

CONSTITUTION COMMITTEE AGENDA



Monday 1 February 2021

at 2.00 p.m.

PLEASE NOTE: this will be a 'remote meeting', a web-link to the public stream will be available on the Hartlepool Borough Council website at least 24 hours before the meeting.

Members of Constitution Committee

Councillors Fleming, Harrison, Howson, James, Loynes, Marshall, Moore, Prince and Tennant

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 2 March 2020
- 4. ITEMS REQUIRING DECISION**
 - 4.1 Revised Code of Conduct for Elected Members and Co-Opted Members and Best Practice Recommendations – *Report of Chief Solicitor and Monitoring Officer*
 - 4.2 Periodic Review of the Council's Constitution – *Chief Solicitor and Monitoring Officer*
- 5. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**



CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

2 March 2020

The meeting commenced at 2.00 p.m. in the Civic Centre, Hartlepool

Present:

Councillor Moore (In the Chair)

Councillors Harrison, Howson, James, Loynes and Tennant.

Also Present:

Councillor Hunter as substitute for Councillor Johnson in accordance with Council Procedure Rule 4.2.

Councillor S Akers-Belcher as substitute for Councillor Marshall in accordance with Council Procedure Rule 4.2.

Officers: Gill Alexander, Chief Executive
Hayley Martin, Chief Solicitor
Amanda Whitaker, Democratic Services Team.

15. Apologies for Absence

Councillors Johnson and Marshall

16. Declarations of interest by Members

None

17. Minutes

The minutes of the meeting held on 27 January 2020 were confirmed.

Disappointment was expressed that issues outstanding following the additional meeting of the Local Joint Consultative Committee (LJCC) had not been reported to this Committee, as had been agreed at the LJCC meeting.

18. Further Periodic Review of the Council's Constitution *(Chief Solicitor and Monitoring Officer)*

The Chief Solicitor presented the report which sought views from the Committee prior to consideration of changes to the Constitution by Full

Council on 19 March 2020. Elected Members were reminded that at the previous meeting of the Committee, further information had been sought in relation to the following:-

Article 10 - Community Forums – a separate report was included on the agenda which addressed the issues which had been raised at the meeting on 27 January 2020.

Council Procedure Rule 9 – Questions from the Public – Following a review of practice adopted by other Authorities and taking on best practice guidance as set out in 'Knowles Best Practice on Local Authority Meetings' an amendment had been suggested to Rule 9.1 regarding debating public questions to allow more time for consideration of public questions. An appendix to the report addressed the issues which had been raised by the Committee, by way of suggested changes to the Constitution to include the insertion of a new Council Procedure Rule 9.8– Formal Referral of a Public Question to a Policy Committee. Also included in the appendix was a suggested Protocol for Referral of Public Questions to a Policy Committee meeting which if approved would be inserted into Part 5 of the Constitution. Elected Members spoke in support of Formal Referral of a Public Question to a Policy Committee and agreed residents would receive a more prompt response to their questions. Following concerns expressed regarding formal public questions at Policy Committees being limited to 15 minutes in the suggested Protocol, it was agreed that the Protocol be updated to delete reference to time limits.

Elected Member Referral - Local Joint Consultative Committee (LJCC) - Following the discussions at the previous meeting of this Committee, a meeting of the Local Joint Consultative Committee had been convened on 7 February 2020 to consider whether there was any merit in continuing to hold meetings of the Joint Consultative Committee. The recommendations of the LJCC were set out in the report. In considering the recommendations, Members were advised that the proposals did not address potential arrangements for dispute resolution. Therefore a proposal to address this issue was included in the recommendations to this report.

Further to discussions earlier in the meeting (minute 17 refers), Councillor James expressed disappointment that despite agreement at the LJCC meeting, wording had not been provided to this Committee in terms of what would be included in future Chief Executive's reports to Council to keep Elected Members informed of issues which would have been reported to the LJCC.

RECOMMENDATIONS –

- (i) That Full Council be recommended to approve the amended Council Procedure Rule 9 including the insertion of a supplementary question, referral to a Policy Committee and removal of debate.
- (ii) That authority be delegated to the Chair of the Committee, in consultation with the Chair of the Local Joint Consultative Committee

and the Chief Executive to agree the wording of a suitable dispute resolution process.

19. **Proposal to Roll Out the Your Say, Our Future Approach** *(Assistant Director, Corporate Services)*

Further to minute 14 of the meeting held on 27 January 2020, the report provided the Committee with further detail on the Council's engagement approach, Your Say, Our Future, to consider and use to inform their recommendation to Council on the future of the Community Forums. Going forward it was proposed that a programme of Your Say, Our Future events be agreed at the beginning of each municipal year and that this continued to include the Face the Public events for the Health and Wellbeing Board and Safer Hartlepool Partnership. The number of events held across the year and when they were held would be determined by the topics around which the Council needed to engage on in any given year. This would reflect the development of Strategies and Plans within the Council's Budget and Policy Framework and any other key consultations that were identified. After initial consideration the following programme for the 2020/21 municipal year had been drafted to include:

What	When
Community Safety Plan 2020-2023 and Safer Hartlepool Partnership	June/July 2020
Budget 2021-22 (Medium Term Financial Strategy and Local Council Tax Support Scheme as required)	September/October/November 2020
Health and Wellbeing Board Your Say Our Future Event	February/March 2021

Elected Members were advised that the Your Say, Our Future approach focused on engaging members of the public and partners, and provided the opportunity for engagement with officers from the Council and Partner Organisations. Although elected members were welcome to attend it was recognised that there were other mechanisms for engaging directly with elected members including the use of Members Seminars, informal discussions with Policy Chairs and committee members.

Whilst supporting the Your Say, Our Future approach, Elected Members expressed reluctance to no longer have Community Forum meetings. The Committee discussed the format for the proposed events and agreed that the approach outlined in the report be adopted to ensure that Community Forums are integrated in to the Your Say Our Future programme. With regard to the timeline for the events, it was agreed that the Budget 2021-22 event should be held in October/November and reference to September, when Elected Members would be considering reports, should be deleted from the timeline.

RECOMMENDATION – That subject to the timescale being amended in respect of the budget event to delete reference to September, the approach outlined in the report be adopted to ensure that Community Forums are integrated in to the Your Say Our Future programme.

The meeting concluded at 2.40 p.m.

CHAIR

CONSTITUTION COMMITTEE

1 February 2021



Report of: Chief Solicitor and Monitoring Officer

Subject: REVISED CODE OF CONDUCT FOR ELECTED MEMBERS AND CO-OPTED MEMBERS AND BEST PRACTICE RECOMMENDATIONS

1. PURPOSE OF REPORT

- 1.1 That the Committee considers and recommends to Full Council the adoption of the attached revised model Code of Conduct for Elected Members and Co-opted Members.

2. BACKGROUND

- 2.1 The Audit and Governance Committee, at its meeting on 7 January 2021, considered the attached report and revised Model Code of Conduct for Elected Members and Co-opted Members (**Appendix 1**).

3. PROPOSALS

- 3.1 The Audit and Governance Committee recommended the adoption of the revised model Code of Conduct and welcomed the inclusion of a bullying policy. Concerns were, however, expressed that there continued to be no further sanctions available to Council's (as this would depend on legislative change). The Committee recommended also that the gifts limit should continue to be £25 rather than the £50 set out in the Model Code.

4. RECOMMENDATION

- 4.1 That the Committee recommend to Full Council that it approves the revised Code of Conduct.

5. REASONS FOR RECOMMENDATIONS

- 5.1 There is an expectation that Council's will adopt the model Code of Conduct produced by the Local Government Association as recommended by the Committee on Standards in Public Life entitled 'Local Government Ethical Standards' (the Report). Furthermore, the Best Practice recommendations set out in the Report are to be monitored by the Cabinet Office to review progress. The intention of the recommendations is to ensure compliance.

6. BACKGROUND PAPERS

- 6.1 Local Government Association Model Member Code of Conduct Consultation - <https://www.local.gov.uk/local-government-association-model-member-code-conduct-consultation#example-lga-guidance-and-recommendations->

The Committee on Standards in Public Life - 'Local Government Ethical Standards'

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF

7. CONTACT OFFICER

- 7.1 Hayley Martin | Chief Solicitor
Hartlepool Borough Council
Tel: (01429) 523002
Email: Hayley.martin@hartlepool.gov.uk

AUDIT AND GOVERNANCE COMMITTEE

7 January 2021



Report of: Chief Solicitor and Monitoring Officer

Subject: REVISED CODE OF CONDUCT FOR ELECTED
MEMBERS AND CO-OPTED MEMBERS AND BEST
PRACTICE RECOMMENDATIONS

1. PURPOSE OF REPORT

- 1.1 That the Audit and Governance Committee considers and recommends to the Constitution Committee and Full Council that the attached revised model Code of Conduct for Elected Members and Co-opted Members is adopted.
- 1.2 That the Audit and Governance Committee notes the progress made on the best practice recommendations.

2. BACKGROUND

- 2.1 In January 2019, the Committee on Standards in Public Life published a report on ethical standards in local government. Essentially, the report considered all aspects of the current regime relating to the conduct of Elected Members and set out 26 recommendations for change. As well as making these recommendations, the report also included a list of best practice, with regard to which the Committee said "...we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020".
- 2.2 The vast majority of the recommendations in the report were for the Government to action, but the first recommendation was that the Local Government Association ('the LGA') should create an updated Model Member Code of Conduct. Given that the list of best practice largely related to the Code of Conduct ('the Code'), the intention was to await the outcome of the LGA's review, with a view to then bringing forward recommendations for the Audit and Governance Committee to consider in terms of adopting a new Code, together with any actions necessary to ensure compliance with the list of best practice.

- 2.3 Although the recommendations were published in January 2019, the LGA only produced a draft Code and concluded its consultation on the draft Code in summer 2020. The Final Model Code has now been published by the LGA and is attached. Notwithstanding this, the Cabinet Office are checking on the progress of local authorities implementing the list of best practice in the autumn of 2020.

3. PROPOSALS/ISSUES FOR CONSIDERATION

- 3.1 Accordingly, it seems appropriate that the Council should adopt the Final Model Code of Conduct (attached as **Appendix A**) produced by the LGA in order to demonstrate compliance with the relevant best practice recommendations.
- 3.2 In relation to the best practice recommendations, an update on progress against each of the recommendations is outlined below, for the Committee's information:

Best Practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

The revised Code of Conduct attached as Appendix A to this report includes the above prohibitions and examples in the bullying and harassment section.

In addition to the above, the following Motion was referred by Council, on 31 October 2019, to the Constitution Committee and agreed that it was appropriate for the Motion to be considered in conjunction with the Standards Public Life Review:

"This Council believes that it is wrong for staff in any workplace to be subjected to bullying and harassment.

We acknowledge that whilst it is difficult for those experiencing such behaviour to 'speak out' we encourage them to do so.

Following the recent revelations in the national press about the Sexual Harassment of Parliamentary staff, we believe that bullying and harassment in all its forms is abhorrent and has no place in civilised society.

Whilst legally this may not be enforceable there is a moral responsibility on elected representatives who, if an accusation is found proven, should resign from their position with immediate effect.

This is in keeping with the Nolan Principles.

We urge this Council to agree with the sentiment of the motion and refer it to the Constitution Committee to consider whether any changes can be incorporated into the Constitution.”

Best Practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

The revised Code of Conduct attached as Appendix A to this report includes the above provisions in the breaches of the Code of Conduct section.

Best Practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

The revised Code of Conduct will be reviewed each year by the Council’s Audit and Governance Committee, which is a public meeting and the views of the public, community organisations and neighbouring authorities can submit views to the Committee for consideration.

Best Practice 4: An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises.

The Code of Conduct is available on the Council’s website via the Constitution and the updated Code will be uploaded as and when approved. The Monitoring Officer will discuss arrangements with the Communications Team to ensure this example of best practice is followed and the Code is placed in a prominent position on the website. The Code is available to view at the Civic Centre, on request.

Best Practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

The Members’ Services Team update the Register when notification of a gift/hospitality is received from a Councillor. Councillors are reminded to inform Members’ Services when they receive a gift/hospitality. The Register is published on the Council’s website.

Best Practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

The current procedure for dealing with Code of Conduct Complaints, previously agreed by the Committee, appears to comply with this requirement.

Best Practice 7: Local authorities should have access to at least two Independent Persons.

The Council currently has one longstanding Independent Person in relation to Code of Conduct Complaints. The Council are advertising in January 2021 to appoint a second Independent Person.

The Council also has arrangements in place with neighbouring Local Authorities, to use their Independent Person in the event of unavailability or a conflict of interest arising.

Best Practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

The Monitoring Officer reviews every complaint received and, after consultation with the Independent Person, takes a decision as to whether it merits formal investigation or whether other action is more appropriate.

It is suggested that no changes are necessary at this point in time.

Best Practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

The Monitoring Officer, following an allegation of misconduct will prepare a formal decision notice in consultation with the Chair of the Hearings Sub-Committee, and send a copy to the complainant, to the member, make the decision notice available for public inspection and report the decision to the next convenient meeting of the Authority.

It is suggested that no changes are necessary at this point in time.

Best Practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

The above information can be found at:
https://www.hartlepool.gov.uk/downloads/download/244/complaining_about_a_councillor_or_parish_councillor

Best Practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

It is recommended that the current document setting out the arrangements for dealing with standards complaints be updated to include:

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

Best Practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

This is already the case. The Monitoring Officer is involved with various networking groups and identifies/attends training.

Best Practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Informal arrangements exist between authorities which would allow assistance to be requested on an ad hoc basis. However, it is recommended that the arrangements for dealing with standards complaints be amended to include, the below:

Where such an interest arises, arrangements shall be made to avoid this, including, for example, making a request for the Deputy Monitoring Officer, or a Monitoring Officer from another Council to deal with particular aspects of a case.

Best Practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

The Annual Governance Statement is reported to the Council's Audit and Governance Committee. All public meeting agenda's and minutes are published on the Council's website.

Best Practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The Managing Director and Monitoring Officer have regular meetings with Group Leaders and standards issues are discussed when appropriate.

4. RECOMMENDATIONS

4.1 That the Audit and Governance Committee:-

- a) Considers and comments on the revised Code of Conduct;
- b) Recommends to the Constitution Committee any changes to the revised Code of Conduct based on the Council Motion;
- c) Recommends to the Constitution Committee and Full Council, that it approves the revised Code of Conduct; and
- d) Notes the progress on the 15 best practice recommendations

5. REASONS FOR RECOMMENDATIONS

- 5.1 There is an expectation that the Best Practice recommendations will be implemented and the Cabinet Office has indicated an intention to review progress in the autumn 2020. The intention of the recommendations is to ensure compliance.

6. BACKGROUND PAPERS

- 6.1 Local Government Association Model Member Code of Conduct Consultation - <https://www.local.gov.uk/local-government-association-model-member-code-conduct-consultation#example-lga-guidance-and-recommendations>

7. CONTACT OFFICER

- 7.1 Hayley Martin | Chief Solicitor
Hartlepool Borough Council
Tel: (01429) 523002
Email: Hayley.martin@hartlepool.gov.uk

Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council
- you are claiming to act as a councillor and/or as a representative of your council
- you are giving the impression that you are acting as a councillor and/or as a representative of your council
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role as a councillor.

The Code applies to all forms of communication and interaction, including:

at face-to-face meetings

- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. *Respect*

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.2 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am 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:
 - 1. reasonable and in the public interest; and
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 - 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.2 I do not bring my role or local authority into disrepute.

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. *Use of position*

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. *Use of local authority resources and facilities*

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. **act in accordance with the local authority's requirements; and**
- b. **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. *Complying with the Code of Conduct*

As a councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. *Interests*

As a councillor:

9.1 I register and declare my interests.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

11. Gifts and hospitality

As a councillor:

- 11.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 11.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.**
- 11.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

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.

Objectivity

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

Accountability

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

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.

Honesty

Holders of public office should be truthful.

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.

Appendix B

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.
7. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room

unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

8. Where a matter arises at a meeting which *affects* –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to declare under Disclosable Pecuniary Interests

you must disclose the interest.

9. Where the matter affects the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</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 and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	---

* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registerable Interests

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 the council;	
Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) 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.	

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

CONSTITUTION COMMITTEE

1 February 2021



Report of: Chief Solicitor and Monitoring Officer

Subject: PERIODIC REVIEW OF THE COUNCIL'S CONSTITUTION

1. PURPOSE OF REPORT

- 1.1 To seek a view from the Committee regarding proposed changes to the Constitution prior to consideration of changes by Full Council on 25 February 2021.

2. BACKGROUND

- 2.1 The Council's Constitution at Article 14 ("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." At the Extraordinary meeting of Full Council held on 10 June, 2020, Elected Members approved a senior management restructure following consideration of a revised structure by the Finance and Policy Committee. The effect of the restructure means that a number of service areas have been moved to different departments.
- 2.2 It was noted by Full Council that the Chief Solicitor would make the necessary changes to the constitution to reflect the changes in the structure and to align the functions and service areas with the respective committees.
- 2.3 The alignment of functions and service areas involves comprehensive changes to Part 3 of the Constitution – Responsibility for Functions. During the review of Part 3, in conjunction with consideration of the new senior management structure, it has been noted that some services are cross cutting and it was considered appropriate to submit a report to this Committee to consider which committee those function report to.

3. PROPOSALS

- 3.1 On the 11 January 2021, the Chief Solicitor presented a report to a Member Seminar (attached at Appendix 1). Members were content with the proposals set out in the report and agreed to the transfer of the functions as listed in section 4 with the exception of economic growth and regeneration. Members

commented that they felt that it was important to keep a committee for 'Regeneration' to ensure inward investment and economic growth sit outside of Finance and Policy Committee (other than financial decisions) to avoid conflict and ensure good scrutiny and challenge. Members accepted that historically functions would follow the Director to the relevant committee but believed we should be working in partnership and felt diluting the Committee's further was not appropriate.

3.2 Following comments at the Member Seminar the proposals are as follows:

Finance and Policy Committee

Capital Programme Delivery and Monitoring
Estates and Asset Management
Housing Revenue Account
Business growth & Engagement

Neighbourhood Services Committee

Highways and Engineering Environmental Services
Building Design and Construction
Planning and Developmental Control.
Building Control
Housing Growth Strategy
Community Safety and Enforcement
Public Protection
Emergency and Local Resilience Planning and Business Continuity

Adult and Community Based Services Committee

Culture and Events
Learning and Skills
Conservation, Parks and Countryside functions (including allotments)

Regeneration Services Committee – In view of the proposed changes to the functions of this Committee Elected Members are requested to consider changing the title of this Committee to Economic Growth Services Committee.

Regeneration
Inward Investment and Economic Growth

The above functions are in addition to those currently set out in Part 3 of the Constitution. Other functions will remain as set out currently in Part 3 of the Constitution.

4. RECOMMENDATION

4.1 That the Committee consider the proposals set out above and make recommendations to Full Council.

5. REASONS FOR RECOMMENDATIONS

- 5.1 To ensure the Constitution is up to date and reflects the new senior management structure.

6. BACKGROUND PAPERS

- 6.1 Member Seminar Report – 11 January 2021 (Appendix 1)

7. CONTACT OFFICER

- 7.1 Hayley Martin | Chief Solicitor
Hartlepool Borough Council
Tel: (01429) 523002
Email: Hayley.martin@hartlepool.gov.uk

MEMBER SEMINAR

11 January 2021



Report of: Chief Solicitor

Subject: REALIGNMENT OF FUNCTIONS REPORTING TO
POLICY COMMITTEE'S

1. TYPE OF DECISION/APPLICABLE CATEGORY

For information only.

2. PURPOSE OF REPORT

- 2.1 To seek the views of Elected Members in relation to proposed changes to the functions/service areas which report to individual policy committee to be fed through to the Constitution Committee.

3. BACKGROUND

- 3.1 On the 10 June 2020, Council agreed to the implementation of a new senior management structure following consideration of a revised structure at Finance and Policy Committee. The effect of the restructure means that a number of service areas have been moved to different departments.
- 3.2 Traditionally where a function/service area reports to a particular Director, that function would report to their respective committee.

4. PROPOSALS AND RECOMMENDATIONS

- 4.1 The services areas which have been moved and now report to a different Director are:

Director of Resources and Development (Chris Little)

Capital Programme Delivery and Monitoring
Regeneration

Estates and Asset Management
Housing Revenue Account
Business growth & Engagement and Inward investment.

The above functions previously reported to Regeneration services Committee however given the move to the Director of Resources and Development (and Assistant Director, Development & Growth – Bev Bearne) it is proposed that they move to Finance and Policy Committee.

Members views are sought?

The new position of Director of Neighbourhoods and Regulatory Services (Tony Hanson) now has the following new Assistant Directors reporting to him:

Assistant Director regulatory Services (Kieran Bostock)

Highways and Engineering Environmental Services
Building Design and Construction
Planning and Developmental Control.
Building Control
Housing Growth Strategy

It is proposed that the above functions report to Neighbourhood Services Committee.

Assistant Director – Place Management (Sylvia Pinkney)

Community Safety and Enforcement
Public Protection
Emergency and Local Resilience Planning and Business Continuity

It is proposed that the above functions report to Neighbourhood Services Committee.

Members views are sought?

Director of Adult and Community Based Services (Jill Harrison)

The Assistant Director (Preventative and Community Based Services) (Gemma Ptak) will manage the following:

Culture and Events
Learning and Skills
Conservation, Parks and Countryside functions (including allotments)

It is proposed that the above functions report to the Adult Services Committee. They previously reported to Regeneration Services Committee.

4.2 APPENDIX 1

The Councils committee structure has always complemented that of the senior management structure, however this recent restructure has resulted in what potentially could see there being no requirement for the current Regeneration Services Committee and the remit of the remaining four Policy Committees being too large.

Members views are sought?

8. CONTACT OFFICERS

Hayley Martin
Chief Solicitor
Hayley.martin@hartlepool.gov.uk
01429 523003