **Bias/Prejudice**

- 5.7 Where there is no prejudicial interest in a matter, a Member's duties as a director or trustee or a member of a management committee may still mean that he/she should not participate in a decision because of a legitimate fear of lack of impartiality, or bias, which could potentially invalidate the decision.
- 5.8 Bias will not be assumed by mere membership of an outside body. However, where the outside body has a line which is being advocated by the Member, it is likely that the Court would find bias on that issue and therefore the Member should not take part in a discussion or decision at a Council meeting on that issue. In such circumstances, it would be appropriate to seek advice from the Council's Monitoring Officer.

## **6. Disclosure of Outside Interests for Officers**

### **Declaration of Interests**

- 6.1 Section 117(1) of the Local Government Act 1972 requires that if it comes to the knowledge of any Officer of a Local Authority that the Authority has entered or proposes to enter into any contract in which he/she has a pecuniary interest, whether or not he/she would actually be a party to the contract, he/she must give notice in writing to the Authority. A pecuniary interest should be interpreted as any circumstance in which he/she or a member of his/her immediate family stand to gain or lose financially as a result of the contract.

### **Conflicts of interest**



- 6.2 Where an Officer has been appointed to an outside body by the Council and a conflict of interest arises, this should always be disclosed to the Officer's immediate manager who should, in appropriate cases, seek advice from the Council's Monitoring Officer. Such conflicts may be dealt with in a number of different ways, depending on the nature and seriousness of the conflict. If the conflict is insubstantial then it should simply be recorded and no further action need be taken. Where there is a discrete conflict this may preclude the officer from undertaking a particular discrete task, such as dealing with the administration of a planning application, but would not be incompatible with the general performance of their job. In the case of a more serious incompatible conflict it may be determined that the nature of the conflict of interest is such that the officer must resign their position on the outside body and/or re-arrange their duties in a manner which avoids the conflict.

## 7. Gifts and Hospitality

7.1 Members and Officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as Councillors or Officers of the Authority. In the case of Officers accepting any such gift or consideration from anyone who has or is seeking a contract with the Authority, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove the contrary. It is therefore very important to be completely open about any significant gift or hospitality to avoid the suspicion of misconduct.

7.2 Members are required by the Members Code of Conduct ~~for Members to notify the Monitoring Officer, in writing, to register in the Register of Member's Interests:- on receipt of any gift or hospitality~~

~~Any person from whom they have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to their position as an elected or co-opted member of the Authority.~~

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~~with a value of more than £25, whatever the motivation for such a gift. Members should note that they only need to register gifts and hospitality worth more than £25 that are received in connection with their official duties as a Member. Gifts received by Members in a personal/private capacity do not need to be registered.~~

**Comment [c2]:** This is £50 for members in the Member Cof C

7.3 Officers are required to disclose offers and receipts of gifts and hospitality which must be appropriately recorded in a Register of Gifts and Hospitality.

7.4 A particular issue arises for Officers seconded to work on outside bodies, as section 117(2) of the Local Government Act 1972 provides that an Officer shall not, through his office or employment, accept any fee or reward whatsoever other than his/her proper remuneration. Where an Officer is to be seconded and might be in receipt of any remuneration, bonus or allowances from the Authority to which he/she is to be seconded, the seconding Authority must agree that his/her proper remuneration shall henceforth include any remuneration, bonus or allowances paid to the officer by the body to which he/she is seconded.

## 8. Bribery Act, 2010

8.1 Members and Officers appointed to outside bodies need also to be aware of their potential liability under the Bribery Act 2010. This Act created a number of new criminal offences, of which the most relevant in the context of this guidance are:

- bribing another person
- receiving a bribe
- failure by a commercial organisation to prevent bribery

The Act defines bribery as offering, promising or giving someone a financial or other advantage either –

to encourage that person to perform their functions or activities improperly or to reward that person for having already done so; or in the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of the recipient's functions or activities.

- 8.2 Personal liability. Where any of the offences referred to in paragraph 8.1 are committed by a company, a senior officer of that company is liable to be prosecuted for the same offence if it is proved to have been committed with their consent or connivance. **No indemnity or insurance is available to Members or Officers found guilty in this situation**
- 8.3 As regards the offence of a commercial organisation failing to prevent bribery, Members and Officers should note the following (taken from Ministry of Justice guidance): so long as the organisation is incorporated (by whatever means), or is a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in **commercial activities**, irrespective of the purpose for which profits are made.
- 8.4 Members and Officers should also refer to the Council's anti-fraud policies for further details.

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## 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 or taking photographs not to edit the film/record/footage or 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 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, ~~2018~~<sup>1998</sup>, 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.

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation.

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

July 2018~~January 2014~~

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## HARTLEPOOL BOROUGH COUNCIL

### PUBLIC QUESTIONS TO COUNCIL MEETINGS

#### 1. Introduction

- 1.1 Members of the public are welcome to attend meetings of the Council, its Committees, Sub-Committees and Community Forums, except when the meetings are considering items classed as 'confidential' or 'exempt'. Those matters that may be considered as confidential or exempt are set out in the Access to Information Procedure Rules in the Council's Constitution. If you would like to attend a meeting, or would like further details of a meeting, you are advised to contact our Democratic Services Team ([democratic.services@hartlepool.gov.uk](mailto:democratic.services@hartlepool.gov.uk) or 01429 523568) to confirm details of the meeting.

#### 2. Council Meetings

- 2.1 The Council's Constitution states that during a period of 30 minutes, or a longer period at the discretion of the Chair, residents of Hartlepool may ask questions of Chairs of Committees at ordinary meetings of the Council in accordance with the Council's Procedure Rules.
- 2.2 You can ask a question by completing a Public Question Time form attached to this guide (Appendix 1). The form must be delivered in writing or by electronic mail to the Chief Executive no later than noon on the Thursday of the week before the meeting (or in the case of a meeting held otherwise than on a Thursday, on the expiry of the fifth clear working day before the meeting). Alternatively, if you would prefer to send your question by e-mail, send it to [democratic.services@hartlepool.gov.uk](mailto:democratic.services@hartlepool.gov.uk), you must include the name and address of the questioner ~~and must specify which Committee Chair to whom the question is to be put.~~
- 2.3 If the questioner is under 16 years of age, the notice must include the name, address and signature of the parent or guardian of the questioner.
- 2.4 ~~No later than 7~~ No later than 4 the day before the meeting, the order in which the questions shall be asked will be determined randomly by the Chief Executive. The determination of the order shall take place at the Civic Centre and will be open to the public.
- 2.5 At any one meeting no person may submit no more than 2 questions but a question may consist of a number of parts.
- 2.6 A question should fulfil the following criteria:-
- i) The name of the person wishing to ask the question should be on the Hartlepool Register of Electors;



- ii) The question should be concise (both in length and number of parts), direct and should be about a matter that the Local Authority has a responsibility or which affects the Borough;
- iii) The question should not be the same as one asked at Council in the last six months (unless there has been a significant change in circumstances)

2.7 The Chief Executive, in consultation with the Chair of the Council, may reject a question if it is considered to be

- defamatory, frivolous or offensive,
- seeks the disclosure of confidential or exempt information,
- is substantially the same as a question which has been put at a meeting of the Council in the past six months and since when there has been no change of circumstances justifying the resubmission of the question,
- is unreasonably excessive because of its length or its number of parts,
- the name of the person wishing to ask the question is not on the Register of Electors.

2.8 Copies of all questions will be circulated to all Members and will be made available at the meeting. At the Council meeting, the question will be put, by the Chief Executive, to the Member named in the notice.

2.9 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Chair to whom it was to be put, will be dealt with by way of a written answer.

2.10 Council meetings are usually held at 7.00 pm in the Council Chamber, Civic Centre, Victoria Road, Hartlepool. Dates of Council Meetings and any further information can be obtained from the Democratic Services Team, telephone 523568 or from the Council's website [www.hartlepool.gov.uk](http://www.hartlepool.gov.uk).

### **3. Committees and Sub Committees**

3.1 All meetings of the Council's committees and sub committees are open to the public to attend except when the meetings are considering items classed as 'confidential' or 'exempt'. These meetings may consider issues that will be of interest to residents who may wish to ask questions or express their views on the matters being considered. On such occasions anyone wishing to speak at a committee or sub committee meeting should seek the permission of the Chair in advance of the meeting. This can be done directly with the Chair or via the Democratic Services Team ([democratic.services@hartlepool.gov.uk](mailto:democratic.services@hartlepool.gov.uk) or 01429 523568).

### **4. Planning Committee**

4.1 There are different rules applying to public speaking at Planning and Licensing Committee. "A Guide to Public Speaking at Planning Committee" is available on the Council's website. ~~and is attached to this Guide (Appendix 2).~~ Essentially, only applicants and registered objectors to planning

applications can speak at those meetings. For more guidance contact the Development Control Team (developmentcontrol@hartlepool.gov.uk or 01429 523280).

## **5. Licensing Committee**

- 5.1 Licensing Committee considers licensing and other applications in accordance with the Licensing Act 2003 and other matters, i.e. gambling etc.. Individual licensing applications are dealt with by the Licensing Act Sub Committee and if you wish to speak at a meeting of the sub committee in relation to an application that affects you, you should contact the Public Protection Team (licensing@hartlepool.gov.uk or 01429 523354).

## **6. Community Forums**

- 6.1 There are two Community Forums, one covering North and Coastal (Bruce, Hart, Headland and Harbour, Jesmond and Seaton wards) and the other South and Central (Burn Valley, Fens and Rossmere, Foggy Furze, Manor House, Rural West and Victoria wards). The Forums are a focal point for local consultation on the provision of Council Services through Face the Public and other events incorporating consultation on the Council's Annual Budget. Residents are actively encouraged to attend these meetings and there is a specific section of the meeting for public questions on any aspects of the council's services. For more information on the Community Forums please contact the Democratic Services Team (democratic.services@hartlepool.gov.uk or 01429 523568).

# **PUBLIC QUESTION TIME AT COUNCIL MEETINGS      APPENDIX 1**

(Before completing this form please read the accompanying note carefully)

## **Hartlepool Borough Council**

Your question (Please continue on a separate sheet if necessary)

Please indicate the Council meeting date that the question is to be considered

.....

This question will be put to the Chair of the Committee which is responsible for the particular function as set out in Part 3 of the Council's Constitution.

Name .....

Address .....

.....

Postcode

Contact telephone number

E-mail address .....

Signed ..... Date .....

*If under 16 years of age:*

Name .....

Address .....

Signature of Parent or Guardian .....

For office use only

Date received

Checking in by

Accepted

Y / N

ER number:

PW

Accepted			
Ballot result	Attended Council	Y / N	Written response sent
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## **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.

### **THE “PRINCIPLES”**

The legislation specifies certain principles in achieving political balance through the allocation as 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.

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 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.
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.



# 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 _____	_____

	Name	Signature
11 Councillor	_____	_____
12 Councillor	_____	_____
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26 Councillor	_____	_____
27 Councillor	_____	_____
28 Councillor	_____	_____
<u>Date:</u> Officer)		(Date of delivery of Proper

\*1 Insert name of group  
group

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

\*3 If desired, insert name of deputy leader of group

\*4 Insert names of members of group



## CONTRACT PROCEDURE RULES

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## 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.
- 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 current Procurement Strategy and Policy Document 2015-2018, [http://hbcintranet/site/scripts/download\\_info.php?downloadID=4998&fileID=14012](http://hbcintranet/site/scripts/download_info.php?downloadID=4998&fileID=14012) 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 an offer 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 of Contractors**

- i) Where goods, services or works are to be acquired of a nature in respect of which a Select List of Contractors 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 an offer 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 prevailing Public Contracts Regulations.
- iii) The Public Contracts Regulations impose specific requirements in relation to the setting up of strategic partnerships (as opposed to letting contracts through the normally required competitive procurement routes) with the main considerations revolving around structural control, economic dependency, and the pursuit of objectives in the public interest.
- iv) This is a highly complex area and as such, any Council activities identified as possibly suitable for the creation of a Strategic Partnership must be referred to the Council's Legal Division for consideration.

## **6. The Rules and an In-house Provider**

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



- iv) This has the consequence that, when it is necessary for the in-house provider to have some part of the work done by an outside contractor, the contract with the outside contractor is a 'contract', rather than a 'sub-contract' (requiring specific contract provision regulating the relationship between the in-house provider and the external contractor which is outside the scope of this commentary).

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

- i) As part of their specification writing and procurement documentation 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 requirement 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 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 Director of the Department requesting the waiver in consultation with the Director of Finance and Policy and Chief Solicitor 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 or a quotation with a value in excess of £60,000 (Goods and Services) or £100,000 (Works). In respect of any tender the Committee will have the responsibility:

- The same functions under 8(ii) above in its role as a Policy Committee.
- To receive and examine quarterly reports on the monitoring and outcome of contract letting procedures including outputs, values, value for money considerations and performance (incorporating if necessary provider comparative analysis) where lowest/highest price is not payable/receivable.
- To receive and examine reports on any exemptions granted to these Contract Procedure Rules

iv) **The Audit and Governance Committee**

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

**The Role of Officers - The Chief Officer/Officer Team**

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

- To record the specification and procurement strategy in accordance with section 7 of this introduction.
- To approve use of selected tendering lists or frameworks or, if none available, to determine the quotation 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~~ Corporate Procurement Officer must:

- Open all quotations / tenders in excess of £25,000
- Record the outcome of all tenders / quotations with a value in excess of £60,000 (Goods and Services) or £100,000 (Works) 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.

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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 (e.g. 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 Contract letting procedure to be reported to the Finance and Policy Committee applies to contracts undertaken by an Officer under delegated powers, but the responsible Officer, rather than the Chief Solicitor would sign such a contract.

#### **9. Electronic Procurement (e-Procurement)**

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

#### **10. The Public Services (Social Value) Act 2012**

- i) The Public Services (Social Value) Act places a number of statutory obligations on the Council, in relation to certain elements of its procurement practices.
- ii) The Act 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.
- iii) As the Act covers service contracts as defined in the Public Contracts Regulations the duty appears to extend to contracts for 'Social and Other Services' since these service contracts are covered by the Public Contracts Regulations albeit the requirements for the procurement of such contracts are less onerous.
- iv) 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.

- v) 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.
- vi) Where appropriate, procurement 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 / quotation evaluation process.
- vii) 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, i.e. 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**

- 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:**

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

- 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;
- 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.

Construction related contracts will be amended to incorporate clauses which conform to the principles outlined in the above clauses.

**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 / quotation 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 Selection and Suitability ~~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.

### 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.

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## 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 (viii) overleaf, 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 ~~earing services to children or vulnerable persons~~ a direct package of care and support for an individual child or vulnerable person.
- 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.  
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 Director of the Department requesting the exemption or representative
  - and
  - the Director of Finance and Policy or representative
  - the Commissioning Officer requesting the exemption

In the event that the exemption is requested on behalf of the Finance and Policy Department, the request is to be reviewed by the Chief Executive.

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.
- 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 / quotation, 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 – SELECT LISTS OF CONTRACTORS**

### **2. Compilation of a Select List of Contractors**

- i) This rule applies where a decision has been made that a list shall be kept of persons to be invited to submit quotations 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 Director of Finance and Policy (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.

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 C Procurement Procedures.
- 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**

### **4. SCOPE OF PART C:**

- i) The requirements detailed in this Part C do not apply to contracts which have been determined should be let under the Select Lists of Contractors 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 quotations;
  - (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) The purchase of goods, materials or services which are acquired for re-sale to the public by a trading arm of the Council.

(i) The works to be executed could invalidate an existing warranty.

- (ii) Purchase of second-hand goods.
- iii) NOTE: All quotations / tenders referred to in sections 4, 5 and 6 below are to be sought from Central Purchasing Contracts or framework agreements (as described in 'Introduction – Para. 3').
- iv) 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.
- v) The minimum number of local suppliers to be invited to submit a quotation varies depending on the value of the contract to be awarded. Details are provided in the table at paragraph 6 below.

#### **5. Informal Request for Quotation Procedure –**

##### **i) Contracts under £1,000**

For a contract for less than £1,000, reasonable enquiries shall be made to determine that the price is fair and reasonable and records retained to evidence such reasonable enquiries.

#### **6. Formal Request for Quotations Procedure –**

##### **i) Works contracts £1,000 - £4,551,413 Goods materials or Services Contracts £1,000 - £181,302**

In respect of contracts:

- for the execution of works over £1,000 and up to £4,551,413
- for the supply of goods materials or services over £1,000 and up to £181,302

the requisite number of quotations shall wherever possible be obtained.

The following table details the requisite number of quotations, dependent on the anticipated value of the subsequent contract:

		Goods Materials and Services (excluding Social and other specific Services)	Social and other specific services	Works
	Anticipated Contract Value	Rules	Rules	Rules
Departmental	£0-£1000	<b>Informal - reasonable enquiries required. Minimum of One quotation, using Quick Quotes is optional.</b>  Officers should attempt to procure services from local organisations where possible, although consideration must be given to the cost to the Council.		
	£1,000-£5,000	<b>At least 2 quotations using Quick Quotes</b>  Officers should invite a minimum of 1 local company to quote (where available)		
	£5,000-£25,000	<b>At Least 3 quotations using Quick Quotes</b>  Officers should invite a minimum of 2 local company to quote (where available)		
Corporate Procurement	£25,000	<b>At Least 3 quotations using Quick Quotes</b>  Officers should invite a minimum of 2 local companies to quote (where available)		<b>At least 3 quotations using Quick Quotes</b>  Officers should invite a minimum of 2 local companies to quote (where available)
	£60,000	<b>At least 4 quotations using Quick Quotes</b>  Officers should invite a minimum of 3 local companies to quote (where available)	<b>At least 4 quotations using Quick Quotes</b>  Officers should invite a minimum of 3 local companies to quote (where available)	<b>At least 4 quotations using Quick Quotes</b>  Officers should invite a minimum of 3 local companies to quote (where available)
	£100,000	Tender Procedure	EU Procedures apply	EU Procedures apply
	£181,302			
	£615,278	EU Procedures apply	Tender Procedure	Tender Procedure EU Procedures apply
	£4,551,413			
		EU 'light touch' procedures apply		

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		Goods, Materials and Services (excluding Social and other specific services)	Social and other specific services	Works
	Contract Value	Proposed Rules	Proposed Rules	Proposed Rules
Departmental		Informal Process – Reasonable Enquiries required Minimum of one quotation	Informal Process – Reasonable Enquiries required Minimum of one quotation	Informal Process – Reasonable Enquiries required Minimum of one quotation
	£0 – £1000	Officers should attempt to procure services from local organisations where possible, although consideration must be given to the cost to the Council		
	£5,000	At least 2 quotations using Quick Quotes	At least 2 quotations using Quick Quotes	At least 2 quotations using Quick Quotes
	£60,000	At least 3 quotations using Quick Quotes	At least 3 quotations using Quick Quotes	At least 3 quotations using Quick Quotes
Corporate Procurement	£60,000 – £100,000	Officers should invite a minimum of 2 local companies to quote (where available)		
	£100,000 – £181,302	At least 4 quotations using Quick Quotes	At least 4 quotations using Quick Quotes	At least 4 quotations using Quick Quotes
	£615,278	Officers should invite a minimum of 3 local companies to quote (where available)	Officers should invite a minimum of 3 local companies to quote (where available)	Officers should invite a minimum of 3 local companies to quote (where available)
	£4,551,413	EU procedures Apply	EU 'light touch' procedure Applies	EU procedures Apply
	-			

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

### 7. Tender Procedure –

- i) **Works contracts over £4,551,413**  
**Goods materials or Services Contracts over £181,302**  
**(In-house bid contracts over £100,000)**

All contracts which exceed £4,551,413 in value or amount for the execution of any works, or £181,302 in value or amount for the supply of goods, materials or services shall be procured in accordance with the prevailing Public Contracts Regulations.

## **8. Public Notice provisions**

### **Publication of Contract Opportunity Notices**

Procurement processes subject to the tender procedure described in paragraph 7 are governed by the requirements of the Public Procurement Regulations.

The following public notice provisions are also governed by the requirements of the Public Procurement Regulations but are further defined by these Contract Procedure Rules. These publication rules only apply to procurement processes with a value below the Public Contracts Regulations tender threshold described in paragraph 6.

Application of these public notice provisions is optional, however, where these provisions are applied AND the value of the contract to be awarded is in excess of £25,000 an advertisement MUST be placed on the Government's Contracts Finder website.

The Corporate Procurement team will place this advert on behalf of the procuring officer/team.

- i) At least seven calendar days public notice shall be given
- in one or more local newspapers circulating in the district, and/or
  - on the procurement pages of the Council's website, and/or
  - on the Council's chosen procurement portal and/or
  - 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.



- 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.

#### **Publication of Contract Award notices**

All contracts **awarded** with a value in excess of £25,000 MUST be notified to the Corporate Procurement Team so that details can be submitted to the Government's Contracts Finder website.

The Contracts Finder website is a nationally available government website on which public sector organisations are required post details of advertised contract opportunities and contracts awarded with a value over £25,000.

#### **9. Selected tenderers provisions**

- i) This rule applies where it has been determined that formal requests for quotations are to be restricted to persons whose names appear on a Selected List of Contractors compiled under Part B - Rule 2. An invitation to quote 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.

#### **10. Acceptance of tenders / quotations**

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

#### **11. 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 15) shall be applied to calculate the Price/quality Score of each tender / quotation.
- iii) The tender / quotation with the highest Price/Quality Score will usually be accepted.

## **PART F – STRATEGIC PARTNERSHIPS**

### **12. 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

### 13. Opening of tenders

- i) All electronic quotations / tenders with a value less than £25,000 shall be opened at one time by the Procuring Officer

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) All eElectronic tenders / quotations with a value in excess of £60,000 (Goods and Services) or £100,000 (Works) £25,000 shall be opened at one time by a Corporate Procurement Officer 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 /quotations obtained for the In-house Provider for the purpose of compiling a bid as tender for submission by the In-house Provider.

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- iv) Paragraph (i) and (ii) of this Order shall not apply to tenders / quotations 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) quotations / tenders with a value in excess of £60,000 (Goods and Services) or £100,000 (Works) 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.

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

- i) The Council's principal method of procurement is by electronic means. Requests for Quotations and Invitations to Tender must be transmitted by electronic means using the Council's e-procurement system unless the Director of Finance and Policy authorises (in exceptional circumstances) the use of postal / hard copy tenders / quotations.
- ii) In the event that use of postal / hard copy tenders / quotations has been authorised, the resultant procurement documentation shall state that no submission 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.
- iii) The Chief Executive shall keep a record of all postal / hard copy tenders / quotations received.

**15. 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.

#### **16. 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 or quotation exercise with a value in excess of £60,000 (Goods and Services) or £100,000 (Works) to take place (see Rule 7) the contract must be the subject of a formal written contract signed in accordance with Rule 18.

#### **17. 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.

#### **18. Vetting and Signature of contracts**

##### **i) Contract Vetting**

- a) Contracts with a value in excess of ~~£60,000 (Goods and Services) or £100,000 (Works)~~ £25,000 are to be referred to the Corporate Procurement Unit for vetting.

- b) The Corporate Procurement Unit must refer all contracts with a value in excess of £60,000 (Goods and Services) or £100,000 (Works) 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).

**19. Tenderers withdrawal**

- i) In the event of any person or firm withdrawing a tender / quotation, or declining to sign a form of contract upon being called on to do so after his/her or their tender / quotation has been accepted (whether accepted subject to the Council's approval or not), no further tender / quotation 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.

**20. 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 / quotations 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 those submitting

tenders / quotes shall 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 / quotation, or for the correction of arithmetic or other details, (but NOT the resolution of any qualified bids) negotiations following receipt of tenders / quotations shall only take place in the following circumstances: -
  - (a) where a single tender /quotation or no acceptable tenders / quotations have been received and the Chief Officer considers that negotiation may lead to more favourable terms or an acceptable offer to the Council, or
  - (b) when tenders /quotations cannot readily be evaluated and compared without discussion with those submitting the tender / quotation or
  - (c) with the approval of the Director of Finance and Policy and the Chief Solicitor and the Monitoring Officer (if different) and any negotiations shall be conducted in accordance with paragraph (iv)
- iv) Discussion with those submitting the tender / quotation 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

## 21. 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~~ In the event that an extension of the original contract period (the original contract period to include all extensions already allowed for in the original contract) is required, the decision to implement such an extension must be approved by the relevant Chief Officers 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 Director of the Department requesting the exemption or representative  
the Director of Finance and Policy or representative  
the Commissioning Officer requesting the exemption

In the event that the ~~exemption-extension~~ is requested on behalf of the Finance and Policy Department, the request is to be reviewed by the Chief Executive.

- 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

### 22. 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 / quotation or attend interview) has been agreed between the Chief Officer and the Council’s ~~Chief Internal Auditor- Corporate Procurement Unit~~ for the allocation of marks making up the Price/Quality Score (see also Rule ~~14~~ 15).

**“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 / quotation 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 / quotations, 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 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.

**“Quotation”** for the purposes of this document is an offer submitted by a supplier to the Council via a procurement process where the suppliers participating in the procurement process have been selected by the Council, as opposed to their involvement occurring as a result of them responding to an advertised, open invitation, available to all interested suppliers.

**“Tender”** for the purposes of this document is an offer submitted by a supplier to the Council via a procurement process which required suppliers to respond to an advertised opportunity, such opportunity being made equally available to all interested suppliers.

DRAFT

**COUNCIL**  
**25<sup>th</sup> October 2018**



**Report of:** Finance and Policy Committee

**Subject:** SEATON CAREW ADDITIONAL CAR PARKING FACILITIES

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**1. TYPE OF DECISION/APPLICABLE CATEGORY**

1.1 This is a key decision Ref RN27 / 18 in the forward plan.

**2. PURPOSE OF REPORT**

2.1 To enable Council to consider Finance and Policy Committees recommendation to extend the existing Sea View Car Park in Seaton, which is a self funded business case.

**3. BACKGROUND**

3.1 In accordance with the constitution, the Finance and Policy Committee is responsible for proposing changes to the approved budget and policy framework, which are then referred to Council for consideration.

3.2 At its meeting on the 8<sup>th</sup> October, Finance and Policy Committee approved the extension of Sea View Car Park in Seaton to create more car parking spaces for visitors.

3.3 This is in response to a request from businesses in the area to increase the parking provision to help support the local economy and following an increased number of visitors following the recent regeneration works undertaken by the Council.

**4. BACKGROUND PAPERS**

4.1 Finance and Policy Committee Report – 8<sup>th</sup> October 2018 – attached as **Appendix A.**

**5. RECOMMENDATIONS**

- 5.1 It is recommended that the Council approves prudential borrowing of £540,000 to fund the extension of the Sea View Car Park at Seaton Carew and to note that the annual loan repayment costs will be fully funded by the additional car parking income.
- 5.2 On the basis of Council approving the above recommendations to approve the inclusion of these schemes within the Capital Programme and Prudential Indicators.

**6. CONTACT OFFICER**

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Tel: 01429 52330

# FINANCE AND POLICY COMMITTEE

8<sup>th</sup> October 2018



**Report of:** Director of Regeneration and Neighbourhoods

**Subject:** SEATON CAREW ADDITIONAL CAR PARKING FACILITIES

---

## 1. TYPE OF DECISION/APPLICABLE CATEGORY

1.1 This is a key decision Ref RN27 / 18 in the forward plan.

## 2. PURPOSE OF REPORT

2.1 To seek approval for the extension of the existing Sea View Car Park, Seaton.

## 3. BACKGROUND

3.1 In 2017 seasonal parking controls were introduced in Seaton Carew in order to improve traffic management, ensure a turnover of visitor parking in appropriate areas, and enable an increased level of enforcement.

3.2 These controls included pay and display charges in 3 car parks and certain on-street areas, limited stay disc parking controls, plus the introduction of resident and business permit zones.

3.3 There is a demand for parking spaces at the southern end of Seaton, generated by customers looking for convenient parking close to the facilities. The demand for parking bays often exceeds those available, demonstrated by the Rocket House Car Park frequently being full to capacity.

3.4 The lack of available spaces contributes to regular reports of parking contraventions in restricted areas and on central hatching areas along The Front, which has been the subject of road and pedestrian safety concerns. On particularly busy days, the coach and car park still exceed availability and the former fairground area has been used as an overflow site, suggesting there would be demand for additional car parking in the area.

- 3.5 A number of public consultation events were held at Seaton to promote the traffic management proposals. Responses from residents and commercial businesses were critical of the lack of parking space in Seaton. Furthermore recent consultations with businesses by the Council's Economic Regeneration Team once again highlighted that the lack of parking was providing a barrier to their growth, therefore this proposal looks to address such concerns.
- 3.6 It is also anticipated that the ongoing regeneration development work in the area will attract a number of additional visitors and this proposal seeks to provide convenient and available parking provision to meet this additional need and further support the growth of Seaton as a coastal destination.
- 3.7 The proposed additional parking areas will visually improve the appearance of this area and compliment the ongoing regeneration work taking place.

#### 4. PROPOSALS

- 4.1 Parking provision at Seaton is currently provided by a number of regulated On street parking bays and the Off street car parks at Rocket House (83 bays) and Sea View (330).
- 4.2 Seasonal parking charges apply between April – October (7 months).
- 4.3 The Sea View car park currently operates dusk to dawn closure times. The site has no electrical power source but has historically avoided the need to address this issue by closing outside of the hours of enforcement. This proposal does however include various additional options for improvements which are likely to require planning permission. Provision has been made for some landscaping within the curtilage of the site, installation of street lighting to reduce risk of harm and highlight pedestrian walkways and access areas and CCTV to prevent and deter potential crime and antisocial behaviour issues.
- 4.4 In recognition of the identified concerns expressed regarding limited parking provision in the Seaton area, it is intended to extend the existing parking area on the Former Fairground site and a small section of land to the north.
- 4.5 An indicative plan of the proposed extension and revised bay layout within the Sea View car park is shown as **Appendix 1** of this report.
- 4.6 Development of the former Fairground site would visually improve and enhance the area. The site is currently used as an overflow parking area when capacity exceeds demand. The development of the Former Fairground site will create nearly an additional 350 parking spaces whilst layout changes to the existing Sea View Car Park will provide a combined parking area for some 680 vehicles including the provision for designated disabled parking, coaches and long wheel base vehicles, as well as the provision for two mobile units. Construction work has been costed and

estimated at £390,000 with further costs for CCTV, landscaping, border fencing and street lighting, potentially increasing this amount by a further £150,000.

## 5. RISK IMPLICATIONS

- 5.1 The scheme would result in a financial commitment to fund the prudential borrowing costs of the capital expenditure. The service area would be committed to a £37,000 annual repayment over a 25 year period, funded from income generated by the seasonal parking charges. The level of expenditure and anticipated revenue income are shown in para 6.5 of this report.

## 6. FINANCIAL CONSIDERATIONS

- 6.1 The capital works to extend the car park will be funded via prudential borrowing.
- 6.2 Work on the proposed scheme will require formal planning permission and some of the costs have therefore been added in anticipation of the likely street lighting, landscaping and CCTV provision that may be required as part of the planning consent.
- 6.3 The following costs have been identified:

<b><u>Cost to be funded by borrowing</u></b>	<b>£</b>
Identified capital costs	
Design and construction costs	390,000
Planning process	2,500
Perimeter fencing	47,500
	<b>440,000</b>
Potential additional capital works	
Street lighting	60,000
CCTV	30,000
Landscaping works	10,000
	<b>100,000</b>
 Total construction costs	 <b>540,000</b>
 <b><u>Cost to be funded by grant</u></b>	
Additional parking machines	33,500

- 6.4 The construction costs of £540,000 will be funded via prudential borrowing. Borrowing commitments to fund the capital works are £37,000 per annum over a 25 year period. The annual prudential borrowing payments will be funded from the additional income generated.

6.5 Income has been calculated using revenue figures from the existing Sea View and Rocket House car parks and anticipated future projections include a displacement allowance from both car parks.

6.6 A Sensitivity Analysis has been undertaken and the table below summarises these findings:

- The baseline expectation for revenue based on the average revenue generated at Sea View and Rocket House car parks over the 7 month period April to October;
- The minimum anticipated revenue based on the lowest monthly revenue generated from these car parks. The table demonstrates that even on the minimum income estimates the scheme makes a net contribution to the existing budget pressure;
- The breakeven position, which is 57% of baseline position;
- The borrowing costs;
- Additional revenue costs; and
- The net contribution to the previously identified car parking budget pressure of £80,000.

	Baseline	Minimum	Breakeven
Income (April to October) after displacement allowance	70,000	53,000	40,000
Borrowing costs	(35,000)	(35,000)	(35,000)
Additional Revenue Costs	(5,000)	(5,000)	(5,000)
Net contribution to £80K pressure	30,000	13,000	0

## 7. LEGAL CONSIDERATIONS

7.1 The Traffic Regulation Order covering the existing car park will be amended to cover the new area of the car park, with the tariff being the same throughout.

## 8. CONSULTATION

8.1 The proposed scheme does not directly affect any residents or businesses, and will be a positive addition to Seaton Carew, therefore no direct consultation has been undertaken.

8.2 However the Council's Economic Regeneration Team have recently carried out consultations with local businesses who highlighted that the lack of parking was providing a barrier to their growth and that of Seaton, therefore this proposal would help to address such concerns



- 8.3      Additionally the development would be subject to planning approval and would therefore undergo the formal consultation process that accompanies this statutory route.

**9.        CHILD AND FAMILY POVERTY**

- 9.1      There are no child and family poverty implications relating to this report.

**10.      EQUALITY AND DIVERSITY CONSIDERATIONS**

- 10.1     Disabled parking bays will be included within the car park. A copy of the Equality and Diversity Impact Assessment is attached at **Appendix 2**.

**11.      SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS**

- 11.1     There are no Section 17 considerations relating to this report.

**12.      STAFF CONSIDERATIONS**

- 12.1     There are no staff considerations relating to this report.

**13.      ASSET MANAGEMENT CONSIDERATIONS**

- 13.1     The additional parking area will be added to the Council's Asset Register and will be included as part of the existing scheduled inspection programme and maintained in order to ensure compliance with any statutory or legal obligations required of the Council.

**14.      RECOMMENDATIONS**

- 14.1     That Finance and Policy Committee approve the proposal to extend the Sea View Car Park at Seaton Carew, and also seek Committee approval to refer the proposal to use prudential borrowing of £540,000 to Council as part of the MTFS.

**15.      REASONS FOR RECOMMENDATIONS**

- 15.1     To provide additional parking facilities for visitors to Seaton Carew, thereby supporting the regeneration of Seaton and also business growth.

**16. BACKGROUND PAPERS**

16.1 None.

**17. CONTACT OFFICER**

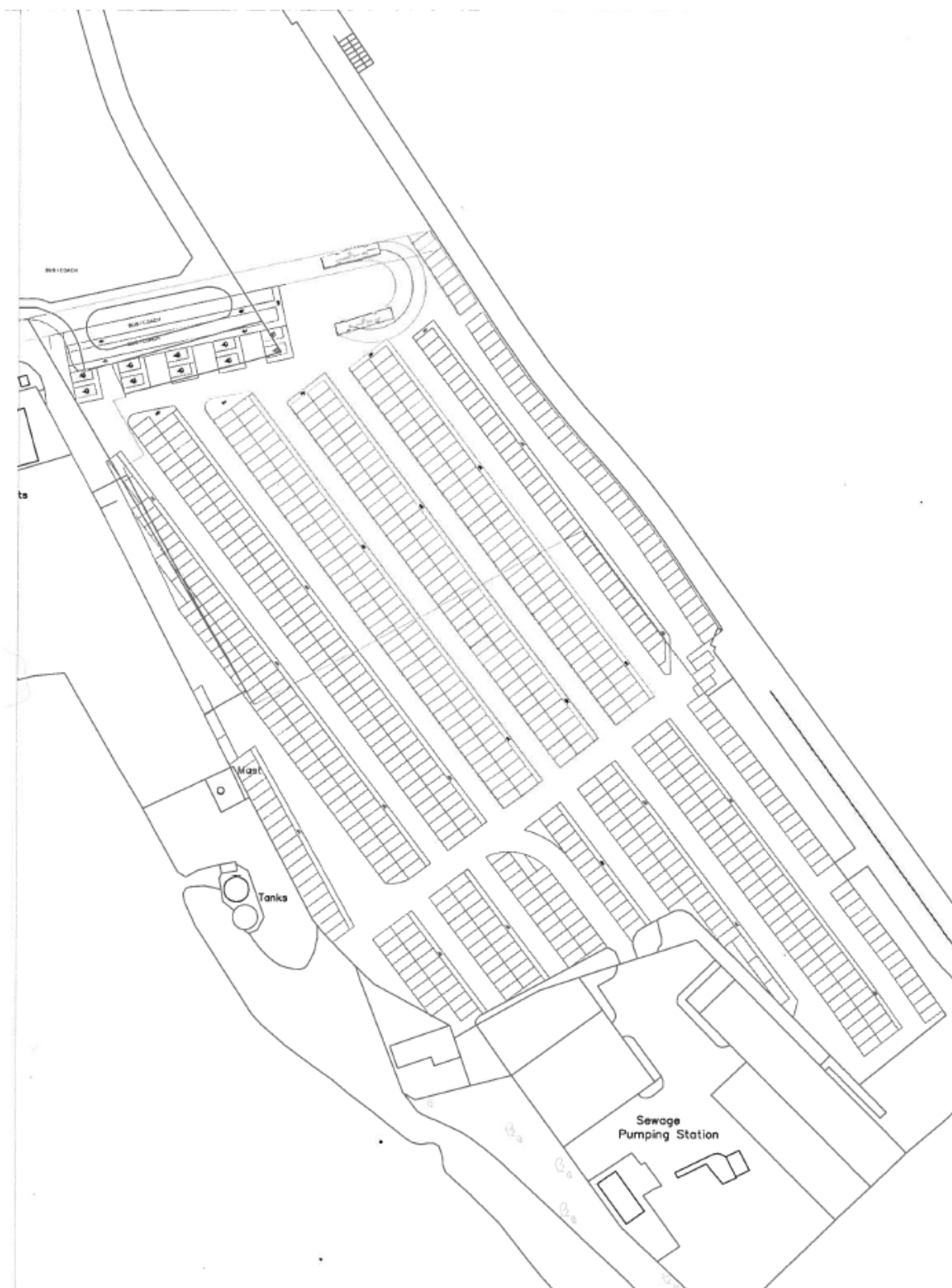
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APPENDIX 1



Department	Division	Section	Owner/Officer	
Neighbourhood Services	Community Services		Phil Hepburn	
Service, policy, practice being reviewed/changed or planned	Extension to existing Sea View Car, seaton Carew.			
Why are you making the change?	Creating more parking provision in order to meet existing and anticipated future parking demand.			
How might this impact (positively/negatively) on people who share protected characteristics?				
		Please tick	POSITIVELY	NEGATIVELY
Age				
Please describe...				
Disability		X		
New scheme would provide an additional 10 dedicated disabled parking spaces, compliant with the required legal and design standards.				
Gender Re-assignment				
Please describe...				
Race				
Please describe...				
Religion				
Please describe...				
Gender				
Please describe...				
Sexual Orientation				
Please describe...				
Marriage & Civil Partnership				
Please describe...				
Pregnancy & Maternity				
Please describe...				
Has there been consultation /is consultation planned with people who will be affected by this policy? How has this affected your decision making?	Previous consultation with residents, businesses and visitors (carried out in 2017) identified an additional parking demand. The proposed scheme looks to address this issue.			
As a result of your decision how can you mitigate negative/maximise positive outcomes and foster good relationships?	The disabled parking bays have been designed to be located closest to the nearby facilities. The wider / larger parking bays meet required design standards and will provide convenient parking with ease of access, particularly for those who have wheel chair dependant mobility..			
Describe how you will address and monitor the impact	<b>1. No Impact - No Major Change</b> Initial design plans have identified provision for 10 disabled bays but this can be increased if required. The number of proposed			

		<i>disabled bays will however be proportionate in order to comply with the planning conditions for a car park of this size.. l</i>	
		<b>2. Adjust/Change Policy</b> <i>The automatic eligibility criteria for Blue Badges is currently being reviewed. In the event the national criteria changes allowing more badges to be awarded (specifically for none mobility illnesses) the number of blue badge holders could increase significantly. The ratio of disabled parking bays within off street car parks may need to increase to reflect such changes.l</i>	
		<b>3. Adverse Impact but Continue as is</b> <i>Please Detail</i>	
		<b>4. Stop/Remove Policy/Proposal</b> <i>Please Detail</i>	
Initial Assessment	5/9/18	Reviewed	00/00/00
Completed	00/00/00	Published	00/00/00

**COUNCIL**  
25 October 2018



**Report of:** Chief Executive

**Subject:** BUSINESS REPORT

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**1. MERGER OF THE TEESSIDE AND HARTLEPOOL CORONER AREAS**

Further to my previous Business report on the 21 June 2018 regarding the amalgamation of the Teesside and Hartlepool area coroner service, I can now report that an order was laid before Parliament on the 28 June and came in to force on the 1<sup>st</sup> August 2018 creating a new coroner area to be known as the 'Teesside and Hartlepool' coroner area.

**2. BY-ELECTION RESULT**

My previous report to Council noted the resignation of Paul Beck as Ward Councillor for the Hart Ward and that a by-election would be held on Thursday 11 October, 2018.

At that election James Brewer was duly elected to serve in the office of Councillor for that Ward until the local government elections in 2019.

Members are requested to note the election of James Brewer as Borough Councillor for the Hart Ward.

**3. COMMITTEE AND OUTSIDE BODY - VACANCIES**

Members will recall my report to the September meeting of Council when it was agreed that the vacancies arising from the resignation of Paul Beck, and other vacancies, be reconsidered by Council after the by-election.

As the by-election has been held, the Committee and Outside Body vacancies arising from the resignation of Paul Beck are set out below:-

Audit and Governance Committee  
Children's Services Committee, including Corporate Parent Forum

Vice Chair of Neighbourhood Services Committee  
Licensing Committee  
Chair of North and Coastal Community Forum

Hartlepool and District Sports Council  
School Admissions Forum  
Durham Tees Valley Airport Board

The instructions of Council are sought.

#### **4. REFERRAL FROM COUNCIL – AWARD OF MEDALS TO RETIRING CEREMONIAL MAYOR**

Members will recall that at the meeting of Council held on 21 June 2018, it was moved that the Council remove the awarding of a medal, to a retiring Ceremonial Mayor, if the cost of the medal is met by the Council. In response, it was proposed that the issue be referred to the Constitution Committee for consideration. Following concern expressed by the Member, it was highlighted that the outcome of the Constitution Committee would be reported to Council.

At the meeting of the Constitution Committee held on 13 September 2018, I advised the Committee that it had been a longstanding tradition in this Council as well as other local authorities that the Mayor be presented with a medal or gift to recognise their service to the community and the town. Reference was made to the inaccuracies that had been reported prior to the Annual Council meeting regarding the costs associated with medals presented to Mayors following the conclusion of their term of office. The views of the Committee were sought as to whether the longstanding tradition in relation to medals should continue. The Committee was keen to continue the tradition of presenting the retiring Ceremonial Mayor with a medal or gift to express appreciation and recognition for their service to the town. Emphasis was placed upon the need for future medals to be produced at a minimal cost and that sponsorship opportunities with key partners be examined. In relation to the type of medal that would be appropriate, Members were of the view that the medal should represent the history of Hartlepool and that a steel or gun metal type medal be considered.

Following discussion, the Committee recommended:-

- (i) That the current tradition in relation to awarding of medals to a retiring Ceremonial Mayor should continue.
- (ii) That the option to produce a steel or gun metal medal to represent the history of Hartlepool be explored.
- (iii) That Officers from the Economic Development Team explore sponsorship opportunities with key partners in terms of the design and production of future medals and that medals be produced at a minimal cost.

## **5. ELECTORAL REVIEW OF HARTLEPOOL BOROUGH COUNCIL**

As Members will be aware from my previous reports to Council the Local Government Boundary Commission ('Commission') for England has formally commenced an electoral review of Hartlepool Borough Council.

Following the consultations on council numbers and warding arrangements, the Commission has now opened a public consultation on its draft recommendations for new electoral arrangements for Hartlepool Borough Council.

The consultation opened on the 2 October 2018 and closes on 10 December 2018.

The draft recommendations propose that 36 borough councillors should be elected to Hartlepool Borough Council in future. The recommendations also propose new electoral ward boundaries across the borough.

Once the Commission has considered all the responses to the consultation, the Commission will publish final recommendations in February 2019. This will be followed by a draft order in both Houses of Parliament under the negative resolution procedure. Subject to parliamentary scrutiny, the new electoral arrangements are scheduled to come into effect at the borough elections in 2020.

## **6. DESIGNATION OF MONITORING OFFICER**

Members may recall that Council, at its meeting on 15 March 2018, agreed that Hayley Martin be appointed to cover the duties of the Chief Solicitor and Monitoring Officer on an interim basis following the retirement of the Chief Solicitor and the appointment of a new Chief Solicitor.

Following a recommendation by the Finance and Policy Committee, the Appointments Panel agreed to the appointment of Hayley Martin to the post of Chief Solicitor and the appointment of the Interim Assistant Chief Solicitor (current Head of Legal Services – People), Neil Wilson, to the Assistant Chief Solicitor post.

It is necessary for the Council to make the appointment of a Monitoring Officer which is a statutory appointment required by Section 5 of the Local Government and Housing Act 1989 and which is the responsibility of the Chief Solicitor. Council is requested, therefore, to confirm Hayley Martin as Monitoring Officer.



## Cleveland Police and Crime Panel

A meeting of Cleveland Police and Crime Panel was held on Tuesday, 3rd July, 2018.

**Present:** Cllr Norma Stephenson O.B.E. (Chair), Cllr David Coupe, Cllr Ken Dixon (substitute for Cllr David Harrington), Cllr Ian Jeffrey, Mr Paul McGrath, Cllr Charlie Rooney, Cllr Matthew Vickers, Cllr David Wilburn and Cllr Lewis Young.

**Officers:** Julie Butcher, Judy Trainer and Sarah Whaley.

**Also in attendance:** Barry Coppinger (Commissioner), Simon Dennis, Jo Hodgkinson, Elise Pout (Commissioner's Office), Assistant Chief Constable Simon Nickless (Cleveland Police).

**Apologies:** Cllr Alec Brown, Cllr Lesley Hamilton, Cllr David Harrington, Cllr Chris Jones and Cllr Katie Trueman.

### 1 Appointment of Chair 2018/2019

RESOLVED that Councillor Norma Stephenson OBE be appointed Chairman of the Panel for the Municipal Year 2018/19.

### 2 Welcome and Introductions

The Chair welcomed everyone to the meeting and introductions were given. It was also noted that the Governance Officer would be making an audio recording of the meeting to assist in the drafting of minutes of the meeting.

### 3 Induction

Members were given an induction session to the new Community Safety Hub.

### 4 Declarations of Interest

There were no interests declared.

### 5 Appointment of Vice Chair 2018/2019

RESOLVED that Councillor Charlie Rooney be appointed Vice Chair of the Panel for the Municipal Year 2018/2019.

### 6 Minutes

Consideration was given to the minutes of the meeting held on 6 February 2018.

Members agreed the following correction to minutes:-

Page 3, Paragraph 5

Delete the words:-

“The Chair confirmed that the Panel had been made aware of the complaint in any event.”

RESOLVED that the minutes of the meeting held on 6 February 2018 be agreed subject to the above correction.

## **7 Members' Questions to the Police and Crime Commissioner**

There were no Members' Questions to the Police and Crime Commissioner.

## **8 Annual Report of Cleveland Police and Crime Commissioner**

Members considered a report that presented the Commissioner's 2017/18 Annual Report.

The Annual Report set out how the Commissioner had successfully delivered the commitments he had made in his Police and Crime Plan during the period 1 April 2017 to 31 March 2018.

It was the Commissioners sixth year and he felt privileged that people had continued faith in him to ensure efficient and effective policing was delivered in Cleveland.

The Annual Report highlighted the 2017-2018 timeline that showed some of the key achievements the Commissioner had made in the last 12 months.

Further highlights in the Annual Report were:-

- 2017/18 in Numbers
- Your Force Your Voice
- Investing in Our Police
- Getting a Better Deal for Victims and Witnesses
- Tackling Re-Offending
- Working Together to Make Cleveland Safer
- Securing the Future of Our Communities
- Scrutiny and Governance
- Finance
- Budget Results 2017/18

Members felt that the report was easy to follow for the public. An observation was made that the photographs should better reflect the ethnic mix across Cleveland.

A question was asked about what percentage of the Police Budget in Cleveland was spent on Neighbourhood Policing. As the exact figures were not available it was agreed that a response would be prepared for the next meeting of the Panel.

RESOLVED that the Annual Report be noted.

## **9 Commissioners Update**

Consideration was given to a report that provided Members with an update in relation to key matters since the previous meeting in February including;

\* Devolution of Ministry of Justice Funding – Expression of Interest

- \* Child Sexual Exploitation – Perpetrator Research Event
- \* Human Trafficking and Modern Day Slavery Network
- \* Staff engagement sessions
- \* Collaboration – NETIC/Evolve

RESOLVED that the Commissioners Update be noted.

## **10 Police and Crime Plan Update**

Consideration was given to a report that updated Members with progress on the refresh of the Cleveland Police and Crime Plan.

The Police and Crime Commissioner (PCC) for Cleveland's Police and Crime Plan was a statutory document. Requirements for the Plan were set out in the Police Reform and Social Responsibility Act 2011 and the Policing Protocol Order 2011. The Plan must have regard to the Strategic Policing Requirement (SPR) issued by the Home Secretary.

The PCC had a duty to keep his Plan under review and in particular to review the Plan in the light of any changes in the SPR and any report or recommendations made to the PCC by the Police and Crime Panel.

Members were aware from the update at the last meeting, the Police and Crime commissioner would like to use the Chief Constable appointment as an opportunity to look again at the current Plan and work in partnership with the Chief Constable on a Plan refresh.

The commissioner would maintain his commitment to the five objectives set out in the Plan:

- Investing in our police
- A better deal for victims and witnesses
- Tackling re-offending
- Working together to make Cleveland safer
- Securing the future of our communities

A strategic planning session was held on Tuesday 19th June 2019 and was attended by senior managers from across Cleveland Police and the OPCC. The day included a presentation on the Strategic Threats and Risk Assessment, Long Term Financial Plan, Collaboration and Strategic Contracts.

A series of workshop sessions were held to examine what outcomes the PCC was looking to achieve across each of the Commissioners Objectives, what the PCC was doing to meet the objectives and what the PCC needed to do in the future to meet these long term objectives. Attached to the report were the notes of the workshop sessions.

The Police and Crime Commissioner had attended over 500 local meetings across the Cleveland Police area and had used and would continue to use this engagement mechanism to further develop police and crime objectives. In addition to this, during May and June, the Commissioner had written to all partners to formally invite comments on the plan refresh. This information was being used to formulate the new Plan.

A series of Chief Constable and Commissioner staff briefing session had also been held across the organisation with all staff as part of a programme of engagement. The feedback from which would be used to inform the Plan.

A planning session involving partner organisations would be held on 13 September and would be the final engagement opportunity on the drafting of the Plan.

The refreshed plan would be published in the Autumn following consideration by the Police and Crime Panel.

RESOLVED that the progress on the refresh of the Cleveland Police and Crime Plan be noted.

## **11 Programme of Engagement for Police and Crime Commissioner**

Consideration was given to a report that provided Members with a brief update in relation to meetings attended by the PCC from February 2018 to June 2018.

The PCCs consultation and engagement activities focused on increasing understanding of the communities of Cleveland, ensuring clear and consistent communication with the public and ensuring effective consultation and community engagement.

The PCC attended a number of meetings on a regular basis with key partners, stakeholders and residents from across the Cleveland area.

In addition to this the PCC had attended many regional and national meetings representing Cleveland.

The 'Your Force Your Voice' engagement initiative continued to take place with community meetings in all of Cleveland's 79 ward areas being revisited on an annual basis. Since coming into office in November 2012 the PCC had attended over 560 community meetings allowing him to better understand the needs of local communities across Cleveland.

A summary of key other meetings attended by the PCC was contained within the report. The full diary was published on the PCC website.

Scrutiny meetings continued to be held with the Chief Constable on a weekly basis. Discussions from these meetings were published on the PCC website under 'Force Accountability'. Any outstanding actions were followed up by the Office of the PCC.

In addition to this the PCC monitored the Control Room Log and the Serious Incident Log on a daily basis.

Future meetings of note over the next few weeks were detailed within the report

RESOLVED that the Programme of Engagement for Police and Crime Commissioner be noted.

## **12 Decisions of the Police and Crime Commissioner**

Consideration was given to a report that provided Members with an update on decisions made by the Police and Crime Commissioner (PCC) and the Forward Plan.

The Police and Crime Commissioner made all decisions unless specifically delegated within the Scheme of Consent / Delegation. All decisions demonstrated that they were soundly based on relevant information and that the decision making process was open and transparent.

In addition, a forward plan was included and published on the PCC website which included items requiring a decision in the future. This was attached to the report.

Each decision made by the PCC was recorded on a decision record form with supporting background information appended. Once approved it was published on the PCC website.

Decisions relating to private / confidential matters would be recorded; although, it may be appropriate that full details were not published.

Decisions made since the last meeting of the Police and Crime Panel were attached to the report.

RESOLVED that the decisions made by the Police and Crime Commissioner and the Forward Plan be noted.

## **13 PCC's Scrutiny Programme and Performance Report**

Consideration was given to a report that provided Members with an update on the PCC's scrutiny programme and presented the performance report of the Police and Crime Commissioner and the Police and Crime Plan.

The Commissioner's objectives were as follows:

- Investing in our Police;
- A Better Deal for Victims and Witnesses;
- Tackling Re-offending;
- Working Together to Make Cleveland Safer; and
- Securing the Future of our Communities.

The report updated Members on performance associated with the delivery of the Commissioner's objectives, the wider aspects of the Police and Crime Plan and his statutory responsibilities.

Holding the Chief Constable to account was the key duty of the Police & Crime Commissioner and must encompass all of the functions of the Chief Constable and functions of those who were under the Chief Constable's direction and control: this means, particularly:-

- How the Chief Constable discharges his duty to have regard to the Police and Crime Plan;

- How the Chief Constable has regard to national and regional Strategic Policing Requirement (SPR);
- How the Chief Constable complies with the law generally and police codes of practice in particular;
- How the Chief Constable deals with his functions in relation to the handling of complaints against the police;
- The effectiveness and efficiency of Cleveland Police's work in relation to collaboration and partnership;
- How effective and efficient the police arrangements are for engagement with local people;
- How well Cleveland Police achieves value for money in all that it does;
- How Cleveland Police addresses its equality and diversity duties; and
- How Cleveland Police deals with its responsibilities, working in partners, in respect of safeguarding and promoting the welfare of children.

The scrutiny of the Force was one of the main responsibilities of the Commissioner as set out in the Police and Social Responsibility Act 2011. Delivered through the Commissioner's standards and scrutiny programme effective checks and balances were undertaken through a schedule of regular meetings.

Since the last Police and Crime Panel the PCC had held the following meetings.

Scrutiny, Performance and Delivery meetings

- 28 February 2018
- 11 April 2018

The minutes of the above meetings were attached to the report.

Since the last update to the Panel there had been two Working Together meetings on the 15 March and 8 June 2018. The minutes were attached to the report.

In addition to the meetings above, the Commissioner continued to attend the following to complement his scrutiny programme:

- Daily review of the Control Room and Serious Incident Logs;
- Weekly accountability meetings with the Chief Constable;
- Monthly crime performance monitoring;
- Attendance at the Force's monthly Force Performance Group (; and
- Attend at least one local area meeting in each of Cleveland's neighbourhood police team areas.

Attached to the report was an overview of the performance information from the Police and Crime Plan.

Members discussed the information that had been presented to them and it was agreed that a closed in-depth briefing session on performance should be held prior a future meeting of the Panel.

RESOLVED that the PCC's Scrutiny Programme and Performance Report be noted.

## **14 Scrutiny Work Programme of the Panel**

Consideration was given to a report that provided detail of current and outstanding scrutiny topics and sought to set the Police and Crime Panel Work Programme for 2018/19.

Details of outstanding scrutiny topics were as follows:-

Overall Budget Strategy (Annual Review)  
Tackling Off-Road Motorbike Nuisance

As the Panel already had two topics scheduled for scrutiny it was not proposed at this stage to add to the Scrutiny Work Programme. This took into account that the Task and Finish Group – Tackling Off-Road Motorbike Nuisance would be reporting into the meeting of the Panel in November 2018 and that the Task and Finish Group for the Overall Budget Strategy would report to the meeting of the Panel in February 2019. There would then be a period of purdah before the forthcoming local elections.

Members were asked to take into account the capacity and resources needed to carry out the review programme to ensure that it is manageable.

Members discussed Neighbourhood Policing and it was agreed that Members would receive an update at the next meeting of the Panel.

It was agreed that the Governance Officer would write to both the Hartlepool Borough Council representatives to ask if they would like to sit on the Task and Finish Group – Tackling Off-Road Motorbike Nuisance.

RESOLVED that:-

1. The following topics be included in the Scrutiny Work Programme for 2018/19:

Task and Finish Group – Tackling Off-Road Motorbike Nuisance – Councillor David Coupe, Councillor Ian Jeffrey, a representative from Hartlepool Borough Council to replace Councillor Jim Lindridge, Councillor Norma Stephenson and Paul McGrath.

2. Panel Members (one from each local authority area plus one non-political independent Member) be identified at the next meeting of the Panel to form the Task and Finish Group for the Overall Budget Strategy.

## **15 Appointment Process for Non-Political Independent Members**

Consideration was given to a report on the process for the appointment of a non-political independent member, in light of the resignation of one of the existing two non-political independent members.

Schedule 6 of the Police Reform and Social Responsibility Act 2011 required that each Police and Crime Panel appoints two non-political independent members.

The two independent members should be appointed in the context of ensuring that the panel had the necessary skills, knowledge and experience to discharge its functions effectively.

One of the existing two non-political independent members, Andrew Dyne, had resigned. A replacement member was therefore required. Attached to the report were draft documents associated with the appointment of independent members. These were updated versions of the documents previously agreed.

It was suggested that:-

As before, the advertising process utilises all available free opportunities, including press release, website and existing mailings and partnerships; The term of office of the new member should coincide with the terms of office agreed for the two Independent Members i.e. 1st February 2021.

As previously, that a politically balanced selection sub panel of 5 drawn from the full panel be appointed to conduct short listings and interviews to determine the most suitable candidate to be the replacement non-political independent member, with the full panel endorsing the decision prior to the candidate being formally appointed.

A politically balanced selection sub panel of 5 would be Labour 3, Conservatives 1, Liberal Democrats 1. With a view to reflecting the number of Members within political groups, in each constituent authority, whilst providing each authority the opportunity to be represented on the Panel, the following was suggested:-

Hartlepool Borough Council– 1 Labour  
Middlesbrough Council – 1 Labour  
Redcar and Cleveland Borough Council – 1 Liberal Democrat  
Stockton-on-Tees Borough Council – 1 Labour and 1 Conservative

RESOLVED that:-

1. The Panel agree the arrangements for the appointment of a replacement non-political independent member as detailed at paragraph 5 of the report.
2. Delegated authority be given to the Assistant Director of Administration, Democratic and Electoral Services (Stockton-on-Tees Borough Council), in consultation with the Chairman and Vice Chairman to amend and finalise the arrangements and associated documents, detailed in the Appendix and paragraph 4 of the report, should it be considered necessary to do so.
3. The following Members of the Panel be identified to sit on the Appointment of a Non-Political Independent Member Sub Panel:-

Hartlepool Borough Council – TBC  
Middlesbrough Council – Councillor Lewis Young  
Redcar and Cleveland Borough Council – Councillor Chris Jones  
Stockton-on-Tees Borough Council – Councillor Norma Stephenson and Councillor Matthew Vickers



## 16 Police and Crime Panel Special Interest Group

Consideration was given to a report on the possibility of the Panel joining a Special Interest Group (SIG) for Police and Crime Panels, within the Local Government Association.

Unlike Police and Crime Commissioners who had established a National Association, the Police and Crime Panels had not had a similar collective voice through which representation to Government and the sharing of best practice could be facilitated.

At the meeting held on February 2017 it had agreed that the Chair of the Panel should further investigate, with other interested Panels, the potential formation of a National Association of Police and Crime Panels.

Since that time a number of options had been investigated and there was strong support for the formation of a Special Interest Group, within the Local Government Association.

It was open to any 10 or more full Local Government Association (LGA) Members with common features, interests or concerns to form a SIG, subject to approval of an application by the LGA's leadership Board. SIG's were able to make representations direct to government and elsewhere on matters arising directly from their special interest.

It was proposed that a Chair and Vice Chair for the SIG should be elected on an annual basis, with one vote per Police and Crime Panel. Whilst some of the administration for the SIG would be carried out by the LGA the Chair should be able to arrange additional administration through his/her local facilities.

Meetings of the SIG would initially take place on a quarterly basis.

The suggested level of subscription for the SIG was a maximum of £500 per Police and Crime Panel. This equated to £125 per authority, for the authorities making up the Cleveland Police and Crime Panel. The subscription would assist with set up and running costs.

An initial work programme for the SIG might include:

- Meetings with relevant partner organisations and the Home Office.
- The development of guidance for PCPs on handling complaints.
- Updating the existing suite of LGA / Centre for Public Scrutiny guidance for PCPs.
- Exploring the impact of changes to FRA governance and the enhanced role for PCCs, and therefore PCPs, in this area.
- A review of panel resourcing.

RESOLVED that:-

1. Cleveland Police and Crime Panel joins the SIG and each constituent authority contributes to the subscription as detailed in the report, at paragraph 11 of the report.
2. The Chair of the Cleveland Police and Crime Panel represents the Panel on the Special Interest Group, with the Vice Chair acting as substitute when necessary.
3. The outline Terms of Reference at paragraph 8 of the report be noted.

**17 Forward Plan**

Members were presented with the Forward Plan for the Panel.

RESOLVED that the Forward Plan for the Panel be noted.

**18 Public Questions**

Members were informed that there were no Public Questions.

**19 Defibrillators**

A discussion was held about a recent incident that had happened at Stockton-on-Tees Borough Council's Planning Committee. A member of the public had suffered a heart attack. A defibrillator had been sought but unfortunately the defibrillator at Stockton Police Station was out of action as the battery was flat. A Member reported that he felt the problem with defibrillators was that they weren't available out of hours and not publically accessible but one modern solution was the AED. The Commissioner reported that he was already looking into the issues and he would report back to Panel members.