

# STOCKTON-ON-TEES BOROUGH COUNCIL

## CONSTITUTION

(Draft for consideration at Council on 12<sup>th</sup> December 2018)

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# **STOCKTON-ON-TEES BOROUGH COUNCIL**

## **CONSTITUTION**

### **Part 1 – Summary and Explanation**

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## 1.1 PURPOSE OF THE CONSTITUTION

1.1.1 Stockton-on-Tees Borough Council (“the Council”) has adopted a constitution which sets out how the Council operates, how decisions are made, by whom and the procedures that are followed to ensure that decisions are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. Generally speaking the Council will exercise its powers and duties in accordance with the Constitution, unless the provisions are waived (see 1.12 below) or the law requires the Council to do something else.

1.1.2 This is a document to help residents, businesses, partners, stakeholders, Councillors and Officers to understand how the Council works. We have included hyperlinks between different parts of the Constitution wherever possible to make it easy to navigate your way around the information. We have also included hyperlinks to other documents/sites where we think this will be helpful. All hyperlinks are coloured [blue like this](#).

## 1.2 THE COUNCIL

1.2.1 The Council comprises 56 Councillors (also called Members), who are elected every four years. Councillors are democratically accountable to residents of their Ward.

1.2.2 All Councillors meet together as the Council (often referred to as "Full Council"). Meetings of the Council are normally open to the public. These meetings set some of the Council’s overall policies and the budget each year (known as the Budget and Policy Framework). Certain decisions must be taken by full Council, but most may be delegated to others. Who has responsibility for the Council’s functions is set out in [Part 2](#) of the Constitution.

1.2.3 There are three different types of Council meeting:

- The Annual Meeting of the Council, which will usually be held in May;
- Ordinary meetings; and
- Extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules.

You can find details of [Council meetings](#) on the Council’s website

## 1.3 COUNCILLORS

1.3.1 Councillors are directly accountable to residents, tax payers and local businesses for the running of the Council. They have a duty to represent all constituents in their Ward (including those who did not vote for them) and they must make decisions in the best interests of the Borough as a whole. They are involved in decision making in accordance with the Council’s Procedure Rules. Councillors can also represent the authority on external bodies.

1.3.2 The regular election of Councillors will be held on the first Thursday in May once every four years, with all Councillors being elected at the same time. The last election was in 2015. The term of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election (except for the Leader and the Mayor who remain in office until the Annual Meeting). You can find out more about [Councillors](#), the political groups that they may represent, [elections and voting](#) on the Council’s website.

1.3.3 The Council maintains an up to date register of Members, and you can [click here](#) to view Councillors committees and declarations of interests.

- 1.3.4 Councillors carry out the following roles and functions, they:
- 1.3.4.1 determine the Council's policies and budget;
  - 1.3.4.2 represent their communities and bring their views into the Council's decision-making process i.e. become the advocate of and for their communities
  - 1.3.4.3 contribute to the good governance of the area and actively encourage community participation and resident involvement in decision making;
  - 1.3.4.4 deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - 1.3.4.5 respond to constituents' enquiries and representations, fairly and impartially;
  - 1.3.4.6 take decisions at full Council, and through membership of Cabinet, or the Council's Committees or Panels;
  - 1.3.4.7 participate in reviewing and scrutinising decisions made or actions taken in the exercise of the Council's functions;
  - 1.3.4.8 are available within the terms of the Constitution to represent the Council on other bodies; and
  - 1.3.4.9 promote and maintain the highest standards of conduct and ethics in the way they undertake their duties.
- 1.3.5 Councillors are required to comply with the [Members' Code of Conduct](#), the [Protocol on Member/Officer Relations](#) and the other [Codes and Protocols](#) set out in [Part 4](#) of this Constitution. The Council's Monitoring Officer is responsible for the provision of training and advice to Councillors on the role of a Councillor including the Code of Conduct.
- 1.3.6 Councillors will be entitled to receive allowances in accordance with the [Members' Allowances Scheme](#) set out in [Part 5](#) of this Constitution.
- 1.4 THE CABINET**
- 1.4.1 The Cabinet (which is also called "the Executive") is the part of the Council which is responsible for most of the significant decisions. The Cabinet is made up of the Leader of the Council, who is elected by the Council, and up to nine other Councillors appointed by the Leader. One of the Cabinet members is also appointed by the Leader as his/her deputy. The Leader determines which executive decisions will be made by the Cabinet collectively and which decisions may be taken either by a committee of Cabinet or by individual Cabinet members or Officers.
- 1.4.2 When "[Key Decisions](#)" are to be discussed or made (usually involving expenditure over £500,000 or affecting two or more wards), these are published in the Cabinet's [Forward Plan](#) (except in cases of urgent decisions where this is not possible). If Key Decisions are on the agenda for a meeting of the Cabinet, this will generally be open for the public to attend except where for example personal or confidential matters are being discussed (further details are set out in the [Access to Information Procedure Rules](#)). The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If Cabinet wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.
- 1.4.3 Each member of Cabinet is responsible for a particular functional area (known as a "Portfolio"), and the [allocations of portfolios to Cabinet Members](#) is determined by the Leader.

- 1.4.4 Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedures Rules set out in [Part 3](#) of this Constitution.

## 1.5 THE ROLE OF THE MAYOR

- 1.5.1 The Mayor is the first citizen of the Borough of Stockton-on-Tees. He or she has the following roles and functions (which in his/her absence shall be carried out by the Deputy Mayor). He or she will:

1.5.1.1 promote the Council as a whole, acting as a focal point for the community, attending such civic and ceremonial functions and fulfilling such civic duties as the Council and he/she determines to be appropriate;

1.5.1.2 preside over meetings of the Council so that Council business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;

1.5.1.3 ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and committee chairs to account;

1.5.1.4 uphold and promote the purposes of the Constitution, and, subject to the advice and guidance of the Monitoring Officer, during Council meetings to interpret the Constitution as and when necessary; and

1.5.1.5 promote public involvement in the Council's activities.

- 1.5.2 The Mayor is a Member of the Council and is elected by Councillors at the Annual Meeting of the Council.

- 1.5.3 Each year the Councillor with the longest cumulative service on the Council will normally be nominated to serve as Deputy Mayor (unless that Councillor has previously served as Mayor). When appointed by Council as Deputy Mayor, the Councillor concerned will usually be agreed as the person nominated to serve as Mayor for the following Municipal Year.

- 1.5.4 Where, in any year, more than one Councillor satisfies the criterion as the Councillor with the longest cumulative service on the Council, and no one agreed nominee has been chosen, nominations will be submitted and voted upon at the Annual Meeting of the Council for the position of Deputy Mayor for the forthcoming municipal year.

- 1.5.5 If in any year the Councillor with the longest cumulative service, or chosen nominee, decides not to agree to their name being put forward as nominee to the Annual Meeting of the Council, this will not preclude that Councillor from being re-considered for nomination in future years.

## 1.6 OFFICERS

- 1.6.1 The Council has people working for it (called "Officers") to give advice, implement decisions and manage the day to day delivery of its services. Officers have a duty to ensure that the Council acts within the law and uses its resources wisely, with certain Officers having extra responsibilities in this regard (for example the Monitoring Officer and the Chief Finance Officer – See [Part 2](#) of the Constitution for more details). A [Member and Officer Protocol](#) governs the relationship between Officers and Councillors.



- 1.6.2 The functions and responsibilities which the Council and the Cabinet have given to Officers are listed in the [Officer Delegations](#) section in [Part 2](#) of the Constitution.
- 1.6.3 The Council produces an annual [Pay Policy Statement](#) which sets out the Council's approach to setting the pay of its employees (other than those working in local authority schools).
- 1.6.4 The Council has a number of senior officers who are often referred to as Chief Officers, who have been given specific functions and responsibilities in this Constitution in **Part 2**. The Council's Chief Officers are appointed on different terms and conditions of employment from other Officers and are set out in [Part 2](#).
- 1.6.5 Some of these officers also have particular statutory responsibilities that are further described in **Part 2**.

## 1.7 THE RIGHTS OF RESIDENTS

- 1.7.1 Everyone has an equal right to access Council services. Residents also have the following rights, to:
- 1.7.1.1 vote at Council Elections (if they are registered);
  - 1.7.1.2 submit [petitions](#) to the Council and expect them to be dealt with fairly;
  - 1.7.1.3 attend meetings of the Council, Cabinet, committees, and sub-committees (including joint committees with other local authorities) except in each case where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private in accordance with the Council's [Access to Information Procedure Rules](#);
  - 1.7.1.4 find out from the [Forward Plan](#) what key decisions are likely to be taken by the Cabinet and when;
  - 1.7.1.5 see reports and background papers, and any records of decisions made by the Council and the Cabinet (subject to restrictions in connection with exempt or confidential information);
  - 1.7.1.6 inspect the Council's draft accounts and make their views known to the external auditor;
  - 1.7.1.7 attend Councillors' Ward Surgeries;
  - 1.7.1.8 stand for election as a Councillor;
  - 1.7.1.9 contact the Council in person, in writing, by telephone, by fax, using e-mail or by accessing the Council's web site;
  - 1.7.1.10 be consulted where required by law or where the Council chooses to consult;
  - 1.7.1.11 expect the Council to strive to meet its targets for responding to correspondence, telephone calls, electronic messages and complaints;
  - 1.7.1.12 participate in the Council's question time; to speak and ask questions at meetings of the Cabinet, Committees and Panels, under the direction of the Chair and in accordance with the relevant procedure rules; and to contribute to investigations by Select Committees at the invitation of those Committees;

1.7.1.13 at open meetings of the Council, Cabinet and Committees, to report on the proceedings by filming, photographing, audio-recording or by any other means, and to provide written commentaries during a meeting and oral commentaries outside of a meeting. The Council has a [Protocol](#) governing this;

1.7.1.14 complain to:

- (i) the Council itself under its complaints procedure;
- (ii) the Local Government and Social Care Ombudsman after having first used the Council's own complaints procedure and given the Council a chance to respond to the complaint. The Ombudsman will normally allow the Council 8 to 12 weeks for a response, but the Ombudsman may get involved earlier if there are extenuating circumstances; and
- (iii) the Monitoring Officer about an alleged breach of the Members' Code of Conduct.

## 1.8 JOINT ARRANGEMENTS

1.8.1 The Council is able to enter into various forms of joint arrangements with other Local Authorities and Bodies. This Constitution includes [Details Of Joint Arrangements](#) which the Council has entered into, in [Part 2](#).

## 1.9 SCRUTINY

1.9.1 The Council appoints an Executive Scrutiny Committee and a number of Select Committees which support the work of the Executive and the Council as a whole. The Terms of Reference of these Committees and their composition are included in [Part 2](#) of this Constitution. The Executive Scrutiny Committee is also able to "[call-in](#)" decisions made by the Cabinet that may mean they cannot be acted upon until Scrutiny and possibly the Cabinet and Council have re-considered the matter.

1.9.2 The Council also appoints a Scrutiny Liaison Forum to provide a forum to foster and develop a close constructive working relationship between Cabinet Members, the Corporate Management Team and Scrutiny Chairs and thereby assist in the efficient and effective working of scrutiny and the scrutiny work programme in order to deliver the Council's key priorities and secure added value.

## 1.10 DECISION MAKING

1.10.1 The Local Government Act 2000 ("the 2000 Act") divides functions of the Council into two categories; executive and non-executive. Non-executive functions (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to planning, licensing and registration. Non-executive functions may be delegated to committees, sub-committees or officers under section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.

1.10.2 Executive Decisions may be taken by the Leader, the Cabinet as set out in paragraph 1.0.1 above or delegated to a committee of Cabinet, a portfolio holder or an officer, under the Local Government Act 2000.

- 1.10.3 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas or functions. This record is set out in [Part 2](#) of this Constitution, along with local schemes of delegation maintained by the Council's Chief Officers.
- 1.10.4 There are further notes enabling Officer to take decisions in accordance with the provisions of the Council's approved [Concordat for Communication and Consultation with Members](#) (which requires consultation on certain issues with Ward Members and other partner organisations).
- 1.10.5 Where a decision is delegated under this constitution that does not prevent the person or body that has delegated the function from also exercising the function.
- 1.10.6 Decisions of the Council will usually be made in accordance with the following principles:
- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of professional advice from Officers;
  - (c) respect for human rights and equality of opportunity;
  - (d) a presumption in favour of openness;
  - (e) clarity of aims and desired outcomes; and
  - (f) an explanation of what options have been considered and giving the reasons for decisions

## 1.11 DUTY TO MONITOR AND REVIEW THE CONSTITUTION.

- 1.11.1 The Monitoring Officer, on behalf of and in consultation with the Chief Executive, will monitor and review the operation of the Constitution on a regular basis, in order to ensure that it is up to date and may make changes to ensure that legislative references are updated; it reflects the Councils structures and decision-making requirements; and any other required changes are made.
- 1.11.2 The Leader may amend and update the Executive arrangements at any time and shall notify the Director of HR, Legal and Communications of any changes.

## 1.12 SUSPENSION OF THE CONSTITUTION

- 1.12.1 Any part of the Constitution may be waived or suspended by the full Council (or the Cabinet in relation to Executive functions) to the extent permitted within Procedure Rules and the law.

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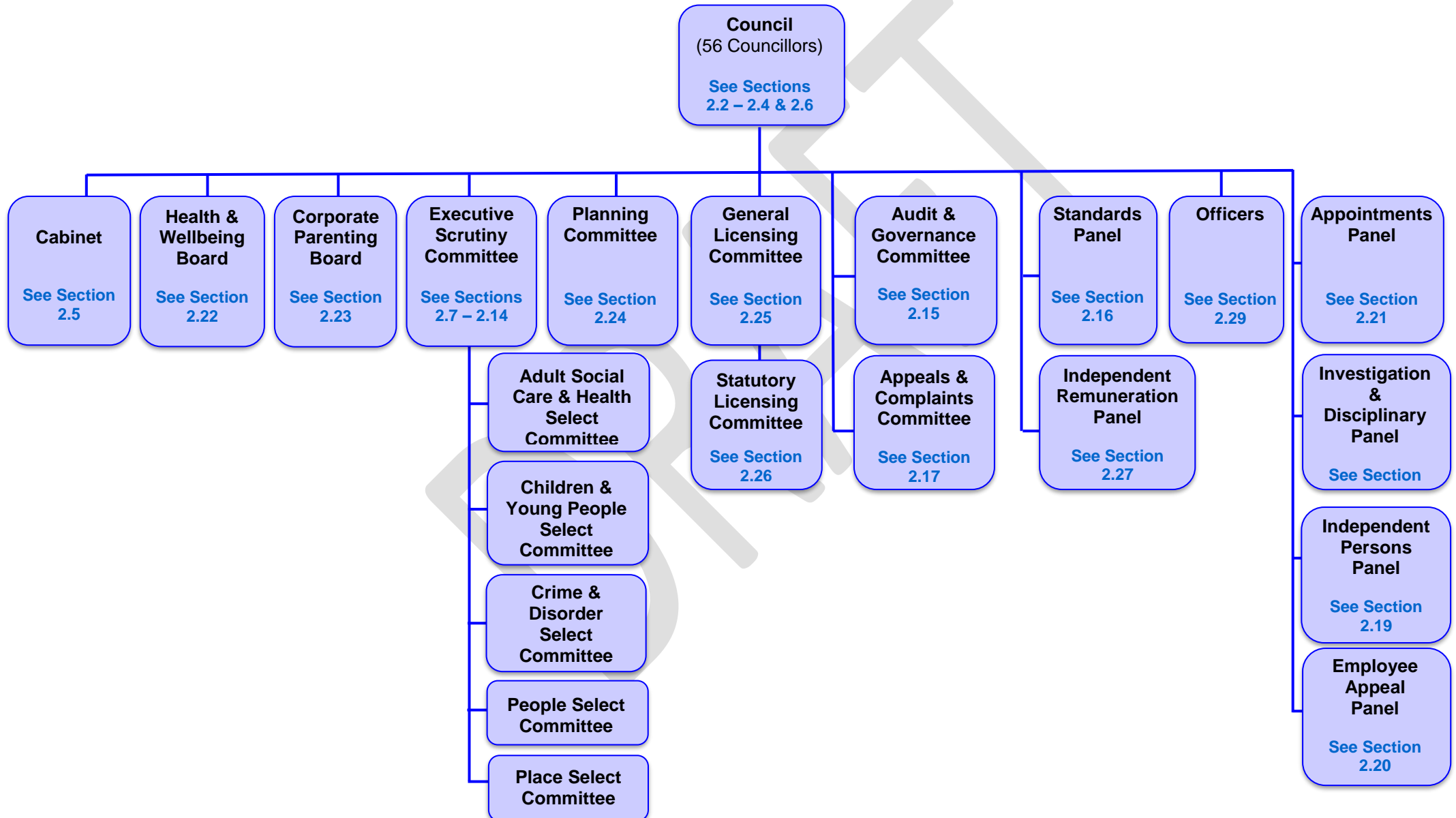
# STOCKTON-ON-TEES BOROUGH COUNCIL

## CONSTITUTION

### Part 2 – Responsibility for Functions

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**PART 2.1 – 1 DIAGRAM OF THE COUNCIL'S DECISION MAKING BODIES**



## 2.2 FUNCTIONS OF FULL COUNCIL

- 2.2.1 The following functions are the responsibilities of the Council and will be discharged by the Full Council (all Councillors meeting together) unless specifically delegated to another Committee, Sub-Committee, body or officer elsewhere in this Constitution.
- 2.2.2 The Council will:
- 2.2.2.1 elect the Mayor;
  - 2.2.2.2 appoint the Deputy Mayor;
  - 2.2.2.3 elect the Leader of the Council; and
  - 2.2.2.4 appoint to such other offices and/or positions as may be required under this Constitution or by law.
- 2.2.3 The Council will:
- 2.2.3.1 adopt the Council's Constitution and approve amendments to it (except where specifically delegated to the Monitoring Officer)
  - 2.2.3.2 adopt the [Policy Framework](#) and any of the policies within it;
  - 2.2.3.3 agree the Council's [Budget](#);
  - 2.2.3.4 determine any matter which would otherwise be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - 2.2.3.5 determine whether functions which are classified as "[Local Choice](#)" functions should be reserved to the Council or exercised by the Executive;
  - 2.2.3.6 agree:
    - (b) the establishment and composition of Committees and Sub-Committees, other than those which may be established within the Cabinet, and their terms of reference
    - (c) the political balance of such bodies as required from time to time
    - (d) the allocation of chairs and vice-chairs to those bodies
  - 2.2.3.7 agree and amend the job description for committee chairs;
  - 2.2.3.8 consider any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the Cabinet and the Council cannot make a decision in relation to it);
  - 2.2.3.9 determine any matter which is referred to it for determination by a Committee or Sub-Committee (other than a Cabinet body);
  - 2.2.3.10 adopt (or otherwise deal with) Motions submitted in accordance with the Council Procedure Rules except those that relate solely to a Cabinet function;

- 2.2.3.11 approve the Members' Allowances Scheme for elected Councillors following advice from the Independent Remuneration Panel;
  - 2.2.3.12 agree the annual Pay Policy Statement;
  - 2.2.3.13 appoint/designate/dismiss the Head of Paid Service and the Monitoring Officer;
  - 2.2.3.14 appoint the Returning Officer and Electoral Registration Officer;
  - 2.2.3.15 appoint representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
  - 2.2.3.16 approve the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of council functions;
  - 2.2.3.17 change the name of the area or confer the title of Honorary Alderman or Freedom of the Borough;
  - 2.2.3.18 make decisions relating to the making, amending, revoking, re-enacting, adopting or enforcing of byelaws and promoting or opposing the making of local legislation or personal Bills;
  - 2.2.3.19 receive reports from the Head of Paid Service the Monitoring Officer and Section 151 Officer and make decisions on them;
  - 2.2.3.20 take decisions in respect of functions which are not the responsibility of the Executive, and which have not been delegated by the Council to Committees, officers or elsewhere; and
  - 2.2.3.21 perform all other functions which by law must be reserved to the Council.
- 2.2.4 Nominations to the Council's non-executive committees, sub-committees and decision-making bodies, and changes to such nominations, including nominations to chairmanships and vice-chairmanships, shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Assistant Director Administration, Democratic & Electoral Services and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations and the political balance determined by Council in relation to the body in question.
- 2.2.5 All Council meetings will be conducted in accordance with the Council Procedure Rules. The quorum for Council Meetings is  $\frac{1}{4}$  of the members of the Council from time to time.

### **2.3 THE ROLE OF THE POLICY FRAMEWORK IN DECISION MAKING**

- 2.3.1 By law, the Council must have a policy framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the full Council, usually on the recommendation of the Cabinet, supplemented by other plans and strategies that the Council wishes to add.
- 2.3.2 The Policy Framework comprises:
- 2.3.2.1 The Children and Young People's Plan;



- 2.3.2.2 Licensing Authority Policy Statement;
- 2.3.2.3 Youth Justice Plan;
- 2.3.2.4 Crime and Disorder Reduction Strategy;
- 2.3.2.5 Local Transport Plan; and
- 2.3.2.6 Development Plan Documents (including the Local Plan and any Neighbourhood Plans); and all plans and alterations which together comprise the Development Plan.

These policy documents can be found on the Council's website.

## **2.4 THE ROLE OF THE BUDGET IN DECISION MAKING**

- 2.4.1 The Budget/Medium Term Financial Plan provides for the allocation of resources (revenue and capital) to services provided directly by the Council or through contractual or partnership arrangements. The Budget/Medium Term Financial Plan also sets out the proposed Council income and expenditure over the next three to four years. Annually the full Council sets the level of Council Tax (following a recommendation from the Cabinet), which along with precepts and levies from other bodies (such as the Police), is demanded from council tax payers.
- 2.4.2 More detailed operating rules for the Budget/Medium Term Financial Plan are contained in the [Budget, Policy and Financial Procedure Rules](#).

## **2.5 FUNCTIONS OF CABINET / THE "EXECUTIVE"**

- 2.5.1 This section sets out the Functions role and responsibilities of the Executive/Cabinet. The Cabinet, as the Executive, will carry out all of the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.
- 2.5.2 Cabinet Decisions are taken collectively, unless otherwise decided by the Leader, who may allocate responsibility for all/any executive functions and may exercise any such functions personally.
- 2.5.3 The Business of Cabinet includes:
  - 2.5.3.1 Taking decisions on the Council's main functions including on Education, Adult and Children's Social Care, Housing, Transport and Highways except where such decisions are delegated to another body or officer under this constitution.;
  - 2.5.3.2 Determining the policies and strategies to be adopted and recommended to Council, including the Budget, Policy Framework and the Medium Term Financial Plan;
  - 2.5.3.3 Considering and making recommendations on the overall borrowing limits of the Council and the amounts required to be raised from Council Tax;
  - 2.5.3.4 Considering reports from:
    - the Corporate Management Team;
    - the Head of Paid Service, Monitoring Officer or the Chief Finance Officer;

- Select Committees referred to Cabinet; and
  - Executive Scrutiny Committee following the exercise of call-in to refer matters back to Cabinet for re-consideration
- 2.5.3.5 Determining proposals for its Forward Plans;
- 2.5.3.6 Considering Cabinet proposals referred back by the Council which fall to the Cabinet to determine or those referred to Cabinet by the Council, which fall to the Council to determine;
- 2.5.3.7 Considering and referring to Council for approval, expenditure plans in respect of designated Government grants;
- 2.5.3.8 Monitoring, considering and making recommendations to Council on the form and content of the Responsibilities for Functions, Council Procedure Rules and the Budget, Policy and Financial Procedure Rules;
- 2.5.3.9 Considering and making recommendations to Council on financial thresholds for each service or function (at Directorate level or below as required/appropriate) above which any proposed expenditure or anticipated savings will be regarded as significant, and therefore, a key decision for the purposes of Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
- 2.5.3.10 Considering the minutes of Joint Bodies and Partnership Boards and approving matters as required or referring matters to Council to be received or approved, together with any recommendations on policy or service delivery which may arise;
- 2.5.3.11 Considering the Terms of Reference for ad hoc, time limited working parties and making recommendations to Council for their establishment;
- 2.5.3.12 Considering and referring to Council with recommendations for approval, arrangements for the appointment of the Chief Executive, Directors of Service and Assistant Directors of Service; and
- 2.5.3.13 Exercising overall responsibility for land, property, ICT, personnel and other resources, including acquisition, disposal and expenditure on the maintenance of assets.
- 2.5.4 All decisions shall be taken in accordance with the [Cabinet Procedure Rules](#).
- 2.5.5 A **Key decision** taken by the Leader, Cabinet, Committee of Cabinet or an Officer is any executive decision which is likely:
- a. to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates [usually £500,000]; or
  - b. to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough; or
  - c. in some circumstances where it is likely to have a significant impact on communities in one ward, unless it is considered impracticable to do so.

- 2.5.6 The Cabinet consists of the Leader and up to nine other Councillors appointed by the Leader. One of these Councillors will be appointed by the Leader as his or her Deputy. All such appointments will be notified in writing to the Proper Officer of the Council.
- 2.5.7 The Leader will be a Councillor elected as Leader at a meeting of the full Council. The Leader will hold office until the annual meeting immediately following the next local government elections for the whole of the Borough, unless:
- 2.5.7.1 he/she resigns from the office;
  - 2.5.7.2 he/she becomes disqualified from membership of the Council, either for a specific period, or indefinitely;
  - 2.5.7.3 he/she is no longer a Councillor; or
  - 2.5.7.4 he/she is removed from office by resolution of the Council or otherwise.
- 2.5.8 Where a Councillor has been elected as Leader for a term which expires at an Annual Meeting of the Council then their term as Leader (and their position as a Councillor) will continue until the Annual Meeting of the Council notwithstanding that he/she may have otherwise ceased to be a Councillor following an election.
- 2.5.9 The other Cabinet Members shall hold office until:
- 2.5.9.1 they resign from office;
  - 2.5.9.2 they are disqualified from being a Councillor;
  - 2.5.9.3 they are no longer Councillors; or
  - 2.5.9.4 they are removed from office, either individually or collectively, by the Leader.
- 2.5.10 If a Deputy Leader ceases to hold office for any reason, the Leader will appoint a replacement.
- 2.5.11 The following are the general responsibilities which apply to all Cabinet members, The Cabinet makes decisions collectively and Cabinet members do not have individual decision making powers unless specifically conferred on them (in writing) by the Leader in accordance with section 9E Local Government Act 2000.
- 2.5.12 Each Cabinet member is the spokesperson for the policy area or 'portfolio' for which they are responsible. They also:
- 2.5.12.1 lead on developing council policy and make recommendations to the Cabinet;
  - 2.5.12.2 provide guidance to the Cabinet on delivering services within their portfolio area;
  - 2.5.12.3 give guidance to the Cabinet on budget priorities;
  - 2.5.12.4 monitor performance and make sure policy is delivered;
  - 2.5.12.5 lead on improving Council services;
  - 2.5.12.6 ensure that activities meet the Council's overall vision, core values and guiding principles;
  - 2.5.12.7 represent the Council at a national and local level;

- 2.5.12.8 represent the Council on relevant outside bodies;
  - 2.5.12.9 contribute to debate and decision-making;
  - 2.5.12.10 act as a champion in all related portfolio topic areas;
  - 2.5.12.11 work with all councillors and officers to make sure that the overview and scrutiny process works including appearing before relevant Executive Scrutiny Committee and Select Committee meetings and responding to Executive Scrutiny Committee and Select Committee reports in a timely fashion;
  - 2.5.12.12 ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio; an;
  - 2.5.12.13 act as a consultee for Officers' delegated decisions.
- 2.5.13 The Leader will:
- 2.5.13.1 ensure that a record is kept of the executive functions which are the responsibility of individual Cabinet members, any Cabinet Committee or Sub-Committee, officers or joint arrangements;
  - 2.5.13.2 chair the Cabinet and agree/accept the business to be covered at Cabinet meetings;
  - 2.5.13.3 select the Cabinet members and determine their Portfolios of responsibility;
  - 2.5.13.4 appoint the Deputy Leader of the Council;
  - 2.5.13.5 appoint Committees and sub-committees of the Cabinet and determine their powers;
  - 2.5.13.6 represent and act as ambassador for the Council (recognising the role of the Mayor);
  - 2.5.13.7 have overall responsibility for:
    - (a) policy development and design
    - (e) Ministerial and Members of Parliament/European Parliament liaison.
  - 2.5.13.8 represent the Council's views on matters of corporate or strategic policy and any other matters which are within the Leader's terms of reference; and
  - 2.5.13.9 present to the Council "State of the Borough" reports and be responsible for related debates.
- 2.5.14 The Deputy Leader will fulfil the responsibilities of the Leader in the Leader's absence, or when the Leader is otherwise unable to act.
- 2.5.15 The following table sets out the portfolio responsibilities of the Cabinet Members:

<b>THE LEADER</b>
The Combined Authority;

<p>Regional/Sub Regional Economic Growth, City Deals and regional Growth Funds;</p> <p>Transport for the North (including Rail North);</p> <p>Responsibility for items of considerable corporate significance which transcend the responsibility of individual Cabinet members (i.e. budget preparation, preparation of the Medium Term Financial Plan);</p> <p>External partnerships e.g. Representative on the Leaders Board/TVU and the broader strategic economic growth agenda;</p> <p>Agreement and presentation of Forward Plans to Cabinet/Council;</p> <p>Business Champion, business support;</p> <p>European inward investment;</p> <p>Family Poverty;</p> <p>Communications – including social media;</p> <p>Central Support Services including HR, Administration, Efficiency, Procurement and Legal &amp; Democratic Services and Civic Services, Asset Management and Capital Strategy Corporate, Governance (including Standards and Probity and Policy and Performance) Corporate Management, Xentral and Finance as follows:</p> <p>Lead Member for Health and Safety and Welfare</p> <p>The Big Committee.</p>
<b>PORTFOLIO HOLDER FOR ADULT SOCIAL CARE AND HEALTH</b>
<p>Public Health;</p> <p>Independent Living;</p> <p>Healthy Communities and Partnerships with Health;</p> <p>Adult Health and Social Care (including health promotion, preventative health and health improvement);</p> <p>Drug Action team and drugs related issues;</p> <p>Integrated commissioning and provision of services for people with mental health problems and people with learning disabilities;</p> <p>Commissioning and provision of services for people with physical disabilities, including sensory loss and palliative care;</p> <p>Commissioning and provision of services for adults and older people</p>
<b>PORTFOLIO HOLDER FOR ACCESS, COMMUNITIES AND COMMUNITY SAFETY</b>
<p>Liaison with Neighbourhood Bodies:</p>

- (a) Locality Forums
- (b) Town and Parish Councils
- (c) Wards
- (d) Voluntary Community & Social Enterprise Sector (VCSE)

Community Cohesion and Equality;

Community Engagement, Consultation and Empowerment;

Rural Policy;

Access to Services, including Customer First, Customer Relations Management and use of new technology in customer services;

Registrars;

Welfare Rights;

Fair Trade;

Community Safety;

Community Wardens Service;

Licensing and Gambling;

Environmental Health, Trading Standards, Consumer Advice, Public Health/Food Safety; and

Anti-social Behaviour, and Arson Reduction

#### **PORTFOLIO HOLDER FOR ARTS, LEISURE AND CULTURE**

The Portfolio Holder for Arts, Leisure and Culture has the following portfolio responsibilities:

Arts Strategy, Libraries, Museums, Theatre;

Events;

Countryside and Parks Strategy and Management (in conjunction with the Cabinet Member for Environment and Housing);

Leisure and Sports Development;

Development of Tees Valley Sports Partnership;

High Achievement in Sport Strategy and Policy;

Cultural Services and Strategies; and

Leisure Strategy, Facilities Management and Liaison with Tees Active Trust.

#### **PORTFOLIO HOLDER FOR CHILDREN AND YOUNG PEOPLE**

Children and Young Peoples Plan;  
Social Care Assessment and Fieldwork;  
Looked After Children and Young People leaving care;  
Integrated Youth Support;  
The Big Committee (Shared with Leader);  
School Effectiveness;  
Early Years;  
Complex Needs;  
Special Educational Needs;  
Transitions;  
Workforce Development;  
14-19 Partnership; and  
Youth Offending Services.

**PORTFOLIO HOLDER FOR REGENERATION AND HOUSING**

Adult Education and Skills.  
Growth, Economic Development and Regeneration;  
Town Centre Management and Developments;  
Planning;  
Building Control;  
Housing Strategy and Policy;  
Homeless Advice;  
Private Sector Grants;  
Housing and Council Tax Benefits;  
Housing Regeneration (in conjunction with the Cabinet Member for Regeneration and Transport);  
Liaison with Thirteen Housing Group (including Tristar Homes);  
Housing Association Investment and Performance;  
Right to Buy and Home Ownership Assistance Schemes; and  
Tees Valley housing/market renewal;

Adult Education and Skills

Markets;

Employment Initiatives; and

Tourism.

**PORTFOLIO HOLDER FOR ENVIRONMENT AND TRANSPORT**

Care for Your Area Services:

- a) Street Cleansing;
- b) Refuse Collection;
- c) Parks and Grounds Maintenance;
- d) Horticulture;
- e) Road and Footpath Repairs;
- f) Waste Management; and
- g) Recycling.

Environmental Policy

Pollution;

Climate change;

Biodiversity; and

Environmental aspects of transport planning.

Emergency Planning (including flood risk management);

Local Transport Plan;

Street Lighting;

Engineering and Transport;

Road Safety and Traffic Management;

Highways Design, Structures (and Maintenance);



## 2.6 ALLOCATION OF LOCAL CHOICE FUNCTIONS

2.6.1 Certain functions of local authorities are classified as “Local Choice” functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. This means that the Council can decide which of these decisions should be taken by the Full Council and which should be taken by the Cabinet.

2.6.2 The following table sets out the decision - maker for each Local Choice Function:

Function	Local Choice Functions Decision Making Body	Further delegation of functions to Committees and others (where applicable)
Functions under a local Act other than the following functions which are a) imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted otherwise than by an executive of the authority, in the exercise of any function under a local Act and determining any other terms to which any such approval, consent, licence, permission or registration is subject. b) Making, amending, revoking or enforcing byelaws;	Cabinet	Chief Officers
To determine appeals <sup>1</sup> against any decision of the authority	Full Council	All Chief Officers (save for those functions which are reserved to a specific Appeals Committee or Panel under this Constitution) and those which have their own statutory appeals process (such as planning and licensing appeals).
To make arrangements for appeals against exclusion of pupils from maintained schools	Cabinet	Director of Children's Services in consultation with the Director of HR, Legal and Communications
To make arrangements for appeals regarding school admissions <sup>2</sup>	Cabinet	Director of Children's Services in consultation with the Director of HR, Legal and Communications
To make arrangements for appeals by governing bodies <sup>3</sup>	Cabinet	Director of Children's Services in consultation with the Director of HR, Legal and Communications

<sup>1</sup> Including appeals in relation to access to information by Members under s100F Local Government Act 1972, Part 5 Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012, and the common law “need to know” rules

<sup>2</sup> s94(1), (1A) and (4) School Standards and Framework Act 1998

<sup>3</sup> s95(2) School Standards and Framework Act 1998

Any function relating to contaminated land <sup>4</sup>	Cabinet	Chief Executive all Chief Officers
The control of pollution or the management of air quality <sup>5</sup>	Cabinet	Chief Executive all Chief Officers
To serve an abatement notice in respect of a statutory nuisance <sup>6</sup>	Cabinet	Chief Executive all Chief Officers
To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area <sup>7</sup>	Cabinet	Chief Executive all Chief Officers
To inspect the authority's area to detect any statutory nuisance <sup>8</sup>	Cabinet	Chief Executive all Chief Officers
To investigate any complaint about the existence of a statutory nuisance <sup>9</sup>	Full Council	Chief Executive all Chief Officers
To obtain information about interests in land <sup>10</sup>	Planning Committee and The Cabinet in respect of executive functions, including land/CPO	Chief Executive all Chief Officers
To obtain particulars of persons interested in land <sup>11</sup>	Full Council The Cabinet in respect of executive functions	Director of Economic Growth and Development/Director of HR, Legal and Communications and/or Director of Adults and Health
To make arrangements for the execution of highways works <sup>12</sup>	Cabinet	Director of HR, Legal and Communications In consultation with the Director of Economic Growth & Development
To appoint any individual (a) to any office other than an office in which s/he is employed by the authority (b) to any body other than (i) the authority; (ii) a joint Committee of two or more authorities; or (c) to any Committee or sub Committee of such a body and to revoke any such appointment	Leader, Cabinet or individual Portfolio Holders in respect of organisations exercising executive functions.	To the extent that such appointments are appointments to bodies concerned with functions which are determined to be within the Cabinet's responsibility (eg housing, education, social services, regeneration etc).

<sup>4</sup> Part IIA Environmental Protection Act 1990 and subordinate legislation

<sup>5</sup> Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

<sup>6</sup> s80(l) Environmental Protection Act 1990

<sup>7</sup> s8 Noise and Statutory Nuisance Act 1993

<sup>8</sup> s79 Environmental Protection Act 1990

<sup>9</sup> s79 Environmental Protection Act 1990

<sup>10</sup> s330 Town and Country Planning Act 1990

<sup>11</sup> s16 Local Government (Miscellaneous Provisions) Act 1976

<sup>12</sup> s278 Highways Act 1980

	Full Council in respect of other organisations.	
To make agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	Chief Executive all Chief Officers.
The making of arrangements for enabling questions to be put at meetings of Council on the discharge of the functions of the Cleveland Police and Crime Panel.	Council	Proper Officer - in consultation with the Mayor.

## **2.7 FUNCTIONS OF COMMITTEES, PANELS AND BOARDS (GENERAL)**

2.7.1 The Council has delegated responsibility for certain functions to a number of Committees, Panels and Boards. The functions, roles and responsibilities of these Committees, Panels and Boards of the Council are set out in sections 2.8 – 2.27 of this Constitution.

2.7.2 In summary the Committees, Boards and Panels are as follows:

2.7.2.1 Executive Scrutiny Committee

2.7.2.2 Select Committees:

- a) Adult Social Care and Health Select Committee
- b) Children and Young People Select Committee
- c) Crime and Disorder Select Committee
- d) People Select Committee
- e) Place Select Committee

2.7.2.3 Audit and Governance Committee;

2.7.2.4 Appeals and Complaints Committee;

2.7.2.5 Standards Panel;

2.7.2.6 Independent Remuneration Panel.

2.7.2.7 Appointments Panel;

2.7.2.8 Investigation and Disciplinary Panel;

2.7.2.9 Independent Persons Panel;

2.7.2.10 Employee Appeals Panel;

2.7.2.11 Health and Wellbeing Board;

2.7.2.12 Corporate Parenting Board;

2.7.2.13 Planning Committee;

2.7.2.14 General and Statutory Licensing Committees;

## 2.8 FUNCTIONS OF SCRUTINY AND SELECT COMMITTEES (GENERAL)

2.8.1 The Council will appoint the Executive Scrutiny and Select Committees set out in sections 2.9 – 2.14 to discharge the functions conferred by section 9F of the Local Government Act 2000 together with such other Scrutiny and Select Committees as it may consider necessary and appropriate from time to time.

2.8.2 Select Committees will:

2.8.2.1 review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

2.8.2.2 in accordance with the terms of the Constitution, make reports and/or recommendations to Cabinet or full Council in connection with the discharge of any functions;

2.8.2.3 consider any matter affecting the area or its inhabitants;

2.8.2.4 monitor and review performance information relating to its thematic area and achievement of corporate policy objectives;

2.8.2.5 question members of the Cabinet, Chief Officers and Senior Officers about their decisions and performance, whether generally in connection with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

2.8.2.6 following liaison with the Executive Scrutiny Committee each Select Committee will adopt a programme of time-limited scrutiny reviews in relation to specific policy development and the review of existing policy and any other matter considered appropriate that reflects corporate priorities;

2.8.2.7 receive requests pursuant to the [Councillor Call for Action](#) under section 9FC of the Local Government Act 2000 and consider all relevant matters; and

2.8.2.8 respond, as soon as their work programme permits, to requests from the Council and from the Cabinet, via the Executive Scrutiny Committee, (for instance, as regards matters in its forward plans) to review particular areas of Council activity. Where they do so, the Select Committees shall report their findings and any recommendations back to the Executive Scrutiny Committee, Cabinet and/or Council, as appropriate.

2.8.3 Select Committees *may*:

2.8.3.1 make recommendations to assist the Council in the development of its budget and policy framework by conducting in-depth analysis of policy issues and considering existing policies and the effectiveness of their delivery;

2.8.3.2 in respect of policies which do not form part of the Budget and Policy Framework Rules, make proposals to the Executive Scrutiny Committee and

- thereafter to Cabinet for developments in so far as they relate to matters within their terms of reference;
- 2.8.3.3 conduct research, undertake community and other consultation in connection with the analysis of policy issues and possible options for change;
  - 2.8.3.4 consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - 2.8.3.5 question and gather evidence from any person (with their consent);
  - 2.8.3.6 hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process, including conducting site visits, conducting public surveys, holding public meetings, commissioning research and doing all other things that they reasonably consider necessary to inform their deliberations;
  - 2.8.3.7 ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so, within the budgets available to each of the Select Committees;
  - 2.8.3.8 liaise with other external organisations operating in the area, whether national, regional or local, to ensure the interests of local people are enhanced by collaborative working; and
  - 2.8.3.9 review and scrutinise the performance of other public bodies in the Council's area and invite reports from them by requesting them to address Select Committees and local people about their activities and performance.
- 2.8.4 Select Committees should report annually to the Executive Scrutiny Committee and full Council on their workings and may make recommendations for future work programmes and amended working methods if appropriate.
- 2.8.5 All Scrutiny and Select Committees will conduct their proceedings in accordance with the Scrutiny and Select Committee Procedure Rules set out in [Part 3](#) of this Constitution.
- 2.8.6 The Scrutiny Liaison Forum is an informal Councillor/Officer Group which includes Cabinet members, members of the Corporate Management Team and Scrutiny Chairs and will usually meet once a year in the first quarter to set the work programme for the forthcoming year.
- 2.8.7 The Council will appoint an informal Scrutiny Liaison Forum to discharge the following functions:
- 2.8.7.1 to meet annually to provide a Forum to foster and develop a closer, more constructive working relationship between the Cabinet Members, the Corporate Management Team and Scrutiny Chairs and thereby assist in the efficient and effective working of scrutiny and the scrutiny work programme in order to deliver the Council's key priorities and secure added value and to set the Scrutiny agenda for the forthcoming municipal year;
  - 2.8.7.2 to receive briefings from Cabinet members/Corporate Management Team and Executive Scrutiny Committee Members on emerging policy development areas;

- 2.8.7.3 to consider the current scrutiny work programme position and progress in delivering its aims;
- 2.8.7.4 to consider and ensure support for the current scrutiny work programme and its delivery;
- 2.8.7.5 to consider any special issues which may require urgent policy development advice or scrutiny work; and
- 2.8.7.6 to undertake appropriate liaison with the Executive Scrutiny Committee on future policy development issues and review topics.

## **2.9 FUNCTIONS OF THE EXECUTIVE SCRUTINY COMMITTEE**

### **2.9.1 The Executive Scrutiny Committee will:**

- 2.9.1.1 Keep under review the overall effectiveness of the scrutiny process and the select committee structure; to consider how the process and structure can be improved and developed further and to make appropriate recommendations for change to Cabinet and the Council.
- 2.9.1.2 Receive and consider input from all Councillors and employees on suggested areas for scrutiny work, including views from the Scrutiny Liaison Forum on emerging policy development review topics and from thematic select committees, quasi-judicial committees/appeals panels on areas for review.
- 2.9.1.3 Consider, prioritise, develop and co-ordinate the scrutiny work programme, ensuring that there is efficient use of the Select Committees' time, that the potential for duplication of effort is minimised and managing any changes in year (i.e. between annual meetings).
- 2.9.1.4 Receive and respond to requests from Cabinet and/or the full Council for policy development advice and new priority review areas, allocating them if appropriate to one or more of the relevant thematic Select Committees.
- 2.9.1.5 Be responsible for the prioritisation, co-ordination and monitoring of scrutiny work programmes and activities, advising on timescales, liaising as appropriate with each thematic Select Committee and determining how scrutiny reviews will be resourced.
- 2.9.1.6 Where matters fall within the remit of more than one Select Committee, to determine which of them will assume responsibility for any particular issue, or whether there is a need for joint working, and to resolve any issues of dispute between Select Committees.
- 2.9.1.7 Maintain an overview of, and to monitor performance information to inform the scrutiny work programme.
- 2.9.1.8 "Call-in", scrutinise and comment on the Cabinet's executive decisions; the Key Decisions of the Council's Officers and executive joint arrangements Key Decisions, including where it considers it to be appropriate questioning members of the Cabinet and Senior Officers about such decisions; and making recommendations to the Cabinet and/or Council about those decisions;

- 2.9.1.9 Identify the need for and to support and co-ordinate the delivery of overview and scrutiny training for members and co-opted members.
  - 2.9.1.10 Consider valid petitions requiring appropriate Council Officers to give evidence and to take or recommend appropriate action.
  - 2.9.1.11 Carry out a review if requested by a petition organiser who is dissatisfied with the way the organiser's petition has been dealt with by the Authority, unless the Committee has previously been involved in considering the matter. In such cases, the review will be undertaken by one of the Council's Select Committees.
  - 2.9.1.12 Be the Council's co-ordinating body for scrutiny, including considering all Councillor Calls for Action (unless vexatious, discriminatory or otherwise prohibited by law) and, where appropriate, allocating them to the appropriate Select Committee, in accordance with the Council's [Councillor Call for Action Protocol](#).
- 2.9.2 The Executive Scrutiny Committee will be comprised of a Chair appointed by Council, plus the Chairs of the 5 thematic Select Committees together with such other Members as are necessary to achieve political balance.
- 2.9.3 2 diocesan representatives and 2 parent governor representatives will be entitled to attend as voting members of the Committee when it is dealing with education matters. The presence of such members on the Committee has relevance to political balance.

## **2.10 FUNCTIONS OF THE CHILDREN AND YOUNG PEOPLE SELECT COMMITTEE**

- 2.10.1 This Select Committee will carry out its functions in accordance with the General Roles and Responsibilities which apply to the Executive Scrutiny and Select Committee as set out in section 2.8. This Select Committee will:
- 2.10.1.1 provide the Executive Scrutiny Committee with views on the Select Committee's priority areas for policy development and review insofar as children and young people are concerned, and any other matter considered appropriate that reflects the corporate priorities; and
  - 2.10.1.2 make recommendations to the Cabinet and/or Council arising from the outcome of any scrutiny process.
- 2.10.2 The Select Committee will be made up of 9 members and will be politically balanced in composition.
- 2.10.3 Two diocesan representatives and two parent governor representatives will be entitled to attend as voting members of the Committee when it is dealing with education matters. The presence of such members on the Committee has no relevance to the calculation of political balance.

## **2.11 FUNCTIONS OF THE PLACE SELECT COMMITTEE**

- 2.11.1 This Select Committee will carry out its functions in accordance with the General Role and Responsibilities which apply to the Executive Scrutiny and Select Committee. This Select Committee will:

- 2.11.1.1 provide the Executive Scrutiny Committee with views on the Select Committee's priority areas for policy development and review insofar as environment, housing regeneration and transport, are concerned, and any other matter considered appropriate that reflects the corporate priorities;
  - 2.11.1.2 be the Council's Flood Risk Management Committee; and
  - 2.11.1.3 make recommendations to the Cabinet and/or Council arising from the outcome of any scrutiny process.
- 2.11.2 This Select Committee will be made up of 9 members and will be politically balanced in composition.

## **2.12 FUNCTIONS OF THE CRIME AND DISORDER SELECT COMMITTEE**

- 2.12.1 This Select Committee will carry out its functions in accordance with the General Role and Responsibilities which apply to the Executive Scrutiny and Select Committee as set out in section 2.8. In addition This Select Committee will:
- 2.12.1.1 fulfil the responsibilities of the Crime and Disorder Committee as required by the Police and Justice Act 2006; and
  - 2.12.1.2 make recommendations to the Cabinet and/or Council arising from the outcome of any scrutiny process;
- 2.12.2 This Select Committee will be made up of 9 members and will be politically balanced in composition.

## **2.13 FUNCTIONS OF THE ADULT SOCIAL CARE AND HEALTH SELECT COMMITTEE**

- 2.13.1 This Select Committee will carry out its functions in accordance with the General Role and Responsibilities which apply to the Executive Scrutiny and Select Committee as set out in section 2.8, this Select Committee will:
- 2.13.1.1 provide the Executive Scrutiny Committee with views on the Select Committee's priority areas for policy development and review insofar as adult social care and health are concerned;
  - 2.13.1.2 following liaison with the Executive Scrutiny Committee, adopt a programme of time-limited scrutiny reviews in relation to work in partnership with other organisations on reviewing local health issues and the health service, and in particular review and scrutinise matters relating to the health service in the Authority's area in accordance with regulations under Sections 75 and 244 of the National Health Service Act 2006 and on reviewing adult services issues;
  - 2.13.1.3 respond to health consultations with the exception of responses to "significant variations"\* which will require Council approval prior to submission to the relevant health body. (\*as defined in the NHS Act 2006);
  - 2.13.1.4 make recommendations to the Cabinet and/or Council arising from the outcome of any scrutiny process;



- 2.13.2 This Select Committee will be made up of 9 members and will be politically balanced in composition.

## **2.14 FUNCTIONS OF THE PEOPLE SELECT COMMITTEE**

- 2.14.1 This Select Committee will carry out its functions in accordance with the General Role and Responsibilities which apply to the Executive Scrutiny and Select Committee. This Select Committee shall:

2.14.1.1 provide the Executive Scrutiny Committee with views on the Select Committee's priority areas for policy development and review insofar as the arts, leisure, culture and social inclusion, and any other matter considered appropriate are concerned;

2.14.1.2 make recommendations to the Cabinet and/or Council arising from the outcome of any scrutiny process;

- 2.14.2 This Select Committee will be made up of 9 members and will be politically balanced in composition.

## **2.15 FUNCTIONS OF THE AUDIT AND GOVERNANCE COMMITTEE**

- 2.15.1 The Audit and Governance Committee will:

2.15.1.1 monitor the integrity of the Council's financial statements and approve the Statement of Accounts;

2.15.1.2 approve the Annual Governance Statement;

2.15.1.3 oversee risk management and the Council's risk registers;

2.15.1.4 review any proposed changes to accounting policies and procedure rules;

2.15.1.5 consider budget reports and the effect of government announcements on the Council's finances;

2.15.1.6 review Financial Update reports identifying the impact on the Medium Term Financial Plan and Treasury Management Strategy;

2.15.1.7 approve the role and responsibilities of the Internal Audit Service (the Services' [functions, aims and objectives](#));

2.15.1.8 receive and consider the Annual Audit Letter from the Council's External Auditor;

2.15.1.9 agree the programme of value for money work;

2.15.1.10 approve the internal and external audit plans;

2.15.1.11 review Internal Audit work on a quarterly basis; internal and external annual reports together with any management response and receive details of specific significant issues highlighted via audit work and refer to the Executive

Scrutiny Committee; the Select Committees; Cabinet or Council, as appropriate, any issues arising which are key in nature;

2.15.1.12 maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour, and consider the Council's compliance with its own and other published standards and controls; and

2.15.1.13 consider details of any key ethical and wider corporate governance issues which may be referred to it.

2.15.2 This Committee will be made up of 9 Councillors appointed by Full Council (politically balanced)

2.15.3 The Council Procedure Rules apply to this Committee.

## **2.16 FUNCTIONS OF THE STANDARDS PANEL**

2.16.1 The Standards Panel will:

2.16.1.1 Promote high standards of conduct;

2.16.1.2 Following a referral from the Monitoring Officer, consider whether or not to investigate a complaint about Councillor conduct;

2.16.1.3 Conduct Hearings into allegations of a breach of the Members Code of Conduct;

2.16.1.4 Having concluded a hearing, make one of the following findings:

a) that the Councillor had not failed to comply with the Code of Conduct of the authority concerned;

b) that the Councillor had failed to comply with the Code of Conduct of the authority concerned but that no action needs to be taken in respect of the matters which were considered at the hearing; or

c) that the Councillor had failed to comply with the Code of Conduct of the authority concerned and to determine or recommend to Council the appropriate sanction:

2.16.1.5 Following a referral from the Monitoring Officer, and in consultation with an Independent Person, consider requests by a Councillor for dispensation in relation to a disclosable pecuniary interest;

2.16.1.6 In consultation with an Independent Person, consider any appeal by a Councillor against a refusal by the Monitoring Officer to grant a dispensation in relation to a disclosable pecuniary interest; and

2.16.1.7 Exercise the above functions above in relation to Parish/Town Councils wholly or mainly in its area as required by the Localism Act 2011.

2.16.2 This Committee will be made up of 3 Councillors (politically balanced) appointed by the Council.

2.16.3 The Council Procedure Rules will apply to this Panel.

## **2.17 FUNCTIONS OF THE APPEALS AND COMPLAINTS COMMITTEE**

2.17.1 The Appeals and Complaints Committee will Consider and make recommendations in relation to complaints against any decision made by or on behalf of the Authority, including making recommendations on highways/traffic appeals, and appeals against decisions made by a Committee, Panel or an Officer, but excluding appeals which are within the remit of other Panels or which by statute are subject to determination by a person or body other than the Council.

2.17.2 This Committee will be made up of 7 Councillors (politically balanced).

2.17.3 Only those Councillors who have undertaken appropriate training may sit on the Appeals and Complaints Committee

2.17.4 The quorum for this Committee is 3.

2.17.5 The Council Procedure Rules apply to this Committee.

## **2.18 FUNCTIONS OF THE INVESTIGATION AND DISCIPLINARY PANEL**

2.18.1 The Investigation and Disciplinary Panel will:

2.18.1.1 consider allegations/issues regarding disciplinary matters, capability and grievances relating to the Chief Officers and Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) and authorise a preliminary investigation.

2.18.1.2 appoint an Independent Investigator to investigate allegations of misconduct, grievances, capability or other appropriate matter and commission reports from the Investigator. Before appointing an independent investigator the Chief Executive/Chief Officer shall be invited to make representations unless it is impracticable to do so.

2.18.1.3 determine appropriate action upon receipt of any preliminary investigation report.

2.18.1.4 decide whether to suspend the Chief Executive and to review any such decision. Before deciding to suspend the Chief Executive the Committee shall invite representations from the Chief Executive unless it is impracticable to do so. [Decisions on the suspension of other Chief Officers including the Monitoring Officer and Chief Finance Officer will be taken by or on behalf of the Chief Executive].

2.18.1.5 Determine what action should be taken against a Chief Officer/Statutory Officer following an investigation. This could include a hearing and action short of dismissal. In the event that the Committee hears a matter that could

result in the dismissal of a Statutory Officer then the Independent Persons Panel shall be invited to meet concurrently with this Committee.

- 2.18.1.6 In relation to disciplinary action affecting the Statutory Officers, consider the issues including the conclusions of any investigation and make recommendations to Full Council as to dismissal or other alternative action.
- 2.18.2 This panel will be made up of 5 Councillors, including at least one Cabinet Member and not more than two (politically balanced).
- 2.18.3 Only those Councillors who have undertaken appropriate training may sit on the Investigation and Disciplinary Panel.
- 2.18.4 The quorum is 2 of whom no more than one may be a cabinet member.
- 2.18.5 This panel will operate in accordance with the following procedure rules:
  - 2.18.5.1 Applicable rules include the Employment Procedure Rules, relevant Council Procedure Rules and the Council's Grievance, Disciplinary and Capability procedures.
  - 2.18.5.2 In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives and Chief Officers as appropriate.
  - 2.18.5.3 The Chief Executive and any Chief Officer shall have the right to be accompanied at any Investigation and Disciplinary Panel Meeting, including a hearing.
  - 2.18.5.4 With the exception of a decision recommended to Council and approved that a Statutory Officer be dismissed, there shall be a right of appeal to the Employee Appeal Panel against any decisions made by this Committee to take disciplinary action against a Chief Officer.

## **2.19 FUNCTIONS OF THE INDEPENDENT PERSONS PANEL**

- 2.19.1 The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purpose of advising on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (the "Statutory Officers") in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001 as amended.
- 2.19.2 The Independent Persons Panel will:
  - 2.19.2.1 hear, consider, ask questions and comment in respect of Statutory Officer discipline that could lead to dismissal; and
  - 2.19.1.2 make a report and recommendation to Full Council in accordance with the Council's policies and Employment Procedure Rules.
- 2.19.3 The quorum is 2 Independent Persons (minimum)
- 2.19.4 This panel will operate in accordance with the following procedure rules:

- 2.19.4.1 The Employment Procedure Rules and Council Procedure Rules will apply to this Panel.
- 2.19.4.2 The Independent Persons Panel may meet concurrently with the Investigation and Disciplinary Panel where a hearing or meeting could result in a recommendation to Council for dismissal of a Statutory Officer.
- 2.19.4.3 All of the Council's Independent Persons appointed pursuant to section 28(7) Localism Act 2011 shall be invited to attend and, if at the relevant time there are fewer than two such Persons who are able to attend, then the Independent Persons appointed by another neighbouring Council shall be invited to attend.
- 2.19.4.4 The Panel shall be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:
  - a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area;
  - b) any other Independent Person who has been appointed by the authority;
  - c) an Independent Person who has been appointed by another authority or authorities.
- 2.19.4.4 Independent Persons must have undertaken appropriate training
- 2.19.4.5 The Panel may have access to external legal and professional advice as necessary, via the Monitoring Officer.

## **2.20 FUNCTIONS OF THE EMPLOYEE APPEALS PANEL**

- 2.20.1 The Employee Appeals Panel will hear, consider and determine appeals in respect of the dismissal of any officer of the Council in accordance with the Council's policies and procedures (and in respect of the Head of Paid Services 151 Officer and Monitoring Officer actions short of dismissal).
- 2.20.2 5 Councillors (politically balanced) to include an executive member.
- 2.20.3 The quorum is 2.
- 2.20.4 This panel will operate in accordance with the following procedure rules:
  - 2.20.4.1 The Employment Procedure Rules and Council Procedure Rules will apply to this Panel.
  - 2.20.4.2 Only those Councillors who have undertaken appropriate training may sit on the Employee Appeal Panel.
  - 2.20.4.3 No member who was a member of the Investigation and Disciplinary Panel making the decision which is the subject of the appeal may be a member of the Employee Appeal Panel in relation to the same subject matter.

## 2.21 FUNCTIONS OF THE APPOINTMENTS PANEL

2.21.1 The Appointments Panel will:

2.21.1.1 undertake all relevant steps to shortlist, interview and recommend to Council the appointment of the Head of Paid Service (Chief Executive), Monitoring Officer, Section 151 Officer, Director Children Services, Director of Adults and Director of Public Health.

2.21.1.2 undertake all relevant steps to shortlist, interview and appoint other Chief Officers as defined in the Local Authorities (Standing Orders) Regulations 1993 and 2001.

2.21.1.3 make decisions in relation to any proposed Chief Officer early retirement, redundancy or severance package (including any pension strain) or make a recommendation to Council if considered appropriate.

2.21.1.4 consider and agree the implementation of pay awards, other national conditions of service and employment legislation including local government Superannuation Acts.

2.21.1.5 exercise functions relating to local government pensions, so far as they relate to early retirement, redundancy or severance of Chief Officers under the Superannuation Act 1972 in so far as not delegated to Officers.

2.21.1.6 determine the staffing establishment for the Council in so far as this is not delegated to Officers.

2.21.1.7 determine the terms and conditions of service, employment policies and matters relating to the recruitment and appointment of Council officers.

2.21.1.8 provided that all Chief Officer and Deputy Chief Officer appointments shall be subject to the executive objections procedure set out in the Employment Procedure Rules.

2.21.2 This panel will be made up of 5 Councillors drawn from 9 Councillors (politically balanced) including at least 1 (and not more than 2) Cabinet Member(s), to include the relevant Cabinet Member with portfolio responsibility for the area to which the appointment relates.

2.21.3 Where the circumstances justify a Panel consisting of a different composition of Councillors, the relevant Director of Service, the Chief Executive and the Proper Officer may agree such composition after consultation with each of the relevant political Groups represented on the panel.

2.21.4 This panel will operate in accordance with the following procedure rules:

2.21.4.1 The Employment Procedure Rules and Council Procedure Rules will apply to this Committee.

2.21.4.2 Only those Councillors who have undertaken appropriate training may sit on the Appointments Panel.

## **2.22 FUNCTIONS OF THE HEALTH AND WELLBEING BOARD**

- 2.22.1 The Health and Wellbeing Board will:
- 2.22.1.1 ensure a strategic, joined-up approach to the planning and delivery of services to improve the health and wellbeing of all our communities and to address inequalities where they exist.
  - 2.22.1.2 prepare and review the Joint Strategic Needs Assessment and ensure that the HWB understands the Boroughs many communities and their specific needs.
  - 2.22.1.3 consider, prepare and review the Joint Health and Wellbeing Strategy (JHWS) based on the JSNA, spanning the NHS, social care and public health and wider determinants such as housing, education, the environment, employment and unemployment. This strategy will provide the framework for the development of appropriate commissioning plans aligned to the strategy.
  - 2.22.1.4 review and monitor commissioning plans relevant to the JHWS.
  - 2.22.1.5 maximise the opportunity to make use of pooled budgets and joint commissioning arrangements to meet the needs of the local population aligned to the Joint Health and Wellbeing Strategy.
  - 2.22.1.6 facilitate integrated working (commissioning or service provision) where appropriate.
  - 2.22.1.7 agree the framework for engaging all stakeholders, which recognises the role of the independent sector and the voluntary, community and social enterprise sector and ensures that the public are consulted on health and wellbeing issues.
  - 2.22.1.8 monitor and evaluate the strategies and related performance through a relevant set of indicators and measures, agreed across the whole system and to report on progress to all stakeholders including public health outcome requirements.
  - 2.22.1.9 maintain clear accountability, and liaison with appropriate bodies, including the Partnerships, Joint Commissioning Groups, Local Safeguarding Boards, Local Strategic Partnership and statutory bodies of the member organisations.
  - 2.22.1.10 align the strategic priorities of member organisations and, where a dispute arises, ensure it is resolved in a timely and positive manner.
  - 2.22.1.11 be open to internal and external scrutiny and will work positively and constructively with regulators and scrutiny bodies.
- 2.22.2 The membership of the Board is in accordance with the requirements of the Health and Social Care Act 2012 and as determined by Cabinet and Council.
- 2.22.3 The Board comprises the following voting members:
- 2.22.3.1 The Council's Cabinet Member for Adult Services and Health;
  - 2.22.3.2 The Council's Cabinet Member for Children and Young People;

- 2.22.3.3 4 other elected Councillors (these appointments to be politically balanced when taken together with the above Cabinet Member appointments);
  - 2.22.3.4 The Council's Director of Children's Services;
  - 2.22.3.5 2 Representatives from the NHS Hartlepool and Stockton Clinical Commissioning Group (1 of the representatives to be the Chair of the Stockton Locality Group);
  - 2.22.3.6 The Council's Director of Adults and Health;
  - 2.22.3.7 Local Healthwatch representative;
  - 2.22.3.8 Durham, Darlington and Tees NHS Commissioning Board representative (Local Area Team);
  - 2.22.3.9 Cleveland Police and Crime Commissioner;
  - 2.22.3.10 North Tees and Hartlepool NHS Foundation Trust representative;
  - 2.22.3.11 Tees, Esk and Wear Valleys NHS Foundation Trust representative; and
  - 2.22.3.12 Catalyst representative.
- 2.22.4 Each Board Member may appoint a Substitute Member and if doing so must take account of the following:
- 2.22.4.1 Substitutes must be of sufficient seniority within the organization that they represent to make decisions on behalf of that organization.
  - 2.22.4.2 Substitutes for Councillors of Stockton on Tees Borough Council must also be elected members of the Council.
  - 2.22.4.3 Substitutes may attend meetings in that capacity only:
    - 2.22.4.3.1 to take the place of the ordinary Member for whom they are acting as substitute;
    - 2.22.4.3.2 where the ordinary Member will be absent for the whole of the meeting; and
    - 2.22.4.3.3 after notifying the Proper Officer prior to or on the day of the meeting of the intended substitution.
- 2.22.5 The quorum for this Board is 6.
- 2.22.6 The Board will operate in accordance with the following procedure rules:
- 2.22.6.1 The Board will be chaired by the Cabinet Member for Adult Services and Health and the vice-chair of the Board will be the Cabinet Member for Children and Young People.
  - 2.22.6.2 The Board will review its Terms of Reference annually, and will develop and review a Development Plan to ensure it is fit for purpose.



2.22.6.3 The Council's Procedure Rules (in [Part 3](#) of this Constitution) will also apply to meetings of this Board with the exception of:

2.22.6.3.1 Section 3.1.1 – 3.1.4 (Meetings of Council); and

2.22.6.3.2 Section 3.1.7 (Appointment of Substitutes)

## **2.23 FUNCTIONS OF THE CORPORATE PARENTING BOARD**

2.23.1 The Corporate Parenting Board will continually drive to secure better outcomes for children in, and leaving our care. The Board will:

2.23.1.1 Seek to improve outcomes through sharing good practice, experience and approaches.

2.23.1.2 Identify opportunities for collaboration and partnership.

2.23.1.3 Further develop a coherent approach to issues relating to children in our care and care leavers.

2.23.1.4 Make recommendations to the Director of Children's Services, Stockton-on-Stockton-on-Tees Health & Wellbeing Board, Children and Young People's Partnership and relevant Partnership Boards as appropriate.

2.23.1.5 Pro-actively celebrate the success and achievement of children in the care of the Authority.

2.23.1.6. Forge productive links with other local, regional and national groups with a focus on looked after children.

2.23.1.7. Ensure that all agencies are enabled to fulfil their corporate parenting role & responsibilities.

2.23.1.8. Oversee the development, review and implementation of the Looked After Children and Care Leavers Strategy

2.23.2 The Board will actively seek the involvement of children and young people. The views of children and young people in care will be routinely provided through the children's rights function. Twice a year, the Board will jointly meet with children and young people to discuss priorities and issues.

2.23.3 The Board will be made up of 7 Councillors (politically balanced).

2.23.4 The Council's Procedure Rules (in [Part 3](#) of this Constitution) will also apply to meetings of this Board with the exception of:

2.23.4.1 Sections 3.1.1 – 3.1.4 (Meetings of Council); and

2.23.4.2 Section 3.1.7 (Appointment of Substitutes)

## **2.24. FUNCTIONS OF THE PLANNING COMMITTEE**

2.24.1 The Planning Committee will:

2.24.1.1 consider and make recommendations to Cabinet and Council in respect of the Local Development Framework, including Development Plan Documents, having sought where appropriate the views of the Local Development Framework Steering Group.

- 2.24.1.2 discharge the Council's functions as local planning authority, in accordance with agreed planning policy the Local Plan and Development Plan Documents by determining applications for planning consent which are set out below:
- (a) those cases which appear to the Director of Economic Growth & Development and Neighbourhood Services or the Head of Economic Growth and Development Services to be extraordinary when viewed against established policy guidelines, or warrant consideration by Planning Committee;
  - (b) development proposed by the Council itself except those of a minor nature as detailed in the definitions associated with the operation of the scheme of delegation;
  - (c) those cases where the Officer recommendation is for approval but it constitutes a departure from the Development Plan;
  - (d) those cases where there are more than 5 individual letters of response which are contrary to the recommendation of the case officer, with the exception of mobile phone mast applications where they remain delegated regardless of the number of objections received and permitted development rights applications which require prior notification to the local planning authority and notification to neighbours and which result in a deemed approval if the applicant has not been formally notified of a decision by the last day of the relevant statutory period for determination;
  - (e) where a Member requests in writing or by email within 21 days of publication of details of the application that the Committee should determine the application on the grounds of a matter of fundamental principle or precedent;
  - (f) those cases which involve development on land owned, or in which an interest is held, by a Council Member (or their spouse/partner) or by any member of the Council staff (or their spouse/ partner) as far as is reasonably practicable will be referred to Planning Committee where an objection representation has been received to the planning application;
- 2.24.1.3 have to power to impose any condition, limitation or other restrictions on an approval, consent, licence, permission or registration granted:
- (a) in the exercise of a function specified in 2.24.1.2 above; and
  - (b) where not delegated to the Cabinet, in the exercise of any function under a local Act.
- 2.24.1.4 determine any other items to which any such approval, consent, licence, permission or registration is to be subject where:
- (a) the applicant is a member of staff of Planning Services or their spouse or partner;
  - (b) the officer recommendation is for approval but it constitutes a departure from the Development Plan; and

- (c) they appear to the Director of Economic Growth & Development or the Head of Economic Growth and Development Services to be extraordinary when viewed against established policy guidelines or to warrant consideration by the Planning Committee.

2.24.1.5 subject to Cabinet approval:

- (a) exercise powers and duties relating to local development documents which are development plan documents;
- (b) power to agree to establish a joint Committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority; and
- (c) power to agree to confer additional functions on a joint committee.

2.24.2 Having considered where appropriate the recommendations of the Local Plan Steering Group, to determine whether to make a recommendation to Cabinet that Full Council resolves to proceed to a referendum following the independent examination of the plan or order, and the publication of the examiner's report, including whether to:

2.24.2.1 Make modifications to correct errors or to make the plan or order comply with the basic conditions;

2.24.2.2 Extend the area within which the referendum(s) is/are to take place; and

2.24.2.3 Refuse the plan proposal as it does not meet the basic conditions to refer any unresolved issues to a further independent examination.

2.24.3 Having considered where appropriate the recommendations of the Local Plan Steering Group, to determine whether to make a recommendation to Cabinet that Full Council resolves to make a Neighbourhood Plan or Order following a referendum, where more than half of those voting, voted in favour of the proposal, including:

2.24.3.1 Whether making the Plan or Order would be incompatible with any EU obligation or a breach of the convention on Human Rights; and

2.24.3.2 Where, in a business area, two referendums have been held and where more than half of these voting, voted in favour of the proposal in one but not the other referendum.

2.24.4 This Committee will be made up of 14 Councillors (politically balanced).

2.24.5 Only those Councillors that have undertaken appropriate training may sit on the Planning Committee.

2.24.6 The quorum for this Committee is 5.

2.24.7 The Council Procedure Rules and the [Planning Code](#) apply to this Committee.

## **2.25 FUNCTIONS OF THE GENERAL LICENSING COMMITTEE**

2.25.1 The General Licensing Committee will:

- 2.25.1.1 consider and give views to the Cabinet on new and amended policy, local acts and byelaws etc. in relation to all licensing functions. Except for the Council's Licensing Authority Policy Statement/Statement of Principles.
- 2.25.1.2 consider and give views to Cabinet/other Committees of the Council on any matter which includes but is not entirely a licensing function.
- 2.25.1.3 discharge the Council's functions as a licensing authority, within the agreed policy other than those functions under the Licensing Act 2003 and Gambling Act 2005.
- 2.25.1.4 determine whether, and in what manner, to enforce (save for prosecution) any failure to comply with any approval, condition, procedural requirement.
- 2.25.1.5 determine whether, and in what manner, to enforce (save for prosecution) any other contravention in relation to a matter with regard to which the functions of determining an application for approval, consent, licence, permission or registration is the responsibility of the Licensing Committee.
- 2.25.1.6 consider and
  - (a) amend, modify or vary any such approval, consent, licence, permission or registration as is mentioned in the preceding paragraphs or any condition, limitation or term to which it is subject; or
  - (b) revoke any such approval, consent, licence, permission or registration except for revocations in the interests of public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.25.2 The Committee will be made up of 14 Councillors (politically balanced)
- 2.25.3 Only those Councillors who have undertaken appropriate Licensing Training may sit on one of the Licensing Committees.
- 2.25.4 The quorum for this committee is 5.
- 2.25.5 The Council Procedure Rules apply to this Committee.

## **2.26 FUNCTIONS OF THE STATUTORY LICENSING COMMITTEE**

- 2.26.1 consider and give views to the Cabinet on the Council's Licensing Authority Policy Statement/Statement of Principles.
- 2.26.2 To discharge the Council's functions under the Licensing Act 2003: and Guidance issued under s.182 of the Licensing Act 2003, to carry out the functions allocated to Committee in the table below:

<b>Matters to be dealt with</b>	<b>Committee</b>	<b>Officers</b>
Consider Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	

Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decide whether a representation is irrelevant frivolous vexatious etc.		All cases
Decide whether to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determine an objection to a temporary event notice	All cases	
Determine applications to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decide whether to consult other responsible authorities on minor variation application		All cases
Determine minor variation application		All cases

2.26.3 To discharge the Council's functions under the Gambling Acts to carry out the functions allocated to the Committee in the table below:

<b>Matters to be dealt with</b>	<b>Committee</b>	<b>Officers</b>
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<p>To discharge the Council's functions under the Gambling Act 2005 ("the 2005 Act") by undertaking the following:-</p> <ul style="list-style-type: none"> <li>• Resolving not to issue casino premises licences under Section 166 of the 2005 Act</li> <li>• Determining applications for premises licences.</li> <li>• Determining applications for a variation to a licence</li> <li>• Determining applications for a transfer of a licence</li> <li>• Determining applications for a provisional statement</li> <li>• The review of a premises licence</li> <li>• Determining applications for club gaming/club machine permits</li> <li>• Cancellation of club gaming/club machine permits</li> <li>• Deciding to give a counter notice to a temporary use notice.</li> <li>• To refuse to grant small society lottery registrations</li> <li>• To remove the right to two gaming machines and/or the right to have gaming on alcohol licensed premises.</li> </ul>	<p>Where relevant representations have been received and not withdrawn.</p>	
<p>Any other function under the Act not specified above</p>	<p>Where no relevant representations have been received/ representations have been withdrawn.</p>	

2.26.4 The Committee will be made up of 14 Councillors (politically balanced)

2.26.5 Only those Councillors who have undertaken appropriate Licensing Training may sit on one of the Licensing Committees or its Sub Committee.

2.26.6 The quorum for this Committee is 5

2.26.7 The Assistant Director of Administration and Electoral Services is authorised to establish a Sub-Committee under Section 10(1) of the Licensing Act 2003 and Section 154 of the Gambling Act 2005 consisting of three members of this Committee for the discharge of its functions

2.26.8 This Sub-Committee will be made up of 3 Members of the Licensing Committee.

2.26.9 The quorum for this Sub-Committee is 3.

2.26.10 The Council Procedure Rules apply to this Committee and Sub Committee.

## **2.27 FUNCTIONS OF THE INDEPENDENT REMUNERATION PANEL**

- 2.27.1 The Independent Remuneration Panel will consider and keep under review certain key aspects of the Members' Allowance Scheme and, as and when appropriate, submit reports (containing recommendations) to the Cabinet and Council, regarding:
- 2.27.2 the responsibilities or duties in respect of which the following should be available:
- (a) special responsibility allowance;
  - (b) travelling and subsistence allowance;
  - (c) co-optees' allowance; and
- 2.27.3 the amount of such allowances and as to the amount of basic allowance;
- 2.27.4 whether dependants' carers' allowance should be payable to members of the authority, and as to the amount of such an allowance;
- 2.27.5 whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated in accordance with regulation 10(6); and
- 2.27.6 whether adjustments to the level of allowance may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed.
- 2.27.7 This Panel will be made up of 4 Independent Members appointed by the Council from time to time.
- 2.27.8 The quorum for this Panel is 3.

## **2.28 FUNCTIONS CARRIED OUT THROUGH JOINT ARRANGEMENTS**

- 2.28.1 The Council and the Cabinet are able to enter into various forms of joint arrangements with other local authorities and bodies.
- 2.28.2 The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions jointly, or advise the Council. Such arrangements may involve the delegation of functions to another the authority, an officer of the authority or the establishment of a joint committee with those other local authorities.
- 2.28.3 Where three or more Councillors are appointed to a non-executive function joint committee, those members must be appointed in political balance. Subject to below, the Cabinet may only appoint Cabinet Members to such a joint committee and those members need not reflect the political composition of the local authority as a whole.
- 2.28.4 Where a joint committee involves mixed functions then there is no need for political balance but both Cabinet and Council must approve the arrangements.
- 2.28.5 The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
- 2.28.5.1 the joint committee has functions for only part of the area of the authority, and that area is two-fifths (or smaller) of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward which is wholly or partly contained within the area; and

2.28.5.2 the joint committee is discharging a function in relation to five or more local authorities; or the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee.

In this case the political balance requirements do not apply to such appointments.

2.28.6 Where a joint committee is formed with health bodies Pursuant to section 75 of the National Health Service Act 2006 and Regulation 10 of the NHS Bodies and Local Authorities Partnership Arrangement Regulations 2000, then a non-executive member may be appointed in addition to Cabinet members.

2.28.7 Where arrangements provide for the discharge of functions by a joint committee and one or more, but not all, of the functions to be discharged by the joint committee are the responsibility of the Cabinet (executive), then

2.27.7.1 where only one member of the authority is a member of the joint committee, that person may be, but need not be, a member of the Cabinet; and

2.27.7.2 where more than one member of the authority is a member of the joint committee, at least one member of the Cabinet must be a member of the joint committee.

2.28.8 Details of any joint arrangements including any delegations to joint committees shall be maintained by the Proper Officer

#### **Tees Valley Combined Authority**

2.28.9 Since 1 April 2016 the Council has been part of the Tees Valley Combined Authority. You can access the [Combined Authority's website here](#). The Combined Authority was created by an Order as a separate statutory corporation that covers the area of 5 local authorities ("Constituent Councils"):

2.27.9.1 Stockton-on-Tees Borough Council;

2.27.9.2 Middlesbrough Council;

2.27.9.3 Hartlepool Borough Council;

2.27.9.4 Darlington Borough Council; and

2.27.9.5 Redcar and Cleveland Borough Council.

2.28.10 The Combined Authority operates under a directly elected Mayor and is responsible for a number of transport, economic development and regeneration functions, which it exercises concurrently with the Constituent Councils.

2.28.11 The Combined Authority operates an executive model, with a Cabinet comprising:

2.27.11.1 An elected Mayor;

2.27.11.2 Representatives of each of the Constituent Councils; and

2.17.11.3 The Chair of the Tees Valley Local Enterprise Partnership.



- 2.28.12 The Combined Authority is a member of Transport for the North. The Council participates in Transport for the North through its membership of the Combined Authority.
- 2.28.13 The Leader of the Council will be the Council's appointed "member" of the Combined Authority. The Deputy Leader shall be the substitute member of the Combined Authority, in the absence of the Leader.
- 2.28.14 Each Constituent Council appoints three Councillors to the Combined Authority's Overview and Scrutiny Committee, and the membership of this committee must so far as reasonably practicable reflect the balance of political parties prevailing among the Constituent Councils.
- 2.28.15 The Council also appoints one Councillor to the Audit and Governance Committee of the Combined Authority.
- 2.28.16 The Council performs the Combined Authority's Treasury Management functions on behalf of the Combined Authority.

#### **Cleveland Police and Crime Panel**

- 2.28.17 The Police Reform and Social Responsibility Act 2011 requires each police area outside of London to have a police and crime panel. The purpose of the panel is to hold the Police and Crime Commissioner to account. Where, as in the case of Cleveland Police, a police force covers a number of local authorities, the police and crime panel for that area takes the form of a joint committee between a number of local authorities. Stockton Council is the lead authority of the Cleveland Police and Crime Panel, which includes the following local authorities:
  - 2.28.17.1 Stockton;
  - 2.28.17.2 Middlesbrough;
  - 2.28.17.3 Hartlepool; and
  - 2.28.17.4 Redcar and Cleveland.
- 2.28.18 More details about the role of the Cleveland Police and Crime Commissioner can be found on the [official site of the Police & Crime Commissioner for Cleveland](#).
- 2.28.19 The Access to Information Rules in [Part 3](#) of this Constitution shall apply, with such modifications as may be required in the circumstances.
- 2.8..20 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- 2.28.21 If the joint committee contains Councillors who are not on the Cabinet of any participating authority then the Access to Information rules in Part V A of the Local Government Act 1972 will apply.

#### **2.29 FUNCTIONS OF OFFICERS (INCLUDING STATUTORY PROPER OFFICER FUNCTIONS)**

- 2.29.1 This part of the Constitution sets out the ways in which the officers of the Council are authorised to make decisions and which decisions they have the power to make. It is called the "Scheme of Delegation"
- 2.29.2 The Council operates a "Cascade" principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 2.29.3 In order to ensure the smooth functioning of the Council and the efficient delivery of services, Full Council, the Leader and the Cabinet have delegated to officers all of the powers that they need to perform their roles.
- 2.29.4 In addition certain officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as "Statutory" or "Proper" Officers and some have specific legal titles in addition to their job titles. Sections 9 and 10 of this Part of the Constitution explain these roles.
- 2.29.5 "Officers" is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term "officers" in this Constitution includes employees and a limited number of people who operate in this capacity including authorised officers, contractors, consultants, agency staff and volunteers.
- 2.29.6 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a Chief Executive supported by 8 other Directors. Click to see the [current organisational structure](#).

### **General Principles Relating to Officer Delegation**

- 2.29.7 This scheme gives the power for the Directors to take decisions in relation to all the functions in their areas of responsibility.
- 2.29.8 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post.
- 2.29.9 Delegations relate to all provisions for the time being in force under any applicable legislation and cover executive, non-executive and local choice functions of the Council and all powers and duties incidental to that legislation.
- 2.29.10 Any delegation must be exercised:
- 2.29.10.1 In compliance with all the Council's Procedure Rules, Contract Procedure Rules the Pay Policy Statement approved annually and the Officer Code of Conduct;
  - 2.29.10.2 In accordance with the decision-making requirements set out in the Constitution including requirements for decision-records and access to information;
  - 2.29.10.3 Having taken appropriate advice from other officers;

- 2.29.10.4 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required;
  - 2.29.10.5 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility;
  - 2.29.10.6 Within the approved Budget and Policy Framework approved by the Council (or separate approval must be sought) and Financial Procedure Rules; and
  - 2.29.10.7 In compliance with the Council's Information Security policies and relevant legislation including the GDPR.
- 2.29.11 An officer, in exercising delegated powers may consult the relevant portfolio holder or chairman of committee if he/she considers it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
- 2.29.12 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation related to the functions exercised by the Chief Officer is introduced, that Officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, Cabinet, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation to someone else.
- 2.29.13 The cascade principle under which this scheme operates means that any officer given powers under this scheme may further delegate those powers to other officers either:
- 2.29.13.1 through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). This is a [full list of the Local Schemes of Delegation](#) and you can look at any of the schemes in detail, or
  - 2.29.13.2 through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the officer delegating the power with a copy supplied to the Monitoring Officer – here is a [register of these Specific Delegations](#). A Specific Delegation does not need to be given where an officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub-Committee.
- 2.29.14 All Local Schemes of Delegation (and any changes to them) must be agreed by the Chief Executive and the Monitoring Officer.
- 2.29.15 Where a function has been delegated to an officer (including where sub-delegated through the Cascade principle), the person or body making the delegation may at any time take back responsibility for the function and may also exercise the function concurrently (make the decision as well) despite the delegation.
- 2.29.16 In some circumstances the officer to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 2.29.17 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer or Statutory Officer and in all cases by the Chief Executive personally.

- 2.29.18 Chief Officers must appoint (evidenced in writing) another officer as their deputy and such deputy shall have all the powers of a Chief Officer as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not prevent the exercise by the Chief Officer of any delegation set out in this Constitution.
- 2.29.19 If there is any dispute or lack of clarity as to which Chief Officer has power to make decisions on specific areas of service, the Chief Executive shall have power to determine by whom the function should be exercised.

#### **Restrictions on Delegations to all Officers**

- 2.29.20 Nothing in this Scheme of Delegation shall authorise officers to exercise any function, power or responsibility which has been specifically reserved to the Cabinet in the Executive Functions of this Constitution.
- 2.29.21 No officer is authorised by this Scheme of Delegation to take any decision in respect of any matter (or related matters) which will result in the Council incurring expenditure which exceeds the limits set out below, without specific authority:

<b>Officer</b>	<b>Limit in respect of revenue expenditure</b>	<b>Limit in respect of capital expenditure</b>
Head of Paid Service and Chief Officers in consultation with a relevant portfolio holder	£500,000	No limit where Council has approved the scheme in the budget and/or the Cabinet has agreed to progress the scheme

#### **Arrangements for Proper Officer functions**

- 2.29.22 Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council. The Chief Executive/Head of Paid Service shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:
- 2.29.22.1 such designation is given by the Council to any other officer; or
- 2.29.22.2 the Chief Executive/Head of Paid Service, exercising the powers given to him/her by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.
- 2.29.23 The Monitoring Officer shall maintain the [Proper Officer Register](#) which shall record all Proper Officer appointments, as set out below.

#### **Statutory Officer Appointments requiring Council Approval**

<b>Statutory Officer</b>	<b>Appointment</b>	<b>Legislation/function</b>

<b>Returning Officer - all elections save for Parliamentary General Elections and Parliamentary By Elections</b>	Deputy Chief Executive	<b>s. Representation of the People Act 1983</b>
<b>Electoral Registration Officer for Parliamentary General Election and Parliamentary By Elections (and as a result Acting Returning Officer for Parliamentary General Elections and Parliamentary By Elections)</b>	Deputy Chief Executive	<b>S 8 Representation of the People Act 1983 and s.28 Representation of the People Act 1983</b>
<b>Electoral Registration Officer – other than Parliamentary General Elections and By Elections</b>	Assistant Director Democratic, Administration and Electoral Services	<b>S 8 Representation of the People Act 1983</b>
<b>Counting Officer</b>	Assistant Director Democratic, Administration and Electoral Services	<b>Relevant Referendum Legislation</b>
<b>Deputy Returning Officer</b>	Assistant Director Democratic, Administration and Electoral Services	<b>s.35 Representation of the People Act 1983</b>
<b>Monitoring Officer</b>	Director - HR, Legal and Communications	<b>s. 5 Local Government and Housing Act 1989</b>
<b>Proper Officer</b>	Assistant Director Democratic, Administration and Electoral Services	<p><b>Local Government Act 1972</b></p> <p><b>s.83(1-4):</b> To witness and receive declarations of acceptance of office.</p> <p><b>s.84:</b> To receive written notice of resignation from office.</p> <p><b>s.88(2):</b> To convene, if necessary, a meeting of the Council when the office of Chairman (Mayor) of the Council is vacant.</p> <p><b>s.89(1)(B):</b> To receive written notice from two local government electors of a casual vacancy in the office of Councillor.</p> <p><b>s.96 (1) :</b> Receipt of notices of pecuniary interest</p> <p>s.96(2) : Keeping records of disclosures of pecuniary interest under s.94 and notices under s.96 (1). [Delete? – superceded]</p> <p><b>s.100C(2):</b> To prepare a written summary of</p>

		<p>proceedings taken by a Committee in private.</p> <p><b>s.100D(1):</b> To compile a list of background papers to a report to a Committee.</p> <p><b>s.100D(5)(a):</b> Identifying background papers of reports.</p> <p><b>s.248:</b> Keeping of roll of freeman.</p> <p><b>Schedule 12 (paragraph 4(2)(b):</b> To sign and send to all Members of the Council the summons to attend meetings of the Council, specifying the business to be transacted.</p> <p><b>Schedule 12 (paragraph 4(3):</b> Receiving notice from a member of the address to which a summons to the meeting is to be sent.</p> <p><b>Local Government Act 1974</b> <b>s.30(5) :</b> Notice of Local Government and Social Care Ombudsman’s report.</p> <p><b>Local Government (Miscellaneous Provisions) Act 1976</b> <b>s.41 :</b> Evidence of resolutions and minutes of proceedings.</p>
<p><b>Proper Officer</b></p>	<p>Director - HR, Legal and Communications</p>	<p><b>Any reference in any enactment prior to the Local Government Act 1972 or any local statutory provision or instrument made before 26 October 1972 to the clerk of a Council or town clerk of a borough which is to be construed as a reference to the Proper Officer of the Council.</b></p> <p><b>Local Government Act 1972:</b> <b>s.100B(2) :</b> To decide whether part or the whole of reports should be excluded from public inspection before a meeting if they relate only to items during which the meeting is likely not to be open to the public..</p>

		<p><b>s.100B(7)( c):</b> To supply to the press additional material supplied to members of the Council in connection with the item to be discussed..</p> <p><b>s.100F(2):</b> Identifying which documents contain exempt information not open to inspection by Members of the Council.</p> <p><b>s.210 :</b> To exercise certain residual functions relating to charities.</p> <p><b>s.225:</b> To receive and retain documents deposited with the Local Authority.</p> <p><b>s.229:</b> To certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original document.</p> <p><b>s.234:</b> To sign any notice, order or other document on behalf of the Authority, any document purporting to be so signed being deemed to be issued by the Authority.</p> <p><b>s.236:</b> To send to Town/Parish Councils a copy of every byelaw made by the Council (and confirmed by the Secretary of State).</p> <p><b>s.238:</b> Certification of copy of byelaws.</p> <p><b>Schedule 14(paragraph 25(7):</b> Certification of copies of resolutions (e.g. Council budget decisions).</p>
Appointment as Parish Trustee with Chairman of as body corporate for a Parish Meeting; Officer responsible for convening newly created Parish Councils	Assistant Director, Democratic, Admin & Electoral Services	<b>Local Government Act 1972</b> Section 13(3)
Declarations and certificates with regard to securities	Director, Finance & Business Services	<b>Local Government Act 1972</b> Section 146(1)(a)
Functions with respect to ordnance survey	Director, HR, Legal & Communications	<b>Local Government Act 1972</b> Section 191
Authorise Officers to appear in legal proceedings	Director, HR, Legal & Communications	<b>Local Government Act 1972</b> Section 223

		(Also Section 60 County Courts Act 1984)
Officer to whom members shall give notice of address desiring Council summonses to be sent where not place of residence	Assistant Director, Democratic, Admin & Electoral Services	<b>Local Government Act 1972</b> Schedule 12 Para.4(3)
Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	Director, Economic Growth & Development	<b>Town and Country Planning Act 1971 Section s 54 &amp; 58</b>
Exercise of registration functions under various legislative provisions relating to births, deaths and marriages including appointment of superintendent registrars and local schemes and other ceremonies including citizenship ceremonies	Director, Community Services	<b>Registration Service Act 1953 including Section s 9, 13 and 20 Marriage Act 1949, Civil Partnership Act 2004</b>
Officer having responsibility for the storage and charge of cemetery records	Director, Community Services	<b>Local Authorities' Cemeteries Order 1977 Article 12</b>
Officer having responsibility for the signature of grants under Paragraph 1 of Part II of Schedule 2 of that Order and the granting of permission for the various matters referred to in Paragraph 1 of Part I of that Schedule	Director, Community Services	<b>Local Authorities' Cemeteries Order 1977 Paragraph 1 of Parts I &amp; II of Schedule 2</b>
(a) Various purposes with regard to drainage, water supply, sanitary accommodation.  (b) Purposes relating to building control other than those comprised in (a) above  (c) authorise action in relation to dangerous structures under Section 78	Director, Economic Growth & Development	<b>Building Act 1984</b>
Receipt of Notice re changes to Political Groups  Receipt of Notice of Cessation of Membership of Political Groups  To accept wishes of Political Groups in respect of proportionality	Assistant Director, Democratic, Admin & Electoral Services	<b>Local Government and Housing Act 1989 Sections 15,16 &amp; 17</b> <b>Local Government Political Groups) Regulations 1990 Paras 9, 10, 13 &amp; 14</b>



To notify Political Groups of allocations		
Discharging the functions for dealing with stray dogs	Director, Adults & Health	<b>Environmental Protection Act 1990</b> <b>Sections 149 - 151</b>
Duty of local authority to supply forms to doctors for purposes of Section 48 - Removal of dead body to mortuary for burial. Section 58 - Authentication of documents Section 60 - Service of notices and other documents	Director, Community Services	<b>Public Health Act 1936</b> Sections 11, 48, 58 & 60 <b>Public Health (Control of Disease) Act 1984</b>
The local registrar within the meaning of the Land Registration Act 2002 and Local Land Charges Act 1975 who shall register any matters specified by these Acts affecting land situate within the district.	Director, HR, Legal & Communications	<b>Land Registration Act 2002 and</b> <b>Local Land Charges Act 1975</b>
Entertainments, licensing control of sex shops and public health	Assistant Director, Democratic, Admin & Electoral Services	<b>Local Government (Miscellaneous Provisions) Act 1982</b>
Licensing and gambling functions	Assistant Director, Democratic, Admin & Electoral Services	<b>Licensing Act 2003</b> <b>Gambling Act 2005</b>
Scrutiny Officer	Assistant Director, Democratic, Admin & Electoral Services	<b>Local Government Act 2000</b> Section 9FB
Proper Officer Functions for petitions and referenda	Assistant Director, Democratic, Admin & Electoral Services	<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914</b> <b>Local Authorities (Conduct of Referendums) (England) Regulations 2012</b>
Proper Officer functions anti-social behaviour and community protection	Director, Community Services	<b>Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014</b>
Proper Officer for notification to deal with objections by the Executive to appointments or dismissals of Chief and Deputy Chief Officers	Director, HR, Legal & Communications	<b>Local Authorities (Standing Orders) (England) Regulations 2001/3384</b>

**Statutory Officer Appointments requiring Cabinet Approval**

<b>Statutory Officer</b>	<b>Appointment</b>	<b>Legislation/Function</b>
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<b>Data Protection Officer</b>	Assistant Director Business Services and Information	<b>General Data Protection Regulation</b>
<b>RIPA Officer</b>	Director - HR, Legal and Communications	<b>Regulation of Investigatory Powers Act 2000 and Regulation of Investigatory Powers Act 2016</b>

# **STOCKTON-ON-TEES BOROUGH COUNCIL**

# CONSTITUTION

## Part 3 - Rules of Procedure

### **PART 3 .1 COUNCIL PROCEDURE RULES**

#### **3.1.1 ANNUAL MEETING OF THE COUNCIL**

- 3.1.1.1** In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.
- 3.1.1.2** The Annual Meeting will:
- i. elect a person to preside if the outgoing Mayor is not present;
  - ii. elect the incoming Mayor of the Council;
  - iii. appoint the Deputy Mayor of the Council;
  - iv. receive any announcements from the Mayor and/or Head of the Paid Service;
  - v. elect the Leader of the Council in any year in which the current Leader's term of office expires;
  - vi. when required appoint at least one scrutiny committee, and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of the Constitution);
  - vii. agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree;

- vii. approve a programme of ordinary meetings of the Council for the year; and
- ix. consider any business set out in the notice convening the meeting.

**3.1.1.3** At the Annual Meeting, the Council meeting will, when required:

- i. decide which committees to establish for the Municipal Year;
- ii. decide the size and terms of reference for those committees;
- iii. decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- iv. receive nominations of Councillors to serve on each committee and, where appropriate, outside body; and,
- v. appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

**3.1.1.4** Each Committee shall be appointed, and each Chair and Vice-Chair shall be elected, when required, by the Council at the Annual Meeting, except some or all of the Committees, Chairs and Vice-Chairs may be appointed at an ordinary or extraordinary meeting of the Council where the purpose of the meeting is to introduce new or to amend existing decision making arrangements. In any other case, if a Committee is appointed at a Council meeting other than the Annual Meeting the election of the Chair and Vice-Chair will take place as soon as possible after the Council meeting.

**3.1.2 ORDINARY MEETINGS**

**3.1.2.1** Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- i. elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii. deal with any business which the Council, by law, must deal with before any other business;
- iii. receive deputations to the Council, if the meeting agrees, in the form of the presentation of a petition provided that the Proper Officer has received 8 prior working days' notice of the proposed deputation;
- iv. debate and/or refer petitions received to the relevant body for consideration;
- v. approve, and the Mayor, Deputy Mayor or other person elected to preside will sign, the minutes of the last meeting. If an ordinary meeting is followed by an extraordinary meeting, the minutes shall be signed at the next ordinary Council meeting;
- vi. receive any declarations of interest from Councillors;

- vii. receive any announcements from the Mayor, Leader, Members of the Cabinet or the Head of Paid Service;
- viii. in accordance with Rule 3.1.14 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting, or in the opinion of the Proper Officer are about a matter for which the Council has responsibility or which affects the Borough;
- ix. deal with any business from the last Council meeting;
- x. receive and consider reports from the Leader regarding appointments or changes to Cabinet and recommendations, and related reports and minutes from or on behalf of the Cabinet, and from the Council's committees and receive questions and answers on any of those matters;
- xi. receive and consider reports from Officers, or others with a legal responsibility to report to the Council, including reports about and receive questions and answers on the business of joint arrangements and external organisations;
- xii. consider motions;
- xiii. in accordance with Rule 3.1.15 deal with questions from Councillors in relation to matters over which the Council has powers or duties or which affect the Borough; and
- xiv. consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Executive Scrutiny Committee and the Select Committees for debate.

**3.1.2.2** Items under items 3.2.2.1(i), (ii), (iii) or (v) of this Rule shall be taken in the order stated but the Mayor may vary the order of items 3.2.2(iv) and 2(vi) to 2(xiii). The Council meeting may also vary the order of business by passing a motion which has been moved and seconded immediately after any item of business has been completed. The motion to vary the order of business shall not be discussed.

### **3.1.3 EXTRAORDINARY MEETINGS**

**3.1.3.1** Those listed below may request the Proper Officer to call a Council meeting in addition to ordinary meetings:

- i. the Council by resolution;
- ii. the Mayor (whether on his/her initiative or in response to a requisition described in paragraph (iv) below);
- iii. the Monitoring Officer; and
- iv. any five Councillors if they have signed a requisition presented to the Mayor and he/she has (a) refused to call a meeting or (b) has failed to call a meeting within seven days of the presentation of the requisition.

### **3.1.4 CHAIR OF MEETING**

A Councillor chairing any Council meeting may exercise the same powers and duties as the Mayor.

### **3.1.5 APPOINTMENT AND REMOVAL OF THE LEADER OF THE COUNCIL**

3.1.5.1 The council may at any meeting of full council remove the leader by passing a resolution in accordance with the council's procedure rules. The removal will take effect immediately on the passing of the resolution.

3.1.5.2 where the council has resolved to remove the leader, a new leader is to be elected either at the same meeting or at a subsequent meeting .

### **3.1.6 PROPER OFFICER OF THE COUNCIL**

3.1.6.1 The Proper Officer of the Council means such Officer designated by the Council for that purpose from time to time listed in Part 2.

### **3.1.7 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB COMMITTEES AND PANELS**

3.1.7.1 As well as allocating seats on the Executive Scrutiny Committee, Select Committees, and any related Sub Committees and Panels, any Councillor (except a Cabinet Member) will be permitted to act as substitute on those Committees, Sub Committees and Panels for any other Councillor provided that the substitution does not (save where a select committee vice-chair is substituting for a chair on the Executive Scrutiny Committee) change the political composition/balance of the body concerned.

3.1.7.2 Subject to Rule 3.1.7.1 above and Rule 3.1.7.3 below, the Proper Officer of the Council may consider a request for a Member of any other Committee, Sub Committee or Panel as well as for a Member of any Joint Committee or other outside body (subject to the Joint Committee or outside body's constitution), to appoint a substitute Councillor, provided that in the case of the Council's Committees, the substitution does not change the political composition/balance of the Committee, Sub-Committee or Panel concerned.

3.1.7.3 In order to be eligible to sit as representatives on regulatory or quasi-judicial committees, sub-committees or panels (including the Standards Panel) established by the Council, all Councillors (whether appointed by full Council or as substitutes) must have received formal training in relevant procedures and law either within the preceding twelve months or within their first year of service on the regulatory or quasi-judicial committee, sub-committee or panel concerned and thereafter on an annual basis.

3.1.7.4 Substitute Councillors will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

3.1.7.5 Substitute Councillors may attend meetings in that capacity only:

- (i) to take the place of the ordinary Councillor for whom they are the designated substitute;
- (ii) where the ordinary Councillor will be absent for the whole of the meeting; and
- (iii) after notifying the Proper Officer prior to or on the day of the meeting of the intended substitution.

### **3.1.8 TIME AND PLACE OF MEETINGS**

- 3.1.8.1 The time and place of meetings will be determined by the Proper Officer and notified in the summons.

### **3.1.9 NOTICE OF AND SUMMONS TO MEETINGS**

- 3.1.11.1 At least five clear working days before a meeting the Proper Officer will give notice to the public of the time and place of any meeting in accordance with paragraph 3.3.4 of the [Access to Information Procedure Rules](#). Notice will be posted on the councils [website](#) and a hard copy will be posted at Stockton Borough Council's Customer Service Centre, Church Road, Stockton-on-Tees, TS18 1TU

- 3.1.11.2 At least five clear working days before a meeting, the Proper Officer will send a summons signed by him or her by email to every Councillor or on request by post or by leaving a copy at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **3.1.12 QUORUM**

- 3.1.12.1 The quorum of a meeting of the Council will be one quarter of the whole number of Councillors. The quorum for all other Committees or Panels shall be one third of their respective membership, unless otherwise stated in Part 2. During any meeting if the Mayor or Chair counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor or Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### **3.1.13 COUNCILLORS INTERESTS**

- 3.1.13.1 Where a Councillor has a disclosable pecuniary interest in an item of Council business, the Councillor must leave the meeting room during the whole of the consideration of that item, except where the Councillor is permitted to remain in the meeting room as a result of the prior grant of a dispensation. This rule applies to all meetings of the Council, Committees and Sub-Committees as well as informal meetings
- 3.1.13.2 Where a Councillor has a prejudicial and personal interest under paragraph 4.1.6 of the Members' Code of Conduct, the Councillor must leave the meeting room during the whole of the consideration of that item, unless there is a public right of address at that meeting, in which case they may remain in the meeting room and address the meeting as a member of the public.



### 3.1.14 QUESTIONS BY THE PUBLIC

- 3.1.14.1 Members of the public may ask questions of members of the Cabinet at ordinary (but not at special or Extraordinary) meetings of the Council, subject to the following Rules, and the discretion of the Mayor as to the total number of questions which may be asked and the length of time which is to be allowed for questions at each meeting.
- 3.1.14.2 Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.
- 3.1.14.3 A question must be in the form of a question, and not a statement, and it may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer at least seven clear working days before the day of the meeting, unless the Mayor exercises his/her discretion and agrees with the consent of the Councillor or Councillors to whom the question or questions are to be put that a question or questions may be asked without the required period of notice or any notice at all having been given. Each question must, for contact purposes, give the name and address of the questioner and must name the Councillor (or Councillors, where appropriate) of the Council to whom it is to be put. Information or background documents supplementary to a question will not be permitted to be submitted with, or circulated as part of a question to be asked at a meeting.
- 3.1.14.4 At any one meeting no person may submit more than two questions and no more than two such questions may be asked on behalf of one organisation.
- 3.1.14.5 The Proper Officer may reject a question if it:
- (i) is not about a matter for which the local authority or the Council has a responsibility or which affects the Borough;
  - (ii) is defamatory (or potentially so), or is frivolous or offensive;
  - (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - (iv) involves the disclosure of, or relates to confidential or exempt information or employee matters including appointments, dismissals, pay, superannuation, complaints from or about employees, grievances, or other personnel matters, or confidential matters, complaints, grievances or other such related matters regarding a Councillor or Councillors.
- 3.1.14.6 The Proper Officer will enter each question in a book open to public inspection (other than where in the opinion of the Proper Officer a question should not be so included eg where it has been rejected because it is considered to be defamatory or offensive) and will immediately send a copy of the question to the Councillor (or Councillors) to whom it is to be put the relevant Ward Councillors and to the Leader of each Political Group. Rejected questions will include reasons for rejection. Copies of all questions, including those rejected together with the reasons for their rejection, will be circulated to all Councillors and will be made available to the public attending the meeting (other than where in the opinion of the Proper Officer a question should not

be so circulated and/or made available e.g. where it has been rejected because it is considered to be defamatory (or potentially so) or offensive).

- 3.1.14.7 The Mayor will invite the questioner to put the question to the Councillor named in the notice. This will not preclude another Councillor from responding to the question when it is considered appropriate to do so. If a questioner who has submitted a written question, or another member of the public, who is the questioner's representative, is unable to be present at the relevant meeting to ask the question in person, the question will not be dealt with. A written answer will instead be provided.
- 3.1.14.8 A questioner who has put a question in person, or a representative of a questioner asking a question on the questioner's behalf, may also put one supplementary question, without notice, to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of, and be specifically related to the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Section 3.1.14.5.
- 3.1.14.9 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 Councillor to whom it was to be put or for any other reasons, will be dealt with by a written answer.
- 3.1.14.10 Unless the Mayor decides otherwise, no discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Panel. Once seconded, such a motion will be voted on without discussion.

### **3.1.15 QUESTIONS BY COUNCILLORS**

- 3.1.15.1 A Councillor may ask the Leader, appropriate member of the Cabinet or a Chair of a Committee any question without notice upon an item of a report or minutes of the Cabinet or a Committee when that item or minutes are being received or under consideration by the Council.
- 3.1.15.2 Subject to Section 3.1.15.3 a Councillor may ask:
- the Mayor;
  - a member of the Cabinet; or
  - the Chair of any Committee or Panel

a question on any matter in relation to which the Council has powers or duties or which affects the geographical area of the Council.

- 3.1.15.3 A Councillor may only ask a question under Section 3.1.15.2 if either:
- (a) they have given at least seven clear working days' notice in writing of the question to the Proper Officer; or
  - (b) the question relates to urgent matters, they have the consent of the Mayor and of the Councillor or Councillors to whom the question is to

be put, and the content of the question is given to the Proper Officer by no later than 10am on the day of the meeting.

- 3.1.15.4 The Proper Officer may reject a question if it:
- is not about a matter for which the local authority or the Council has a responsibility or which affects the Borough
  - Is defamatory (or potentially so), or is frivolous or offensive
  - is substantially the same question which has been put at a meeting of the Council in the past six months; or
  - involves the disclosure of, or relates to confidential or exempt information or employee matters, including appointments, dismissals, pay, superannuation, complaints, grievances, or other personnel matters, or confidential matters, complaints, grievances or other such related matters regarding a Councillor or Councillors.
- 3.1.15.5 An answer may take the form of:
- (a) a direct oral answer;
  - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- 3.1.15.6 A Councillor asking a question under Section 3.1.15.2 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of, and be specifically related to the original question or the reply.
- 3.1.15.7 Unless the Mayor allows an extension of time, the time given for questions from the Public under Section 3.1.14 and from Councillors under Section 3.1.15, shall not exceed 30 minutes in each case. Questions from Councillors under Section 3.1.15 which cannot be dealt with either because of lack of time or because of the non-attendance of the Councillor to whom they were to be put, will be referred to the next ordinary Council meeting.

### **3.1.16 MOTIONS WITH NOTICE**

- 3.1.16.1 Except for motions which can be moved without notice under Section 3.1.17, written notice of every motion, signed by a Councillor, must be delivered to the Proper Officer at least seven clear working days before the date of the meeting. These will be dated, numbered in the order received and entered in a book open to public inspection.
- 3.1.16.2 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Councillor or Councillors giving notice state, in writing, that he/she or they propose to move it to a later meeting or withdraw it. If a motion is not moved either by the Councillor who gave notice or by another Councillor, it will be treated as withdrawn and shall not be moved again without a new notice being given.
- 3.1.16.3 Motions must be about matters for which the Council has a responsibility or which affect the geographical area of the Council. A motion will be

automatically referred to the Cabinet or a Committee if its subject matter comes within the terms of reference of the Cabinet or Committee, unless the Mayor allows the motion to be considered at the Council Meeting. When a motion has been discussed by a Council Meeting, no other motion, which is the same or similar, will be considered within six months, unless the notice of motion is signed by at least six Councillors

### **3.1.17 MOTIONS WITHOUT NOTICE**

3.1.17.1 The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Councillor arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the Cabinet, Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to extend the time limit for speeches;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to suspend a particular Council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Councillor named under Section 3.1.25.3 or to exclude them from the meeting under Section 3.1.25.4;
- (q) to give the consent of the Council where its consent is required by the Constitution; and
- (r) to authorise the sealing of documents.

### **3.1.18 RULES OF DEBATE**

- 3.1.18.1 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.
- 3.1.18.2 Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to him/her before it is discussed.
- 3.1.18.3 When seconding a motion or amendment, a Councillor may reserve his/her speech until later in the debate.
- 3.1.18.4 Councillors wishing to speak shall stand and the Mayor will ask one to speak. Other Councillors will then sit down. Councillors will stand and address the Mayor when speaking. Unless raising points of order or making personal explanations Councillors will remain seated while another is speaking.
- 3.1.18.5 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes in the case of the mover of a motion's initial speech or amendment or 5 minutes in any other case (including a second speech by the mover of the motion which does not amend the motion), without the consent of the Mayor.
- 3.1.18.6 A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) to speak once on an amendment moved by another Councillor;
  - (b) to move a further amendment if the motion has been amended since he/she last spoke;
  - (c) if his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
  - (d) in exercise of a right of reply;
  - (e) on a point of order; and
  - (f) by way of personal explanation.
- 3.1.18.7 Amendments to motions:
- 3.1.18.7.1 An amendment to a motion must be relevant to the motion and will either be:
- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words
- as long as the effect of (ii) to (iv) is not to negate the motion.
- 3.1.18.7.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

- 3.1.18.7.3 If an amendment is not carried, other amendments to the original motion may be moved.
- 3.1.18.7.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 3.1.18.7.5 After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- 3.1.18.7.6 If an amendment is carried:
  - (i) which refers an item to the Cabinet or a Committee for consideration or reconsideration; or
  - (ii) not confirming any part of the Minutes of the Cabinet or a Committee

no further amendments shall be moved on the subject.
- 3.1.18.8 Alterations of Motion:
  - 3.1.18.8.1 A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
  - 3.1.18.8.2 A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
  - 3.1.18.8.3 Only alterations which could be made as an amendment may be made.
- 3.1.18.9 A Councillor may withdraw a motion which he/she has moved with notice with the consent of the meeting and a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.
- 3.1.18.10 Right of Reply
  - 3.1.18.10.1 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
  - 3.1.18.10.2 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
  - 3.1.18.10.3 The mover of the amendment has no right of reply to the debate on his or her amendment.

3.1.18.10.4 The content of a right of reply must not relate to any new matter, and the speech must not exceed 5 minutes.

3.1.18.11 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Councillor named under Rule 3.1.25.3 or to exclude him/her from the meeting under Rule 3.1.25.4

3.1.18.12 Closure Motions:

3.1.18.12.1 A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:

- (i) to proceed to the next business;
- (ii) that the question be now put;
- (iii) to adjourn a debate; or
- (iv) to adjourn a meeting.

3.1.18.12.2 If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

3.1.18.12.3 If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

3.1.18.12.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

- 3.1.18.13 A Councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Councillor must indicate the Rule of Procedure or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.
- 3.1.18.14 A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

### **3.1.19 PREVIOUS DECISIONS AND MOTIONS**

- 3.1.19.1 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion referring to the decision is signed by at least six Councillors.

### **3.1.20 VOTING**

- 3.1.20.1 Unless the Law provides otherwise, any matter will be decided by a simple majority of those Councillors voting (for or against the matter) and present in the room at the time the question was put.
- 3.1.20.2 If there are equal numbers of votes for and against, the Mayor shall have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.
- 3.1.20.3 Unless a recorded vote is demanded or required under Section 3.1.20.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 3.1.20.4 Recorded votes:
- 3.1.20.4.1 The vote will take place by roll call of the Councillors present at the meeting if a Councillor asks for a recorded vote and before the vote is taken the Mayor determines that the request is supported by at least a quarter of the Councillors present, who must signify that support by standing. The Proper Officer of the Council shall take the vote by calling the names of Councillors and recording whether they voted for or against the motion or did not vote.
- 3.1.20.4.2 Votes at budget decision meetings will take place by roll call of the Councillors present at the meetings. Votes means votes on any decision relating to the making of a council tax calculation or the issuing of a precept, including any amendment motion.
- 3.1.20.5 Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.



- 3.1.20.6 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. In the case of a tie lots will be drawn.

### **3.1.21 MINUTES**

- 3.1.21.1 The Mayor will sign the minutes of the proceedings of the meeting at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy. Any question of accuracy should be raised by a motion. The Mayor shall sign the minutes as a correct record if no questions are raised on them or when such questions have been dealt with.
- 3.1.21.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of signing the minutes.
- 3.1.21.3 Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

### **3.1.22 RECORD OF ATTENDANCE**

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

### **3.1.23 EXCLUSION OF THE PUBLIC**

- 3.1.23.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 3.3 of the Constitution or Section 3.1.26 (Disturbance by Public).

### **3.1.24 REPORTING ON MEETINGS**

- 3.1.24.1 Members of the public and press may report on meetings of Council in accordance with the Openness of Local Government Bodies Regulations 2014 and the Council's Protocol on recording Council meetings, except where the public and press have been excluded. Councillors may not report on such meetings.

### **3.1.25 COUNCILLORS' CONDUCT**

- 3.1.25.1 When a Councillor speaks at full Council he/she must stand (where the Councillor is able to do so) and address the meeting through the Mayor. If more than one Councillor stands, the Mayor will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation.

- 3.1.25.2 When the Mayor stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.
- 3.1.25.3. If a Councillor persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.
- 3.1.25.4 If the Councillor continues to behave improperly after such a motion is carried, the Mayor may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 3.1.25.5 If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

### **3.1.26 DISTURBANCE BY PUBLIC**

- 3.1.26.1 If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.
- 3.1.26.2 If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

### **3.1.27 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

- 3.1.27.1 All of these Council Rules of Procedure except Sections 3.1.13, 3.1.20.4, 3.1.21.2 and 3.1.24 may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting.
- 3.1.27.2 Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council
- 3.1.27.3 Subject to taking advice and guidance from the Monitoring Officer, the ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council.

### **3.1.28 APPLICATION TO COMMITTEES, SUB-COMMITTEES AND PANELS**

- 3.1.28.1 All of these Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Only Sections 3.1.7 – 3.1.13, 3.1.15 – 3.1.21 (but not 3.1.20.4.2), 3.1.23 – 3.1.28 (but not section 3.1.25.1) apply to meetings of committees, sub-committees and panels.

### **3.1.29 PETITION**

- 3.1.29.1 Petitions regarding matters affecting the area or the functions of the Council or relating to consultation exercises or pursuant to specific legislation may be accepted at the start of an Ordinary Council meeting. Petitions will not be

considered at the Annual Meeting of Council or at Extraordinary Meetings of Council unless the Extraordinary Council Meeting is convened to consider the subject matter of the petition.

- 3.1.29.2 Petitions must be 'signed' (in person or by name if electronic) by at least 10 petitioners and contain the name and contact details of the 'petition organiser'.
- 3.1.29.3 For a Petition to be presented to and received by a meeting of the Council, it must contain at least 1,000 signatories or petitioners. The appropriate Chief Officer will prepare a report. This report together with the Petition will be presented to full Council. Council may debate the Petition and/or refer the Petition to the appropriate decision making body for further consideration.
- 3.1.29.4 Petitions which have at least 10 but fewer than 1,000 petitioners will be considered by the relevant Chief Officer(s), or where the petition covers more than one service area the Monitoring Officer.
- 3.1.29.5 Petitions that are considered by the Monitoring Officer to be vexatious, frivolous, abusive, defamatory or otherwise inappropriate will not be accepted, nor petitions that relate to confidential or exempt information or employee matters, including appointments, dismissals, pay, superannuation, complaints, grievances, or other personnel matters, or confidential matters, complaints, grievances or other such related matters regarding a Councillor or Councillors.
- 3.1.29.6 Any petition that raises issues of competence or misconduct will be referred to the Chief Executive (or to the Director of HR, Legal and Communications, in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure Rule.
- 3.1.29.7 Further information on submitting a petition can be found in the [Guidance for Petitions](#).

## **PART 3.2 CABINET PROCEDURE RULES**

### **3.2.1 CABINET DECISION MAKING**

3.2.1.1 The arrangements for the discharge of Cabinet functions are set out Part 2 and will be approved by the Leader. The arrangements may provide for Cabinet functions to be discharged by:

- (i) individual Cabinet members, including the Leader;
- (ii) the Cabinet as a whole;
- (iii) A committee of the Cabinet;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

3.2.1.2 The executive functions contained in the Council's Scheme of Delegation will be subject to approval by the Leader of the Council and may only be amended after such approval has been given. It will contain the details required and set out in the relevant parts of Part 2 of this Constitution.

### **3.2.2. CONFLICTS OF INTEREST**

3.2.2.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Members' Code of Conduct in Part 4 of this Constitution.

3.2.2.2 If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Members' Code of Conduct in Part 4 of this Constitution.

3.2.2.3 If the exercise of an executive function has been delegated to an officer, and should a conflict of interest arise, then unless the function may be exercised by another Officer, it will be exercised in the first instance by the person or body by whom the delegation was made and otherwise to avoid any conflicts of interest as set out in the Council's Members' Code of Conduct in Part 4 of this Constitution.

3.2.2.4 Where a Councillor has a disclosable pecuniary interest in an item of Cabinet business, the Councillor must leave the meeting room during the whole of the consideration of that item, except where the Councillor is permitted to remain in the meeting room as a result of the prior grant of a dispensation, or to make representations, provide information, give evidence or answer questions in the exercise of functions in the same way as a member of the public would be able to do.

3.2.2.5 Where a Councillor has a prejudicial and personal interest in an item of Cabinet business the Councillor must leave the meeting room during the whole of the consideration of that item, unless there is a right of public address at that meeting, in which case they may remain in the meeting room and address the meeting as a member of the public

### **3.2.3 CONDUCT OF MEETINGS**

- 3.2.3.1 The Cabinet will meet approximately ten times per year at times to be agreed by the Leader. The Cabinet will meet at the Council's Stockton Library, Lecture Hall, or at other suitable locations to be agreed by the Leader.
- 3.2.3.2 Cabinet meetings will be open to the public and the public will be able to speak or ask questions, under the direction of the Councillor presiding over the meeting, save where items are of an exempt or confidential nature.
- 3.2.3.3 The public have the right to report on open meetings of Cabinet, subject to compliance with the [Council's protocol for recording council meetings](#).
- 3.2.3.4 The quorum for a meeting of the Cabinet shall be one quarter of the total number of members of the Cabinet (including the Leader).
- 3.2.3.5 Executive Decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 3 of the Constitution.
- 3.2.3.6 If the Leader is present he/she will preside. In his/her absence, the Deputy Leader will preside. In the absence of the Leader and the Deputy Leader, a person appointed to do so by those Cabinet members present shall preside.
- 3.2.3.7 The provisions of the Access to Information Procedure Rules apply to meetings of the Cabinet and the public will only be excluded where items of an exempt or confidential nature are to be considered and the Rules have been adhered to.

#### 3.2.4 **CABINET BUSINESS**

- 3.2.4.1 At each meeting of the Cabinet the following business will be conducted:
  - (i) consideration of the minutes of the last meeting;
  - (ii) declarations of interest, if any;
  - (iii) matters referred to the Cabinet (whether by the Executive Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Executive Scrutiny and Select Committee Procedure Rules or the Budget, Policy and Financial Procedures Rules set out in Part 3 of this Constitution;
  - (iv) consideration of reports from Select Committees (subject to Rule 2(e) and the Executive Scrutiny and Select Committee Procedure Rules); and
  - (v) matters set out in the agenda for the meeting (which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution).
- 3.2.4.2 All reports to the Cabinet from an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Select Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration

and will take account of the requirements of the Council's Concordat for Communication and Consultation with Councillors.

- 3.2.4.3 The Leader will decide upon the schedule for the meetings of the Cabinet and will be responsible for the efficient and effective management of the agenda. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet or officer in respect of that matter. The Proper Officer will comply with the Leader's request in this respect.
- 3.2.4.4 Subject to the provisions of the Executive Scrutiny and Select Committee Procedure Rules, particularly Rule 3.4.7 , there will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Select Committees.
- 3.2.4.5 Subject to the requirements of efficient and effective agenda management and the Executive Scrutiny and Select Committee Procedure Rules, the Proper Officer will make sure that items are placed on the agenda of the Cabinet where a relevant Select Committee has submitted its reports or recommendations or has requested, or the full Council has resolved, that an item be considered by the Cabinet.
- 3.2.4.6. The Chief Executive, Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **PART 3.3 ACCESS TO INFORMATION PROCEDURE RULES**

### **3.3.1 SCOPE**

3.3.1.1 These rules apply to all meetings of the Council, Committees Sub-Committees, Executive Scrutiny and Select Committees, the Standards Panel, regulatory committees and public meetings of the Cabinet (together called meetings) and insofar as executive arrangements are concerned they accord with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Where in that respect there is any discrepancy between these Rules and the Regulations, the Regulations will prevail.

### **3.3.2 ADDITIONAL RIGHTS TO INFORMATION**

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

### **3.3.3 RIGHTS TO ATTEND AND REPORT ON MEETINGS**

3.3.3.1 Members of the public may attend all meetings and will, under the direction of the Chair of the Committee, Sub Committee or Cabinet, be able to speak or ask questions at any of those meetings on any matter in which they have an interest, subject only to the exceptions these rules.

3.3.3.2 Members of the public have the right to report on all open meetings of the Council, the Council's Committees, Sub-Committees or the Cabinet, in accordance with the Openness of Local Government Bodies Regulations and the [Council's Protocol on Recording of Council Meetings](#). Where a member of the public wishes report on a meeting, they should inform Democratic Services at least 1 day before the meeting so that appropriate facilities can be made available.

3.3.3.3 Any Councillor may attend meetings of any of the Council's Committees, Sub-Committees or the Cabinet, whether or not a member of the Committee, Sub-Committee or the Cabinet, provided that the Councillor concerned will only ask questions or speak at any such meetings under the direction of the Chair and will not be entitled to a vote.

### **3.3.4 NOTICE OF MEETINGS**

3.3.4.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting on the Council's [Website](#), and in the Stockton Borough Council's Customer Service Centre, Church Road, Stockton-on-Tees, TS18 1TU and at such other locations and in such other ways as the Council's Proper Officer, considers appropriate.

3.3.4.2 Members of the Cabinet or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

### **3.3.5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

3.3.5.1 The Proper Officer will make a reasonable number of copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's website at least five clear working days before the meeting. If an item is added to the agenda later (eg an item requiring an urgent Cabinet decision), the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors, other than where exempt or confidential information is involved) will be open to inspection from the time the item was added to the agenda.

### **3.3.6 SUPPLY OF COPIES**

3.3.6.1 The Proper Officer will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.
- (d) to any person on payment of a charge for postage, copying and any other necessary costs for transmission.

### **3.3.7 ACCESS TO MINUTES ETC AFTER THE MEETING**

3.3.7.1 The Proper Officer will, as soon as reasonably practicable, make available copies of the following for six years after the meeting:

- (a) the minutes of the meeting or records of decisions taken, together with details of the date decisions were taken, the reasons for those decisions, details of any alternative options considered and rejected at the meeting at which the decisions were made, and any relevant interests which any of the Councillors involved have declared, together with any dispensations they have been granted, for all meetings of the Cabinet, excluding any part of the minutes of the proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.
- (e) minutes of the meetings of the Cabinet or records of decisions taken are classified as information that is privileged but subject to explanation or contradiction in defamation proceedings.



### **3.3.8 BACKGROUND PAPERS**

3.3.8.1 The Proper Officer will ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report.

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

3.3.8.2 The Proper Officer will, on the Council's behalf, make available on the Council's website and for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

### **3.3.9 SUMMARY OF PUBLIC'S RIGHTS**

3.3.9.1 These Rules represent a written summary of the public's rights to attend meetings and to inspect and copy documents and a copy will be kept at and available to the public at the Stockton Borough Council's Customer Service Centre, Church Road, Stockton-on-Tees, TS18 1TU.

### **3.3.10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

#### **3.3.10.1 Notice of Private Meetings of the Executive**

3.3.10.1.1 When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its committees a notice of intention to hold a meeting in private will usually be published on the Council's website at least 28 clear days before the date of the private meeting. The notice will also be made available at Stockton Borough Council's Customer Service Centre, Church Road, Stockton-on-Tees, TS18 1TU.

3.3.10.1.2 The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

3.3.10.1.3 At least five days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the reasons why the meeting is to be held in private, details of any representations made about holding the meeting in public, and the response to those representations

#### **3.3.10.2 Urgent Private Meetings of the Executive**

3.3.10.2.1 If the urgency of a decision makes compliance with Section 3.3.3 impracticable, the decision maker or decision making body will seek agreement from the Chair of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chair of the Overview and

Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council's website and made available at Stockton Borough Council's Customer Service Centre, Church Road, Stockton-on-Tees, TS18 1TU setting out why the meeting is urgent and cannot reasonably be deferred.

**3.3.10.3 Confidential Information – Requirement to exclude public**

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

**3.3.10.4 Exempt Information – Discretion to exclude public**

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

3.3.10.4.2 In determining whether information is to be treated as exempt, Councillors will consider the extent to which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3.3.10.4.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

**3.3.10.5 Meaning of Confidential Information**

3.3.10.5.1 Confidential information means information given to the Council by a Government Department on terms (however expressed) which forbid its public disclosure or information which cannot be publicly disclosed by virtue of or under any enactment or by Court Order. In the event of any dispute or disagreements as to whether information is confidential within this context, the interpretation of the Council's Monitoring Officer will be final, as will the Monitoring Officer's decision as to whether information has ceased to be confidential.

**3.3.10.6 Meaning of Exempt Information**

3.3.10.6.1 Exempt information means information falling within the following 7 categories (subject to any condition):

Description of Exempt Information	Qualification
All categories (1-7) of otherwise exempt information	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.*
1. Information relating to any individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 2006</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Co-operative and Community Benefit Societies Act 2014</li> <li>(e) the Building Societies Act 1986</li> <li>(f) the Charities Act 2011</li> </ul>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
<p>6. Information which reveals that the authority proposes:-</p> <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment.</li> </ul>	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
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*Notes*

*Applies to all categories of otherwise exempt information.\**

*Names, addresses or telephone numbers can identify individuals. (paras 1 and 2)*

*Also consider the Council's Data Protection Act 1998 and General Data Protection Regulation responsibilities. (paras 1 and 2)*

*Financial or business affairs includes contemplated, as well as past or current activities. (para 3)*

*Labour relations matter means:*

*(a) any of the matters specified in paragraphs (a) to (g) of Section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or*

*(b) any dispute about a matter falling within paragraph (a) above.*

*(this applies to trade disputes relating to office holders as well as employees). (para 4)*

*Officer holder in relation to the authority, includes the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority. (para 4)*

### **3.3.11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

3.3.11.1 If the Proper Officer and/or Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Section 3.3, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed. Any decision as to whether or not exempt information or an exempt report should remain exempt and non-disclosable, will also ultimately rest with the Monitoring Officer.

### **3.3.12 PROCEDURE BEFORE TAKING KEY DECISIONS**

3.3.12.1 Subject to the General Exception and Special Urgency exceptions (see below), Key Decision may not be taken unless a document (called a Forward Plan) including the Item of Business, has been made available for public inspection of the Council's offices and published on the Council's website in connection with the matter in question at least 28 clear days' before the date when the decision is to be take;

3.3.12.2 the Forward Plan must include, the following:

- (i) that a key decision is to be taken on the Council's behalf;
- (ii) details of the subject matter of the decision;
- (iii) where the decision-maker is an individual, the individual's name and title, and where it is a body, the name of the body;
- (iv) the date on which, or period during which, the decision is to be taken;
- (v) a list of documents submitted to the decision-maker for consideration in relation to the matter;
- (vi) the address from which copies of, or extracts from any listed documents are available, subject to any prohibition or restriction on disclosures;
- (vii) that other documents relevant to the matter may be submitted to the decision maker; and
- (viii) the procedure for requesting details of those documents (if any) as they become available.

3.3.12.3 where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 3.3.4 (Notice of Meetings);

3.3.12.4 in the case of Cabinet meetings or meetings of joint Committees exercising executive functions, access to agendas, reports and background papers has been provided in accordance with the preceding rules.

### **3.3.13 THE FORWARD PLAN**

3.3.13.1 Forward plans will be prepared on a monthly basis and will be published as and when required in order to ensure, so far as reasonably practicable, compliance with the requirements of the preceding Rule 3.3.12 insofar as the taking of the executive Key Decisions are concerned.

3.3.13.2 The Forward Plan will contain matters which will be the subject of a Key Decision to be taken by the Cabinet, a committee of the Cabinet, Officers or under joint arrangements in the course of the discharge of a Cabinet function. It will describe the particulars specified in Rule 3.3.12 below, together with any other information which is considered appropriate to include.

3.3.13.3 All Councillors and the public will be notified of each Forward Plan and copies will be made available, in particular, to the Chair and members of the Executive Scrutiny Committee.

3.3.13.4 Exempt information need not be included in the Forward Plan and confidential information cannot be included.

### **3.3.14 GENERAL EXCEPTION**

- 3.3.14.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 3.3.15 (Special Urgency), the decision may still be taken, if:
- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan;
  - (b) the Leader and/or Deputy Leader have been consulted where the decision is to be taken by the Chief Executive and/or a Chief Officer;
  - (c) the Proper Officer has informed the chair of the Executive Scrutiny Committee by notice in writing, or if there is no such person, each member of the Executive Scrutiny Committee, of the matter in respect of which the decision is to be made;
  - (d) the Proper Officer has made copies of that notice available to the public at the offices of the Council and has published it on the Council's website; and
  - (e) at least 5 clear working days have elapsed since the Proper Officer complied with sub-paragraphs (c) and (d) above.

Where such a decision is taken collectively, it must be taken in public except insofar as exempt or confidential information is involved.

### **3.3.15 SPECIAL URGENCY**

- 3.3.15.1 If by virtue of the date by which a decision must be taken Rule 3.3.14 (General Exception) cannot be followed, the decision can only be taken if the Leader and/or Deputy Leader have been consulted where the decision is to be taken by the Chief Executive and/or Chief Officers and if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the Chair of the Executive Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred, because such deferral would seriously prejudice the Council's or the public's interests. If there is no Chair of the Executive Scrutiny Committee, or if the Chair of that Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor, will suffice.
- 3.3.15.2 As soon as reasonably practicable after such agreement has been obtained, a notice setting out the reasons that the meeting (or part) is urgent and cannot reasonably be deferred must be made available at the Council's offices and published on the Council's website.
- 3.3.15.3 The Cabinet, Officers or decision-makers/decision making bodies under joint arrangements discharging executive functions, may take a decision which is contrary to the Council's policy framework or contrary to the budget/MTFP approved by full Council if the decision is a matter of urgency. A decision will be urgent if any delay would seriously prejudice the Council's or the public's interests. However, the decision may only be taken:
- (i) if the Leader and/or Deputy Leader have been consulted where the decision is to be taken by the Chief Executive and/or Chief Officers; and

- (ii) if it is not reasonably practical to convene a quorate meeting of the full Council in order to enable the matter to be considered urgently at such a meeting; and
- (iii) if the Chair of the Executive Scrutiny Committee agrees that the decision is a matter of urgency.

In the absence of the Chair of the Executive Scrutiny Committee, or if that person is unable to act, the consent of the Mayor, or in the absence of the Mayor, the consent of the Deputy Mayor will be sufficient. In the absence of both the Mayor and the Deputy Mayor, the Head of Paid Service's, or his/her nominees consent will be required

The reasons why it is not reasonably practical to convene a quorate meeting of full Council and the Chair of the Executive Scrutiny Committee's consent to the decision being taken as a matter of urgency, or such other consent as may have been obtained in this respect, must be noted in the minutes of the meeting or on the record of the decision and notice by which it is made public.

- 3.3.15.4 Where such a decision is taken collectively, it must be taken in public, save insofar as exempt or confidential information is involved. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision maker or body, the decision is an urgent one and, therefore, not subject to call-in. Decisions referred to in 3.3.14 above must also be reported to the Council by the Leader of the Council as required by Rule 17.3 (Reports on Special Urgency Decisions) and in the case of a decision referred to in 3.3.15 to the next available meeting of the Council, explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- 3.3.15.5 In each case referred to in 3.3.14 and 3.3.15 above the agreement or consent to be obtained, is agreement or consent to the **taking** of the decision urgently, and is not in any way to be construed as a requirement to obtain agreement or consent **to the merits of the decision itself**. If the relevant person does not, however, agree that the decision may reasonably be regarded as urgent in the circumstances, then the decision cannot be taken without five prior clear working days notice having elapsed or the matter being referred to the full Council for determination in the case of decisions contrary to the policy framework or the budget/MTFP.
- 3.3.15.6 The provisions relating to the call-in of decisions will not apply to urgent decisions taken in accordance with this Rule.

### 3.3.16 REPORTS TO COUNCIL

**3.3.16.5** If the Executive Scrutiny Committee, after considering the advice of the Monitoring Officer, thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan;
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Executive Scrutiny Committee chair, the Mayor/Deputy Mayor of the Council under Rule 3.3.14 of the Cabinet Procedure Rules or otherwise permitted the Constitution;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the as Proper Officer, who shall require such a report on behalf of the Committee when so requested by any 6 Councillors or any two education representatives (with voting rights) in the case of education matters. Alternatively the requirement may be raised by resolution passed at a meeting of the Executive Scrutiny Committee.

3.3.16.2 Any such report must include details of the decision; the reasons for it; the decision maker; and if the Leader or the Cabinet is of the opinion that the decision was not a Key Decision, the reasons for that opinion.

3.3.16.3 The Cabinet will prepare a report described in paragraph 3.3.16.5 for submission, so far as reasonably practicable to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the following meeting. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

3.3.16.4 The Leader will submit at least one report annually to the Council on any executive decisions taken in the circumstances set out in Rule 3.3.15 Cabinet Procedure Rules (Special Urgency). The report will include the number of decisions so taken, particulars of each decision, and a summary of the matters in respect of which those decisions were taken.

### 3.3.17 RECORD OF DECISIONS

3.3.17.1 As soon as reasonably practicable after an executive decision has been made, whether the decision was made in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable.

3.3.17.2 The record will include:

- (i) a statement of the reasons for each decision;
- (ii) any alternative options considered and rejected at that meeting;



- (iii) any relevant interests which any of the Councillors involved declared; and
- (iv) together with any dispensations they may have been granted.

### 3.3.18 EXECUTIVE SCRUTINY AND SELECT COMMITTEES ACCESS TO DOCUMENTS

- 3.3.18.1 Subject to section 3.3.18.2 below, the Executive Scrutiny and Select Committees will be entitled to a copy of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to any business transacted at a public or private meeting of the Cabinet or its committees.
- 3.3.18.2 The Executive Scrutiny and Select Committees will not be entitled to:
- (a) any document that is in draft form;
  - (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or if the information is information falling within paragraph 3 of schedule 12A of the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) or if the information is information falling within paragraph 6 of Schedule 12A of the 1972 Act; or
  - (c) the advice of a political advisor.

### 3.3.19 ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

- 3.3.19.1 All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.
- (a) it contains exempt information falling within paragraphs 1, 2, 3 (where the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), 4, 5, and 7 of the categories of exempt information; or
  - (b) it contains the advice of a political advisor.
- 3.3.19.2 These rights of a Councillor are additional to any other right he/she may have.
- 3.3.19.3 The Councillor's common law right to know:
- 3.3.19.3.1 The common law right of Councillors is much broader than those described in paragraph 3.3.19.1 and is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Councillor properly to perform his/her duties. This principle is commonly referred to as the "need to know" principle.

- 3.3.19.3.2 In some circumstances (eg a Committee member wishing to inspect non-personal or non-confidential documents relating to the functions of that Committee) a Councillor's "need to know" will normally be presumed. In other circumstances (eg a Councillor wishing to inspect Council documents which contain personal or confidential information about third parties, such as Council Tenants) there will be a presumption against disclosure and a Councillor will be expected to justify the request in specific terms in order to make their "need to know" clear. In certain cases, additional guidance regarding the circumstances when inspection may or may not be allowed may also have been approved by the Council eg the primary and secondary schools Admissions Protocol which prohibits/restricts the disclosure of information relating to parental preferences; the number of pupils or their position on the Holding Register; the number of successful or unsuccessful applicants and the reasons why a place at a school has or has not been allocated to a pupil.
- 3.3.19.3.3 Whilst the exercise of this common law right principally depends therefore upon the Councillor's ability to demonstrate that he/she has the necessary "need to know" and that there are no legitimate reasons for non-disclosure, a Councillor has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". The "need" is so that Members can perform their roles as Councillors. It can be limited by conflict of interest, confidentiality and practicality. The question as to whether a "need to know" has been reasonably and satisfactorily established must initially be determined by the particular Director of Service whose Service holds the document in question (with advice from the Monitoring Officer). In the event of dispute, the question falls to be determined by the relevant Council body eg a Committee in connection with whose functions the document is held.
- 3.3.19.3.4 As a general requirement, where a request to inspect or copy Council documents is likely to involve the significant use of resources, approval to the use of those resources should be requested by following the need to know determination procedure specified in the preceding paragraph.

Further and more detailed advice relevant to particular circumstances regarding Members' right to inspect Council documents may be obtained from the Monitoring Officer.

### **3.3.20 KEY DECISIONS BY OFFICERS**

- 3.3.20.1 The requirements specified in Rule 12 must be complied with, subject to the application of Rules 15 or 16. Subject to any restrictions in relation to exempt or confidential information, any reports or other documents upon which a Key Decision proposed by an Officer is based will be open to public inspection and the provisions of Rules 3.3.5.1 , 3.3.6 and 3.3.8 will be applied accordingly.

- 3.3.20.2 Subject to any restrictions relating to exempt or confidential information, after an Officer has made a Key Decision, the Proper Officer will ensure that a copy of the written statement referred to in Rule 23.2 and a copy of any report or other document considered by the Officer and relevant to the recorded decision, or where only part of that report or other document is relevant to such a decision, that part, is available for inspection by members of the public, as soon as reasonably practicable, at the Council's offices and is published on the Council's website.

### **3.3.21 KEY DECISIONS UNDER JOINT ARRANGEMENTS**

- 3.3.21.1 Where a joint committee has been established to discharge functions which are the responsibility of the executive and all members of that Committee are members of the executive, then the joint Committee will meet in public in the same circumstances as a meeting of the Cabinet or its Committees, subject to the restrictions relating to exempt or confidential information, and Rule 12 (Application of Access to Information Procedure Rules to the Cabinet) will apply equally to the joint committee, its proceedings and its Key Decisions. In particular, written details of the key executive decisions made by the Joint Committee will be provided to the Proper Officer of the Council in accordance with Rule 7 and those Key Decisions will not take effect or be implemented until the expiry of the four days call-in period referred to in Rule 3.4.12 of the Executive Scrutiny and Select Committee Procedure Rules, such period to commence on the first working day following the date of receipt by the Proper Officer of the written details of the decisions concerned.
- 3.3.21.2 Where a joint committee includes Councillors from any of the local authorities involved who are not members of an executive, the provisions of Part VA the Local Government Act 1972 will apply, particularly the provisions regarding admission to meetings; access to agendas and connected papers; inspection of minutes and other documents after meetings; inspection of background papers and exempt information.

### **3.3.22 PUBLIC ACCESS AND INSPECTION**

- 3.3.22.1 Any document required by the preceding rules to be available for inspection by members of the public shall be available for inspection:
- (i) at all reasonable hours at the Stockton Borough Council's Customer Service Centre, Church Road, Stockton-on-Tees, TS18 1TU and on the Council's website; and
  - (ii) in the case of a list of background papers and the papers themselves, upon payment by the person wishing to inspect the documents of any reasonable fee required by the Council.
- 3.3.22.2 Where a document is to be made available for inspection by the public, any person may:
- (i) make a copy of the whole or part of the document; or
  - (ii) require the person with custody of the document to supply him with a copy of the whole or part of the document,
- upon payment by the person requiring a copy of the postage, copying or any other necessary fee required by the Council for transmission.

- 3.3.22.3 Any person may, in any publicly available medium, reproduce, or provide commentary in relation to any document supplied to that person or made available for inspection under these Rules.
- 3.3.22.4 Paragraphs 3.3.22.1 (i) and 3.3.22.1 (ii) above do not require or authorise the doing of anything which infringes the copyright in any work, except where copyright in the document is owned by the Council, when nothing done pursuant to the preceding paragraph will constitute an infringement of copyright.
- 3.3.22.5 Where any document is required by these Rules, or the law, to be open to public inspection and:
- (i) is supplied to, or available for inspection by members of the public; or
  - (ii) is supplied for the benefit of any newspaper,
- the publication thereby of any defamatory matter contained in the document will be privileged, unless the publication is proved to be made with malice.
- 3.3.22.6 Any written record of an executive decision, or any report considered at an executive meeting or by individuals exercising executive functions, which is required to be made available for public inspection, will be retained by the Council and made available for inspection by the public for a period of at least six years, beginning on the date on which the decision to which the record or report relates, was made.
- 3.3.22.7 Any background papers required to be available for public inspection in accordance with these rules will be retained by the Council and be available for inspection by the public for a period of at least four years beginning on the date on which the decision to which the background papers relate, was made.

### **3.3.23 FREEDOM OF INFORMATION**

- 3.3.23.1 The Freedom of Information Act 2000 and Environmental Information Regulations 2004 have brought additional rights, responsibilities and safeguards regarding access to information. A "Publication Scheme" has been produced by the Council and this can be accessed on the Council's website at [www.stockton.gov.uk](http://www.stockton.gov.uk)

## **PART 3. 4 EXECUTIVE SCRUTINY AND SELECT COMMITTEE PROCEDURE RULES**

### **3.4.1 What will be the number and arrangements for Executive Scrutiny and Select Committees?**

3.4.1.1 The Council will have the Executive Scrutiny and Select Committees set out in [Part 2](#) of this Constitution and will appoint to them as it considers appropriate from time to time. The Council may also appoint such other Scrutiny and Select Committees as it considers necessary and appropriate from time to time.

### **3.4.2 Who may sit on Executive Scrutiny and Select Committees?**

3.4.2.1 All Councillors except members of the Cabinet may be members of the Executive Scrutiny and Select Committees. However, a Councillor may not be involved in the scrutiny of a decision in which he/she has been directly involved, except as provided for in the Council's Member Code of Conduct (See Paragraph 7 of the Council's Member Code of Conduct). The Executive Scrutiny and Select Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees either as set out in Table 1 at the end of this procedure rule or otherwise.

3.4.2.2 The quorum for the Executive Scrutiny Committee and Select Committees will be one third of their respective voting membership

### **3.4.3 Education representatives**

3.4.3.1 The Executive Scrutiny Committee, the Children and Young People Select Committee, and the People Select Committee, (when any of these bodies are dealing with education matters) shall include in their Councillorship the following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 2 Parent Governor representatives (one or other of whom may be appointed to one or more such Executive Scrutiny and Select Committees).

3.4.3.2 A relevant committee in this paragraph is a scrutiny (or select) committee or committee of the Council, where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Cabinet. In this respect the education representatives will have the right to vote on any decisions which relate to schools maintained by the Council; and pupils who attend schools maintained by the Council, or who are educated by the Council in some other way. Education representatives will also be allowed to vote on matters which affect how funds which have already been earmarked for education are to be spent, such as votes on how much of the education budget is devoted to schools (compared to other forms of education provision such as adult education or the youth service); what proportion of the schools budget is retained centrally by the local education authority to provide services for schools and pupils, and what proportion is delegated to individual school budgets; what proportion of the schools budget retained centrally is devoted to each of the four main funding areas (school improvement, pupil access, special educational provision and strategic management) and how much is contributed to Government grants for other specific activities; the formula by which individual school budgets are calculated; and any other

more specific financial matter. All of these matters constitute “education matters” for the purposes of the call-in procedure specified in Rule 3.4.12 .

3.4.3.3 Education representatives should not vote on any decision which determines the local education authority’s total education revenue or capital budget; any matter which would require the Council to raise the Council Tax; any matter in which the representative has a Disclosable Pecuniary Interest or any other matter in which the representative has some direct interest, including a direct impact on the school at which the representative is or was a parent governor or where the representative’s children are taught (for example, whether that school or another school should be given priority for the replacement of temporary classrooms). If a committee deals with other matters, the education representatives shall not vote on those other matters, though they may attend the meeting and speak.

3.4.3.4 Other non-Councillor representatives have also been appointed to the Council’s Select Committees dealing with education matters, but with no rights to vote whatsoever. The Council’s other Committees may also co-opt non-Councillor representatives without voting rights.

#### 3.4.4 **Meetings of the Executive Scrutiny Committee and Select Committees**

3.4.4.1 There shall be at least 4 ordinary meetings of each Select Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Select Committee meeting may be called by the Chair of the relevant Select Committee, by any six members of the committee or by the [Monitoring Officer] as the Proper Officer if he/she considers it necessary or appropriate. Meetings of the Executive Scrutiny Committee and Select Committees may be held at the Council’s Town Hall; Municipal Buildings or at other suitable locations to be agreed by the Chairs of those Committees.

#### 3.4.5 **Agenda Items**

3.4.5.1 The Select Committees shall also respond, as soon as their work programme permits, to requests from the Council and from the Cabinet, via the Executive Scrutiny Committee, (for instance, as regards matters in its Forward Plans) to review particular areas of Council activity. Where they do so, the Select Committees shall report their findings and any recommendations back to the Executive Scrutiny Committee, Cabinet and/or Council.

#### 3.4.6 **Reports from Select Committees**

3.4.6.1 Once it has formed recommendations on proposals for development, a Select Committee will prepare a formal report and submit it to the Proper Officer, for referral to the Executive Scrutiny Committee and for consideration by the Cabinet (if the proposals are consistent with the existing budget and policy framework), or via the Cabinet to the Council for its consideration as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget or policy framework).

3.4.6.2 The Council shall consider the report of the Select Committee at its next appropriate meeting.

3.4.6.3 The Cabinet shall consider a Select Committee’s report in accordance with the provisions of the following Rule 3.4.7.

#### 3.4.7 **Making sure that Select Committee reports are considered by the Cabinet**

3.4.7.1 The reports/recommendations of Select Committees referred to the Cabinet will be included at an appropriate point in the agenda of the next available Cabinet meeting following the Select Committee completing its

report/recommendations or making a request that an item be considered by the Cabinet and the referral of the report/recommendations or request to the Executive Scrutiny Committee. The Chair of the Cabinet will determine which is the most appropriate meeting for this purpose.

- 3.4.7.2 The Executive Scrutiny Committee and Select Committees will in any event have access to the Cabinet's Forward Plans and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Select Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

### 3.4.8 **Rights of Scrutiny and Select Committee Councillors to documents**

- 3.4.8.1 In addition to their rights as Councillors, members of the Executive Scrutiny and Select Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 3 of this Constitution.

- 3.4.8.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet, the Executive Scrutiny Committee and Select Committees as appropriate depending on the particular matter under consideration.

### 3.4.9 **Councillors and Officers giving account**

- 3.4.9.1 The Executive Scrutiny Committee, by means of the exercise of the call-in procedure, and Select Committees, through their individual work programmes, may scrutinise and review decisions made or actions taken in connection with the discharge of any of the Local Authority's functions. As well as reviewing documentation, in fulfilling the scrutiny role, the Executive Scrutiny Committee or any of the Select Committees (or any member of such a Committee) may require any member of the Cabinet and/or any Senior Officer to attend a meeting to explain in relation to matters within their remit:

- i. any particular decision or series of decisions
- ii. the extent to which the actions taken implement Council policy and/or
- iii. performance in respect of Service Plans,

and it is the duty of those persons to attend if so required in accordance with the provisions of these Rules.

- 3.4.9.2 Prior to requiring any Cabinet Member to attend a meeting, and where reasonably practicable to do so, the Proper Officer will consult the Cabinet (through the Leader, or in his absence the Deputy Leader) about who might be the most appropriate person or persons to answer the questions and discuss the issues concerned.

- 3.4.9.3 Where any Councillor or Senior Officer is to be required to attend the Executive Scrutiny Committee or a Select Committee under this provision, the Chair of that committee will inform the Proper Officer. The Proper Officer shall inform the Councillor or officer in writing giving, so far as reasonably practicable, at least seven working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account, specify so far as reasonably practicable the questions likely to be asked, and, other than where call-in applies, whether any papers are required to be produced for the committee. Except for the call-in procedure, where the account to be given to the committee will require the production of a report, then the Councillor or

officer concerned will, so far as reasonably practicable, be given sufficient notice to allow reasonable time for preparation of that documentation.

- 3.4.9.4 Where, for good reason, the Councillor or officer is unable to attend on the required date, then in consultation with the Councillor or officer an alternative date for attendance to take place will be arranged, wherever possible, within a reasonable period of time from the date of the original request.

#### 3.4.10 **Councillors' Interests**

- 3.4.10.1 Where a Councillor has a disclosable pecuniary interest in an item of business the Councillor must leave the meeting room during the whole of the consideration of that item, except where the Councillor is permitted to remain in the meeting room as a result of the prior grant of a dispensation or to present information or be questioned prior to consideration of the matter.

#### 3.4.11 **Attendance by others**

- 3.4.11.1 A Select Committee may invite people other than those people referred to in paragraph 3.4.9 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Councillors and officers in other parts of the public sector and may invite such people to attend. Select Committee meetings will be open to the public, and the public will be able to speak or ask questions, under the direction of the Chair, save where items of an exempt or confidential nature are being discussed.

#### 3.4.12 **Call-in**

- 3.4.12.1 Call-in is only exercisable by, or on behalf of the Executive Scrutiny Committee and will normally only be used where either six Councillors, excluding Cabinet members, (together hereinafter referred to as "six Councillors") have evidence which suggests that the Cabinet when making any executive decision (i.e. any decision other than a Council decision, save where Cabinet is making recommendations to Council in relation to plans or strategies forming part of the Policy Framework), or an individual Cabinet Councillor, or an officer or joint arrangement exercising executive decision making functions when making a key decision, did not take the decision in accordance with the principles set out in the Decision Making Principles or any two education representatives with voting rights (hereinafter referred to as "two education representatives") have evidence which suggests that the Cabinet when making any executive decision in relation to education functions, or an Officer or joint arrangements when exercising executive education decision making functions which constitute key decisions, did not take such decisions in accordance with the Decision Making principles;

- 3.4.12.1.1 When a decision is made by the Cabinet, or an individual Cabinet Councillor, or a Key Decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements which involve executive functions, the decision shall be published in the form of a notice, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All the Councillors, and all persons who are not Councillors but have voting rights ("Co-optees"), will be sent copies of the details of all such decisions within the same timescale, by the person responsible for publishing the decisions.

- 3.4.12.1.2 The notice containing the details of the Cabinet decision, will bear the date on which it is published and will specify that the



decision will come into force, and may then be implemented, on the expiry of a further four working days after the expiry of the two working days referred to in (a) above, or the publication of the decision if this should be later than two working days after the decision was made, unless six Councillors or two education representatives (in the case of education matters) object to it and call it in.

#### 3.4.12.1.3

- (i) During that period, the Proper Officer shall (having determined that the call-in request is valid) call-in a decision for scrutiny by the Committee if so requested in writing by any such six Councillors or the two education representatives, and shall then notify the decision maker of the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee and, in the first instance, within six working days of the expiry of the call-in period if practicable, or otherwise as soon as reasonably practicable thereafter.
- (ii) The written request that call-in should be effected should always include specific details clearly explaining why those persons making the request consider that a decision has not been taken in accordance with the Decision Making principles (merely stating any one or more of the principles themselves will not be sufficient) and should also, wherever possible, indicate whether any member of the Cabinet and/or any Senior Officer is to be required to attend before the Executive Scrutiny Committee and, if so, who those councillors and/or Senior Officers.
- (iii) The written request, or written information provided as soon as reasonably practicable after the written request has been submitted, should clarify, as far as it is possible to do so, the questions likely to be asked of the Cabinet Councillor(s) or Officer(s) who are to be required to attend the Executive Scrutiny Committee meeting.

3.4.12.1.4 Where the Executive Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget/MTFP, then it shall seek advice from the Monitoring Officer regarding the policy framework and Chief Finance Officer in respect of the budget/MTFP.

3.4.12.1.5 The Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officers report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Executive Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

3.4.12.1.6 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to the budget/MTFP, the

Executive Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten working days, or if it is not reasonably practical to convene a quorate meeting of the Council within that period the Council shall meet as soon as reasonably practicable after the request by the Executive Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer or the Chief Finance Officer. The Council may either:

- (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget/MTFP or policy framework. In this case no further action is required, save that the decision of the Council will be minuted and circulated to all Councillors and Co-optees in the normal way; or
- (ii) amend the Constitution, budget/MTFP or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council will be minuted and circulated to all Councillors and Co-optees in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to the budget/MTFP, or otherwise not within the remit of the Cabinet and does not amend the existing framework to accommodate it, require the Cabinet or executive decision taker to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

3.4.12.1.7 In all other cases, if having considered the decision, the Executive Scrutiny Committee is still concerned, then it may refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns and any related recommendations or where the decision has been made by the Cabinet in the course of developing proposals to the full Council, as part of, or to amend the policy framework, or (having taken advice from the Monitoring Officer or Chief Finance Officer, where it considers that the proposed decision is not within the remit of the executive to make), refer the matter to full Council. If a decision is referred to the decision maker, they shall then reconsider the matter, amending the decision or not, before adopting a final decision. Where the decision was taken by the Cabinet as a whole, a meeting will be convened to reconsider the matter within six working days of the referral, or as soon as reasonably practicably thereafter. Where the decision was taken by an individual, the individual will reconsider the matter within six working days of the referral, or as soon as reasonably practicably thereafter. Where the decision was taken by a Joint Committee under executive joint arrangements, a meeting will

be arranged to reconsider the matter within ten working days of the referral, or otherwise as soon as reasonably practicable thereafter.

3.4.12.1.8 If following an objection to the decision, the Executive Scrutiny Committee does not meet in the period set out above, or as soon as reasonably practicable thereafter., or does meet but does not refer the matter back to the decision making person or body, or where appropriate refer the matter to full Council, the decision shall take effect on the date of the Executive Scrutiny meeting, or the expiry of that further period, as appropriate, whichever in each case is the earlier.

(i) If the matter was referred to full Council, the Council shall meet within ten working days of the request that the matter be referred to it, or if it is not reasonably practical to convene a quorate meeting of the Council within that period, the Council shall meet as soon as reasonably practicable. Where the Council meets and does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision in (j) below. However, if the Council does object, it has no locus to make decisions in respect of an executive function, unless it is contrary to the policy framework, or contrary to the budget/MTFP, or otherwise not within the approved remit of the executive, in which case it may make any of the decisions referred to in sub-paragraph (f). Unless the Cabinet decision is contrary to the policy framework or contrary to the budget, or otherwise not within its approved remit, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, a meeting will be convened to reconsider the matter within six working days of the Council request, or as soon as reasonably practicable thereafter. Where the decision was made by an individual, the individual will reconsider the matter within six working days of the Council request, or as soon as reasonably practicable thereafter. Where the decision was made by a joint Committee under executive joint arrangements, a meeting will be arranged to reconsider the matter within ten working days of the request, or otherwise as soon as reasonably practicable thereafter.

(ji) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date the Council should have met or the expiry of the relevant period referred to in the preceding sub-paragraph, whichever is the earlier.

3.4.12.1.9 Subject to (l) below, where the Council has received recommendations from the Cabinet regarding any matters which it is the responsibility of the Council to determine, the Council

may either determine the matter itself by adopting the Cabinet's recommendations or by referring the matter back to Cabinet, with its views, and a request to Cabinet to reconsider its recommendations within a period of ten working days after the Council meeting, or as soon as reasonably practicable thereafter. In this event, if Cabinet does not meet within the ten working days period, or as soon as reasonably practicable thereafter, or meets but does not revise its recommendations in line with the Council's views, the Council may take the final decision on the matter by simple majority of those present and voting at its next available meeting but before doing so must reconsider the matter at that meeting in light of any views, recommendations or objections submitted or expressed by the Cabinet.

(I)(A) Where the Cabinet has submitted a draft plan or strategy forming part of the Policy Framework to the Council for its consideration and following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out below:

- (i) before the Council:
  - (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,

it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- (ii) Where the Council gives instructions in accordance with the preceding sub-paragraph, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:
  - (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

- (iii) When the period specified by the Council, referred to in sub-paragraph (ii) has expired, the Council must, when:
  - (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (c) adopting (with or without modification) the plan or strategy.

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

(l)(B)

- (i) When considering a draft plan or strategy forming part of the Policy Framework, at the same time as approving or adopting that draft plan or strategy, the Council should specify which elements of it the Cabinet (or an Officer with delegated authority from the Cabinet) will have power to amend without being required to refer back the amended plan or strategy to the Council for further approval or adoption of the plan or strategy as revised.
- (ii) If the Cabinet (or an Officer with delegated authority from the Cabinet) exercises the power to amend a plan or strategy previously approved or adopted by the Council, the amendments or modifications concerned will be reported to the full Council at the next available Council meeting.

### 3.4.13 Exceptions

- 3.4.13.1 In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are that:
  - 3.4.13.1.1 either six persons who are Councillors, or any two education representatives in the case of education matters, are needed for a decision to be called in (signifying this by each signing the (or a) call-in request or by emailing or otherwise confirming their agreement to it in writing)
  - 3.4.13.1.2 the six persons who are Councillors cannot include Cabinet Members, but may include any other Councillors
  - 3.4.13.1.3 call-in applies to the decisions of the Cabinet when it is exercising its executive decision making powers and does not

normally apply to Cabinet's views or recommendations regarding any matters which it is the responsibility of the full Council to determine (such as in relation to the setting of the budget/MTFP), unless those views or recommendations relate to a decision made by the Cabinet in the course of developing proposals to the full Council to amend the policy framework

3.4.13.1.4 call-in only applies to Key Decisions by Officers and Key Decisions under joint arrangements exercising executive functions and not to any other decisions by Officers or under joint arrangements

3.4.13.1.5 a matter which has been called in, can only be referred back to the Cabinet, or other decision-maker/decision-making body, once and cannot be called in a second time. Thereafter the Cabinet, other decision-maker or decision-making body may determine the matter, either amending the decision or not, as the case may be

and/or Senior officers are to be requested to attend the Executive Scrutiny Committee meeting.

#### **3.4.14 Call-in and urgency**

3.4.14.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or by an Officer or under executive joint arrangements is urgent and the provisions of Rule 3.3.15 of the Cabinet Procedure Rules are applied. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Executive Scrutiny Committee must agree that the decision should be taken urgently. If there is no such Chair, or if the Chair is unable to act, then the Mayor must agree to the decision being treated as a matter of urgency. [In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required.] Decisions taken as a matter of urgency will be reported to the full Council. If the relevant person does not agree that the decision may reasonably be regarded as urgent in the circumstances, then the decision cannot be taken without five prior clear working days' notice having been given or in the case of decisions contrary to the policy framework or the budget/MTFP without being reported to full Council.

3.4.14.2 The operation of the provisions relating to call-in and urgency shall also be monitored annually, and a report submitted to Council with proposals for review if necessary.

3.4.14.3 Urgent decisions by the Cabinet, Officers or under executive joint arrangements, which are contrary to the Council's policy framework or contrary to the budget/MTFP, will be subject to and must be taken in accordance with the Access to Information Procedure Rules.

#### **3.4.15 Procedure at Executive Scrutiny and Select Committee meetings**

- 3.4.15.1 Executive Scrutiny and Select Committees shall consider the following business:
  - 3.4.15.1.1 minutes of the last meeting
  - 3.4.15.1.2 declarations of interest
  - 3.4.15.1.3 in the case of the Executive Scrutiny Committee consideration of any matter referred to the committee as a result of the exercise of the call in procedure
  - 3.4.15.1.4 in the case of Select Committees, responses from the Cabinet to reports of those Committees; and
  - 3.4.15.1.5 the business otherwise set out on the agenda for the meeting
- 3.4.15.2 Where the Select Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
  - 3.4.15.2.1 that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees and to contribute and speak;
  - 3.4.15.2.2 that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - 3.4.15.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 3.4.15.3 Following any investigation or review, the Select Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

### **3.4.16 Matters within the remit of more than one Select Committee**

- 3.4.16.1 Where a matter falls (either wholly or in part) within the remit of more than one Select Committee the Executive Scrutiny Committee will decide which Select Committee will assume responsibility for that item or whether there is a need for joint working, and will resolve any areas of dispute between Select Committees.
- 3.4.16.2 In cases where the Executive Scrutiny Committee determines that joint working is appropriate, the Committee assuming primary responsibility will invite the Chair (or Vice-Chair) of the Committee identified as having a particular (or secondary) interest in the item to attend meetings when the matter is being discussed.
- 3.4.16.3 Where appropriate, the Committee assuming primary responsibility will refer any subsequent reports on the item under consideration to other Select Committees having a particular (or secondary) interest, for comments. Those comments shall be incorporated into any reports to the Executive Scrutiny Committee and to Cabinet and/or Council.
- 3.4.16.4 Nothing in the above paragraphs will prevent joint meetings of Select Committees being held, to address specific issues falling within the remit of more than one Select Committee, with the agreement of the Executive Scrutiny Committee and appropriate Chairs.

### **3.4.17 Scrutiny of Reports of Chief Finance Officer and Monitoring Officer**

3.4.17.1 Where either a report by the Chief Finance Officer under s.114 of the Local Government Finance Act 1988 or Monitoring Officer under s.5 of the Local Government and Housing Act 1989 is made the Executive Scrutiny Committee may consider whether it would be appropriate to hold a short inquiry (in the form of a meeting of the Executive Scrutiny Committee) into the matter which is the subject of the report, prior to the Cabinet's consideration of it. The power to call for an enquiry in the form of a meeting of the Executive Scrutiny Committee to consider the report rests with the Committee, but is also delegated to the as the Monitoring Officer as Proper Officer, who shall require such a meeting on behalf of the Committee when so requested by any 6 Councillors (but not Cabinet members) or any two education representatives (with voting rights) in the case of education matters. Alternatively the requirement may be raised by resolution passed at a meeting of the Executive Scrutiny Committee.

3.4.17.2 For the purposes of the inquiry or meeting in connection with a Monitoring Officer or Chief Finance Officer Report, the Executive Scrutiny Committee may exercise the provisions of rule 14 of these rules regarding Councillors and Officers giving account.

### **3.4.18 Reporting on Council Meetings**

3.4.18.1 The public have the right to report on open meetings of the Executive Scrutiny Committee and Select Committees, subject to compliance with the Council's protocol for recording council meetings.

### **3.4.19 Councillor Call for Action**

3.4.19.1 Councillor Call for Action (CCfA) is a process where a Councillor can act on behalf of the residents of their Ward to resolve a local issue of concern through a mechanism utilising the scrutiny process. Councillors may use this to try to bring about specific solutions for local problems. It is designed as a 'long stop', to be used when all other attempts at resolution have failed.

3.4.19.2 This is not a substitute for other means of problem resolution. It is a means of last resort if other methods have not been successful. As such, it is expected that it will be used sparingly.

3.4.19.3 The Overview and Scrutiny Committee's objective, when considering a Councillor Call for Action, is to recommend a resolution of the issue raised

3.4.19.4 A Councillor Call for Action will only be discussed by the Executive Scrutiny Committee or Select Committee if the Committee is satisfied that:

- (i) the Councillor has made all reasonable efforts to resolve the matter via direct liaison with Council officers and /or relevant partners; and
- (ii) the issue of concern is a matter in respect of which the Council has a power or duty to deal with and which is not precluded by adopted Council policy or legislation;
- (iii) the issue of concern has a significant impact on a part or the whole of that Councillor's Ward; and
- (iv) a Councillor Call for Action form has been submitted.

3.4.19.5 A Councillor Call for Action will not be included on the Executive Scrutiny Committee and Select Committees agendas if the request relates to:



- (i) any matter relating to a planning decision;
  - (ii) any matter relating to a licensing decision; or
  - (iii) any matter relating to an individual or entity in respect of which that individual has a right of recourse to a review or right of appeal conferred
  - (iv) by or under any enactment or through the Council's Complaints procedures;
  - (v) any matter which, following the advice of the Monitoring Officer, is considered to be vexatious or discriminatory or otherwise an inappropriate subject for a Councillor Call for Action;
  - (vi) Any matter which relates to individual members of staff.
- 3.4.19.6 Rule **21(d)** does not prevent the Executive Scrutiny Committee and Select Committees from considering Councillor Calls for Action which deal with systemic failings in any of the above processes rather than the outcomes of individual cases.
- 3.4.19.7 The issue raised by the Councillor Call for Action will be the subject of a report from the relevant Officer, as designated by the Scrutiny Officer, with such supporting information and evidence as is reasonably available. If the matter also, or exclusively, entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Executive Scrutiny Committee and Select Committees to provide that information, make representations and answer questions.
- 3.4.19.8 The Councillor Call for Action will be considered by the Executive Scrutiny Committee and/or Select Committees in public, unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the [Council's Access to Information Procedure Rules](#).
- 3.4.19.9 The Councillor who raised the Call for Action will be invited to attend the meeting and may address the Executive Scrutiny Committee and Select Committees.
- 3.4.19.10 The Executive Scrutiny Committee and Select Committees may, at the Chair's discretion, consider representations from any residents of the Ward affected by the issue subject to Call for Action.
- 3.4.19.11 The Executive Scrutiny Committee and Select Committees shall, after considering the Councillor Call for Action, decide whether to accept and proceed with the Call for Action. If the Committee decides not to proceed with the Call for Action it will provide written reasons for its decision.

## PART 3.5 BUDGET, POLICY AND FINANCIAL PROCEDURE RULES

The full Council is responsible for the adoption of the Budget and Medium Term Financial Plan (“MTFP”), following recommendations from the Cabinet. The Budget and MTFP support the Council’s Policy Framework as set out in Section 2.3 of the Constitution.

3.5.1.2 Cabinet will recommend to Council proposals to amend and extend the approved budget/ MTFP and investment strategies including tax, rent, Treasury Management and capital programme. The proposals may include provisions relating to Managed Surpluses (MS) (unspent resource allocations) and Managed Commitments (MC) (temporary utilisation of future years resource allocations).

3.5.1.3 In developing such proposals the Cabinet will have regard to:

- Council policy framework
- Capital Strategy and Asset Management Plan
- Statutory requirements
- Inspection findings and recommendations
- Working Balances and the level of reserves
- Select Committee resource reviews, findings and recommendations
- Known and Contingent Liabilities

3.5.1.4 The Council must either approve the proposed budget/MTFP or amend the proposed budget/ MTFP prior to the appropriate statutory deadline. Where the Council proposes to amend or change the recommended budget/MTFP it must ensure that the revised budget/MTFP is balanced and resourced.

3.5.1.5 Where the Council has any objections to the amounts, estimates or draft budget/MTFP (either in whole or in part), then before amending, approving or adopting it, the Council must inform the Leader of its objections and give him/her the opportunity for the Cabinet to reconsider the estimates or draft plan/strategy in the light of those objections within a specified period.

3.5.1.6 Within the period specified by the Council (which must be at least 5 working days), the Leader may:

- submit to the Council for consideration a revised draft, estimates or amounts with the Cabinet’s reasons for any amendments or;
- inform the Council of any disagreement the Cabinet has with any of the Council’s objections and the Executive’s reasons for such disagreement.

3.5.1.8 If the Leader, on behalf of the Cabinet, submits such an objection in writing to the Proper Officer before the expiry of the specified period, the Council must meet as soon as practicably possible (but before the statutory deadline) to reconsider the matter. When reconsidering the matter, the Council can either agree with the Cabinet’s original proposals or any revised proposals referred to in the written objection, or it can insist upon its proposed changes or amendments by means of a simple majority of the Councillors present and voting.

3.5.1.9 If the Leader does not submit an objection in writing within the specified period, the Council’s proposed amendments or changes to the recommended budget/MTFP will take effect at the end of that period. In all circumstances any reconsideration by Cabinet and the subsequent determination by Council

must take place within the statutory deadline. The decision shall be made public and shall be implemented immediately.

3.5.1.10 Where before the 8th February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

3.5.1.11.1 estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992;

3.5.1.11.2 estimates of other amounts to be used for the purposes of such a calculation;

3.5.1.11.3 estimates of such a calculation; or

3.5.1.11.4 amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out below.

3.5.1.12 Before the Council makes a calculation (whether originally or by way of substitution) in accordance with any of the sections referred to in the preceding paragraph, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to Cabinet's estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

3.5.1.13 Where the Council gives instructions in accordance with the preceding paragraph, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

3.5.1.13.1 submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

3.5.1.13.2 inform the Council of any disagreement that the cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

3.5.1.14 When the period specified by the Council, referred to in the preceding paragraph, has expired, the Council must, when making calculations (whether originally or by way of substitution) in accordance with the sections referred to above or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

3.5.1.14.1 any amendments to the estimates or amounts that are included in any revised estimates or amounts;

3.5.1.14.2 the Cabinet's reasons for those amendments;

3.5.1.14.3 any disagreement that the Cabinet has with any of the Council's objections; and

3.5.1.15.4 the Cabinet's reasons for that disagreement,

which the Leader submitted to the Council or informed the Council of, within the period specified.

Sub-paragraph (b) to (e) shall not apply in relation to:-

(i) calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

(ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

### **3.5.2 MANAGEMENT OF BUDGET/MTFP**

3.5.2.1 The Cabinet and, where authority is delegated to them to do so, Officers may authorise expenditure included within the approved budget/MTFP.

3.5.2.2 Financial management of the Capital Programme will be undertaken in accordance with the approved Capital Programme Management arrangements.

3.5.2.3 Council approval will be required for all new capital schemes or acquisitions or developments which require the use of prudential borrowing that is outside the budget.

### **3.5.3 MONITORING OF BUDGET AND MTFP**

3.5.3.1 Cabinet will monitor the budget/MTFP and ensure its delivery and shall make recommendations to Council where amendments are deemed appropriate or necessary

### **3.5.4 MOTION IN COUNCIL INVOLVING INCREASED EXPENDITURE**

3.5.4.1 When a motion or amendment is proposed at a Council meeting, other than as a result of a recommendation or report from the Cabinet, and the motion or amendment would either involve expenditure not provided for in the budget/MTFP, or a reduction in income anticipated by the budget/MTFP, and the motion does not identify from where the required additional funding or equivalent amount of income can be provided, then the motion, or amendment, if seconded and after the appropriate Cabinet Councillor has commented upon it, must be referred without discussion to the Cabinet for consideration, prior to its reconsideration by Council.

### **3.5.5 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

3.5.5.1 The Cabinet and any Officers or joint arrangements discharging executive functions may only take decisions which are in line with the budget/MTFP and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to the

budget/MTFP approved by full Council, then that decision may only be taken by the Council.

- 3.5.5.1 If the Cabinet, any Officers or joint arrangements discharging executive functions wish to make such a decision, they shall take advice from the Monitoring Officer as to whether the decision they would like to make would be contrary to the policy framework, and/or advice from the Chief Finance Officer as to whether any such decision would be contrary to the budget/MTFP. If the advice of either of those Officers is that the decision would not be in line with the existing budget/MTFP or the policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 3.2.4 of the Cabinet Procedure Rules shall apply.

### **3.5.6 URGENT DECISIONS OUTSIDE THE BUDGET/MTFP OR POLICY FRAMEWORK**

- 3.5.6.1 The Cabinet, Officers or decision-makers/decision making bodies under joint arrangements discharging executive functions, may take a decision which is contrary to the Council's policy framework or contrary to the budget/MTFP approved by full Council if the decision is a matter of urgency. A decision will be urgent if any delay would seriously prejudice the Council's or the public's interests. However, the decision may only be taken:

- 3.5.6.1.1 if the Leader and/or Deputy Leader have been consulted where the decision is to be taken by the Chief Executive and/or Chief Officers; and
- 3.5.6.1.2 if it is not reasonably practical to convene a quorate meeting of the full Council in order to enable the matter to be considered urgently at such a meeting; and
- 3.5.6.1.3 if the Chair of the Executive Scrutiny Committee agrees that the decision is a matter of urgency.

In the absence of the Chair of the Executive Scrutiny Committee, or if that person is unable to act, the consent of the Mayor, or in the absence of the Mayor, the consent of the Deputy Mayor will be sufficient.

- 3.5.6.2 The reasons why it is not reasonably practical to convene a quorate meeting of full Council and the Chair of the Executive Scrutiny Committee's consent to the decision being taken as a matter of urgency, or such other consent as may have been obtained in this respect, must be noted in the minutes of the meeting or on the record of the decision and notice by which it is made public.
- 3.5.6.3 Where such a decision is taken collectively, it must be taken in public, save insofar as exempt or confidential information is involved. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision maker or body, the decision is an urgent one and, therefore, not subject to call-in. Decisions referred to in Rule 3.3.14 of the Cabinet Procedure Rules must also be reported to the Council by the Leader of the Council and in the case of a decision referred to in paragraph 3.5.5 or 3.5.6.1 above to the next available meeting of the Council, explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- 3.5.6.4 In each case referred to in under Rule 3.3.15 of the Cabinet Procedure Rules and paragraph 3.5.5 or 3.5.6.1 above the agreement or consent to be obtained, is agreement or consent to the taking of the decision urgently, and is not in any way to be construed as a requirement to obtain agreement or

consent to the merits of the decision itself. If the relevant person does not, however, agree that the decision may reasonably be regarded as urgent in the circumstances, then the decision cannot be taken without five prior clear working days' notice having elapsed or the matter being referred to the full Council for determination in the case of decisions contrary to the policy framework or the budget/MTFP.

- 3.5.6.5 The provisions relating to the call-in of decisions will not apply to urgent decisions taken in accordance with this Rule.

### **3.5.7 CALL-IN OF DECISIONS OUTSIDE THE BUDGET/MTFP OR POLICY FRAMEWORK**

- 3.5.7.1 Where the Executive Scrutiny Committee considers that a Cabinet, Officer or executive joint arrangement decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget/MTFP, then the Committee will seek advice from the Monitoring Officer regarding decisions considered to be contrary to the policy framework and from the Chief Finance officer in respect of decisions considered to be contrary to the budget/MTFP, and the provisions of 3.4.13 of the Executive Scrutiny and Select Committee Procedure Rules shall apply to all such decisions.

## **PART 3.6 FINANCIAL REGULATIONS**

- 3.6.1 The Directors are responsible for the management and control of the revenue budgets, resources, assets and capital programme schemes allocated to them by the Council.

- 3.6.2 Directors are allowed to vire within revenue allocations within their own service directorate and capital schemes.

- 3.6.3 Virement is not allowed between:

- Ringfenced Accounts or Statutory Accounts (E.g. Collection Fund)
- Statutory Funds
- Charges for the use of assets or repayment of debt

Virement between Directorates should be approved by Directors in consultation with relevant Cabinet Members. Virement between capital schemes must be approved by Cabinet.

- 3.6.4 After consultation with the Section 151 Officer Cabinet will be notified of:

- any significant capital/revenue departure (anticipated or actual) from the approved budget/ Medium Term Financial Plan (MTFP).
- the final position for all Capital schemes.

- 3.6.5 Subject to the provisions of Part 2 of the Constitution, the responsibility for agreeing the budget and policy framework lies with the Council, and decisions by Cabinet or officers with delegated authority, or under executive joint arrangements, must be in line with the approved framework. No changes to any policy or strategy which make up the approved policy framework may be made by Cabinet or by Officer with delegated authority, except changes:

- 3.6.5.1 necessary to ensure compliance with the law, ministerial direction or government guidance.

- 3.6.5.2 in relation to a policy which, although it would normally be approved annually by the Council following consultation, is silent on the matter under consideration.
- 3.6.5.3 which relate to schools, where the majority of the relevant schools forum agrees with the proposed change.
- 3.6.8. The Section 151 Officer will:
  - 3.6.8.1 continuously review the financial management needs of the Authority and, following consultation with Directors, develop, implement and maintain such systems as are required to ensure sound financial management and systems of control.
  - 3.6.8.2 on behalf of the Council, have responsibility for the corporate financial information systems of the Authority and provide appropriate information to Cabinet and Council and Service Directors on the progress of the Authority's performance against financial plans.
  - 3.6.8.3 establish the accounting instructions and procedures to be operated within the Authority to ensure that the Council's financial affairs are properly administered.
  - 3.6.8.4 ensure that the financial affairs of the Authority and its corporate financial systems are subject to audit, and, to this end, will carry out an internal audit of the financial transactions of the Council, in each Department, for which purpose the Section 151 Officer and Internal Audit Manager will have authority to visit all Departments of the Council and have access to all records appertaining to the finances of the Council, and will be entitled to require such explanations as he considers reasonably necessary to satisfy him/herself of the correctness of any matter under examination. Access to confidential information by Internal Audit is subject to approval by the Director of Finance & Business Support and, where appropriate, in consultation with the Section 151 Officer and the Monitoring Officer and the relevant Service Director.
  - 3.6.8.5 have responsibility for changes to any corporate financial system or procedure which may be adopted by the Council.
  - 3.6.8.6 ensure that treasury management activities are undertaken in accordance with the four key principles of the CIPFA Code of Practice "Treasury Management in the Public Services", which the Council adopts in its Treasury Management Policy Statement and the Accounts and Audit Regulations 2015.
- 3.6.9 Each Director shall:
  - 3.6.9.1 ensure that all his/her staff immediately notify him/her of any suspected or apparent irregularity affecting cash, stores, or other property of the Council, and the Service Director shall immediately bring such matters to the notice of the Section 151 Officer .
  - 3.6.9.2 bring to the notice of the Section 151 Officer all insurable risks whether to property or otherwise arising from the carrying out of the relevant Department's function and any claims, potential claims or circumstances which could give rise to a claim.

- 3.6.9.3 write-off individual bad debts under their control with a value:
- of up to £50,000 after consultation with the Monitoring Officer and Section 151 Officer; and
  - in excess of £50,000, after approval by Cabinet
- Where debts have already been charged to the bad debt provision they are included within the approved budget/MTFP and may be written off with the agreement of the Monitoring Officer and Section 151 Officer.
- 3.6.9.4 bring to the notice of the Section 151 Officer all bids for external funding prior to the bid being formally submitted.
- 3.6.9.5 Ensure that arrangements are in place within their directorate to ensure that officers comply with the Council's financial controls and accounting instructions.

## **PART 3.7 CONTRACT PROCEDURE RULES**

### **The Council's rules for procuring works, supplies or services**

#### **Section Description**

- 3.7.1 Introduction
- 3.7.2 Interpretation and Definitions
- 3.7.3 Scope of the Contract Procedure Rules
- 3.7.4 Exempt Contracts
- 3.7.5 Exceptions to the Contract Procedure Rules
- 3.7.6 Compliance
- 3.7.7 Responsibilities
- 3.7.8 Collaborative or Joint Procurement Arrangements
- 3.7.9 Steps Prior to Advertising
- 3.7.10 Estimating Contract Values/Aggregation
- 3.7.11 Choice of Procedure, Thresholds and Advertising Requirements
- 3.7.12 Value for Money
- 3.7.13 Quotation Procedures
- 3.7.14 Tender Procedures
- 3.7.15 Pre-Qualification
- 3.7.16 Invitation to Tender
- 3.7.17 Submission of Tenders, Quotations, Framework or Dynamic Purchasing System Bids
- 3.7.18 Opening of Tenders, Quotations, Framework or Dynamic Purchasing System Bids
- 3.7.19 Amending Tenders, Quotations, Framework or Dynamic Purchasing System Bids Errors
- 3.7.20 Evaluation of Tenders, Quotations, Framework or Dynamic Purchasing System Bids
- 3.7.21 Negotiations and Supplementary Information
- 3.7.22 Acceptance of Tenders, Quotations, Framework or Dynamic Purchasing System Bids
- 3.7.23 Standstill Period
- 3.7.24 Contract Award Notice
- 3.7.25 Contract Terms and Conditions
- 3.7.26 Keeping Written Records of Tenders and Tenders for the establishment of Framework Agreements or Dynamic Purchasing Systems (over the relevant OJEU Threshold)
- 3.7.27 Documentation of progress and Decisions
- 3.7.28 Contracts Register
- 3.7.29 Contract / Performance Monitoring



- 3.7.30 Nominated Contractors and Sub-Contractors
- 3.7.31 Contract Extensions
- 3.7.32 Contract Variations
- 3.7.33 Termination
- 3.7.34 Breaches of Contract Procedure Rules

### **3.7.1 Introduction**

- 3.7.1.1 Procurement is defined as *‘the process of acquiring works, supplies or services from third parties. The process spans the whole cycle from identification of needs, through to the end of a service contract or the end of the useful life of an asset. It involves options appraisal and the critical “make or buy” decision, which may result in the provision of services in-house in appropriate circumstances.’*
- 3.7.1.2 These Contract Procedure Rules cover the processes to be followed for all purchasing, licensing, leasing, contracting, commercial partnering or commissioning of works, supplies or services from third parties.
- 3.7.1.3 Good procurement depends on ensuring that requirements are reliably determined, appropriate sourcing strategies are developed and contracts are well managed. Failure to procure in this way can result in additional costs and put the achievement of the Council’s strategic priorities at risk.
- 3.7.1.4 These Contract Procedure Rules are intended to:
  - a) secure the best value for the Council;
  - b) provide those involved in spending public money, with clear and transparent procedural requirements to complement existing professional skills, integrity and commitment and to protect officers (and the Council) from legal challenge;
  - c) ensure fairness to those seeking to contract with the Council;
  - d) prevent fraud and corruption or the suspicion of it; and
  - e) ensure the Council operates within the law.

### **3.7.2 Interpretation and Definitions**

- 3.7.2.1 "Third party" for the purposes of these Contract Procedure Rules means any economic operator, a works third party, a supplier, a services provider, a consultant, a firm, a company, a partnership or an individual.
- 3.7.2.2 "EU Regulation" means the Public Contracts Regulations 2015 (Statutory Instrument 2015 No. 102) or the Concessions Regulations 2019 (Statutory Instrument 2016 no.273) or similar.
- 3.7.2.3 "EU Threshold" means the threshold prescribed in Regulation 5 of the Public Contracts Regulations 2015.
- 3.7.2.4 "OJEU" means the Official Journal of the European Union.
- 3.7.2.5 "Framework Agreement" means an agreement that allows purchasers to order supplies, services or works under the terms and conditions specified in

the framework (i.e. it provides a mechanism for calling off orders as and when required).

- 3.7.2.6 “Dynamic Purchasing System” means an agreement that allows purchasers to order supplies, services or works under the terms and conditions specified in the dynamic purchasing system. Additional third parties can apply to join the dynamic purchasing system at any time and shall be accepted onto the dynamic purchasing system if they meet selection criteria.
- 3.7.2.7 Where the context so admits and requires, references to the masculine shall include all other genders, and references to the singular shall include the plural and vice versa.
- 3.7.2.8 For the avoidance of doubt, where any of these Contract Procurement Rules conflict with a statutory provision, the statutory provision shall prevail and these Contract Procedure Rules shall be construed accordingly.
- 3.7.2.9 Reference to statutes shall be deemed to include references to any Regulations made there under.

### **3.7.3 Scope of the Contract Procedure Rules**

- 3.7.3.1 These Contract Procedure Rules apply to all procurement for the provision of works, supplies or services or concessions by or from third parties.
- 3.7.3.2 A Public Works, Supply or Services contract is any agreement to provide works, supplies or services in exchange for payment or any other consideration whatever the nature.

### **3.7.4 Exempt Contracts**

- 3.7.4.1 The following contracts are exempt from the requirements of these Contract Procedure Rules:
- a) employment contracts;
  - b) contracts relating solely to disposal or acquisition of an interest in land;
  - c) contracts for legal advice or representation or medical advice, or other expert advice required in the context of actual or potential litigation which the Director of HR, Legal and Communications considers it necessary to obtain;

### **3.7.5 Exceptions to the Contract Procedure Rules**

- 3.7.5.1 No exception from any of these Contract Procedure Rules shall be made unless:
- (a) The exception is listed in paragraph 3.7.5.4 below and with the written approval of the s.151 Officer. The exception must be recorded on an Officer Decision form; and
  - (b) The procedure in paragraph 3.7.5.2 is followed.
- 3.7.5.2 Where an officer wishes to apply any exception to these Contract Procedure Rules not listed in paragraph 5.4, s/he must first seek the prior written approval of the Director of HR, Legal and Communications and the Director of Finance and Business Services. The exception must be recorded on an Officer Decision form.

3.7.5.3 Where procurement exceeds the EU thresholds the exemptions set out in paragraph 3.7.5.2 or 3.7.5.4 shall not be permitted. Advice must be sought from the Director of HR, Legal and Communications.

3.7.5.4 Subject to the obtaining of all necessary approvals, Rules 12 to 21 need not be applied to the following categories of procurement.

- a) Procurement by auction (excluding electronic reverse auctions);
- b) Procurement when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular third party;
- c) The execution of mandatory works and services by statutory undertakers;
- d) Provision of personal social services including contracts for the provision of residential care and community support packages which form an alternative to residential care;
- e) Urgency, when (but only if it is strictly necessary) the time required to fully comply with these Contract Procedure Rules would be prejudicial to the Council's interests;
- f) Procurement of works, supplies or services needed to meet the requirements of individual contracts that have been won by in-house services, as a result of a competitive tendering process;
- g) Procurement of works, supplies or services needed to meet the requirements of individual contracts that are used for pilot projects;
- h) Procurement of services where the contract length cannot reasonably be determined due to funding uncertainty and the contract is thus deemed temporary in nature;
- i) In the event of a civil emergency or disaster.

In all the above cases, the exception is restricted to those elements of these Contract Procedure Rules that could not reasonably be applied.

### **3.7.6 Compliance**

3.7.6.1 All procurement shall comply with:

- a) all applicable statutory provisions;
- b) the applicable European Union procurement rules (including the EC Treaty, the general principles of community law and the European Union's public procurement directives implemented by the Public Contract Regulations 2015);
- c) the Council's Constitution including these Contract Procedure Rules, the Accounting Instructions and the Scheme of Delegation;

3.7.6.2 A failure to comply with any of the provisions of these Contract Procedure Rules by any officer may amount to misconduct, which can result in disciplinary action being taken.

3.7.6.3 Councillors and officers are required to apply the highest standards of probity at all stages of a procurement process. Councillors and officers are, in particular, reminded of their responsibilities in relation to gifts and hospitality and must comply with the applicable Code of Conduct as set out at Part 4 of the Constitution.

3.7.6.4 Chief Officers are responsible for ensuring that employees, agency workers, consultants and agents comply with these Contract Procedure Rules.

- 3.7.6.5 Chief Officers and managers must ensure that any local procedures produced within their services are fully compliant with these Contract Procedure Rules.

### **3.7.7 Responsibilities**

#### **3.7.7.1 Director of Finance and Business Services**

3.7.7.1.1 The Director of Finance and Business Services has responsibility for the development and implementation of the Contract Procedure Rules and Accounting Instructions.

3.7.7.1.2 The Director of Finance and Business Services will organise and manage corporate contracts (including framework agreements) for supplies or services commonly used by all or most services.

#### **3.7.7.2 Director of HR, Legal and Communications**

3.7.7.2.1 The Director of HR, Legal and Communications is responsible for advising on the lawfulness of any decisions taken in respect of the Council's procurement activities.

#### **3.7.7.3 Chief Officers**

3.7.7.3.1 Chief Officers are to keep all services / activities under review, having regard to ongoing viability, national and local benchmarking data and intelligence from 'soft' market testing. Senior Managers need to consider whether other methods of service delivery should be assessed and if appropriate implemented.

3.7.7.3.2 Senior Managers are responsible for:

- a) the lawfulness of service specific procurement including the consideration of framework agreements and the development of specifications in accordance with these Contract Procedure Rules. In doing so they shall have regard to any advice provided by the Director of Finance and Business Services and Director of HR, Legal and Communications;
- b) commissioning services (i.e. drawing down services within the conditions of a contract);
- c) contract management procedures including placing purchase orders in line with the Accounting Instructions;
- d) maintaining within their Scheme of Delegation a list of those officers who are empowered to undertake procurement;
- e) ensuring that all those officers delegated to undertake procurement within their Service Groups are suitably qualified or experienced;
- f) ensuring that where consultants or agency staff are undertaking procurement on their behalf that they make them aware of the requirements of Contract Procedure Rules and ensure their compliance;
- g) keeping complete records of all procurements;
- h) Ensuring compliance with the adopted process for major procurements (i.e. the procedure for procurements equal to or in excess of the relevant threshold);

- i) Ensuring where corporate contracts exist, or commitment has been given for the Council to participate in a consortium contract, the arrangements are adhered to, except in exceptional circumstances, which shall be documented and approved by the Director of Finance and Business Services;
- j) compliance with and use of all corporate contracts and framework agreements let by the Council or pursuant to administrative arrangements agreed by the Council (e.g. NEPO), unless specifically agreed by the Director of Finance and Business Services.
- k) having due regard to Council policies on social value in undertaking procurement activities.
- m) ensuring the corporate contract register is kept up to date.

#### 3.7.7.4 **Delegated Authority**

- 3.7.7.4.1 Any procurement carried out on behalf of the Council may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's scheme of delegation contained in Part 2 of the Council's Constitution.
- 3.7.7.4.2 Officers with delegated authority to carry out a procurement task may only delegate to other Officers who have suitable experience and seniority. Officers shall be informed by their relevant Senior Managers as to the extent of any delegated authority for each procurement.

#### 3.7.7.5 **Personal Responsibilities**

- 3.7.7.5.1 Any officer undertaking procurement (i.e. contracting for works, supplies or services) should inform him/herself of the Council's requirements under these Contract Procedure Rules and corresponding Accounting Instructions. If an officer is in any doubt as to their obligations, then they must seek advice from the Director of Finance and Business Services or Director of HR, Legal and Communications as appropriate.
- 3.7.7.5.2 Officers should not undertake procurements unless they have the necessary knowledge and skills to do so. All officers must comply with the requirements of the Council's Employees Code of Conduct and in particular declare to their line manager any interest, which could, or be seen to, influence their judgement in any procurement or contract matters.
- 3.7.7.5.3 All officers must report to their manager, supervisor or other responsible senior officer any illegality, impropriety, breach of procedure or serious deficiency in procurement practices. Employees are able to do this without fear of recrimination providing they act in good faith via the Council's Whistle blowing Policy. In such circumstances nominated officers must record and investigate such reports and take appropriate action, including referral to the Director of Finance and Business Services in more serious cases.

### **3.7.8 Collaborative or joint procurement arrangements**

- 3.7.8.1 Where the Council acts as the lead or host authority in any collaborative or joint procurement or through a partnership arrangement these Contract Procedure Rules will apply taking into account the aggregated value of the collaborative or joint procurement arrangements, unless otherwise agreed by Cabinet.
- 3.7.8.2 Where the Council decides that a third party will undertake procurement on its behalf the Senior Manager shall ensure that the procurement process followed is comparable to that set out in these Contract Procurement Procedure Rules, unless otherwise agreed by the Director of HR and Communications.
- 3.7.8.3 The Director of HR, Legal and Communications shall approve the governance of any collaborative or joint procurement arrangement prior to it being entered into.

### **3.7.9. Steps Prior to Advertising**

- 3.7.9.1 Before advertising any procurement, the officer responsible must:
- a) establish a business case for the procurement;
  - b) consider the most appropriate means of satisfying the requirement;
  - c) ensure that no alternative framework procurement arrangements are in place;
  - d) ensure the course of action chosen represents Value for Money to the Council;
  - e) consider how what is to be procured may improve social, environmental and economic well-being of the relevant area, how they might secure any such improvement and to consider the need to consult accordance with the Public Services (Social Value) Act 2012
  - f) where applicable consult with users of the service;
  - g) ensure that the budget holder responsible for the contract has sufficient funds in place to maintain the contract;
  - h) establish a clear written specification for the procurement requirement;
  - i) establish written evaluation criteria for the procurement;
  - j) identify whether the Transfer of Undertaking (Protection of Employment) Regulations (TUPE) apply in order that these issues are managed correctly in accordance with the procedures where any employee either of the Council or of a Contractor may be affected by the procurement
  - k) assess the risks associated with the procurement;
  - l) comply with the corporate procurement process where the value of the procurement is equal to or exceeds those thresholds identified in section [3.7.11.1](#).

### **3.7.10. Estimating Contract Values / Aggregation**

- 3.7.10.1 Where there is a reference to the value of any contract or transaction, it shall mean its total estimated value net of VAT over the entire term of the contract, including all options, permitted extensions and variations. Where a contract does not include a total price the estimated value will be the amount of the consideration payable each month multiplied by 48.

3.7.10.2 Senior Managers shall have regard to the optimum packaging of works, supplies or services, particularly works, supplies or services of a similar nature, which are likely to be carried out in connection with a particular project necessary to achieve value for money. A proposed contract must not be divided into separate lower value contracts or multiple orders placed to avoid the full application of these Contract Procedure Rules, which would otherwise apply.

### 3.7.11. Choice of Procedure, Thresholds and Advertising Requirements

Category	Contract Value	Procurement Process	Contract Opportunity Advertising	
			OJEU	Contract Finder
<b>Supplies and Services (general)</b>	< £15,000	Value for Money or call off from an existing framework agreement/ dynamic purchasing system (dps)	No	No
	£15,001 to OJEU Supplies & Services Threshold (currently £181,302)	Quotation or call off from an existing framework agreement/ dps	No	No
	Over the OJEU Supplies & Services Threshold (currently £181,302)	Tender or call off from an existing framework agreement/ dps	Yes (unless call off)	Yes within 24 hours of publishing on OJEU (unless call off)
<b>Social and Other Specific Services (Light Touch Regime)</b>	< £15,000	Value for Money or call off from an existing framework agreement/ dps	No	No
	£15,001 to OJEU Supplies & Services Threshold (currently £181,302)	Quotation or call off from an existing framework agreement/ dps	No	No
	£181,302 to OJEU Light Touch Regime Threshold (currently £615,278)	Tender or call off from an existing framework agreement/ dps	No	Yes unless call off
	Over the OJEU Light Touch Regime Threshold	Tender or call off from an existing	Yes (unless call off)	Yes within 24 hours of publishing on

	(currently £615,278)	framework agreement/ dps		OJEU (unless call off)
<b>Works</b>	< £15,000	Value for Money or call off from an existing framework agreement/ dps	No	No
	£15,001 to £1,000,000)	Quotation or call off from an existing framework agreement/ dps	No	No
	£1,000,001 to OJEU Works Threshold (currently £4,551,413)	Tender or call off from an existing framework agreement/ dps	No	Yes unless call off
	Over the OJEU Works Threshold (currently £4,551,413)	Tender or call off from an existing framework agreement/ dps	Yes (unless call off)	Yes within 24 hours of publishing on OJEU (unless call off)

### 3.7.12. Value for Money

- 3.7.12.1 Existing Framework Agreements or Dynamic Purchasing Systems let by the Council or another Third Party that covers the scope of the procurement shall be used were they are available.
- 3.7.12.2 A Senior Manager may procure works, supplies or services up to a value of less than £15,000 providing that s/he can objectively demonstrate value for money and s/he has considered the use of competition.

### 3.7.13. Quotation Procedures

- 3.7.13.1 Where the supply of works, supplies or services is such that an existing in-house provision could be reasonably extended to include it, then the in-house provider must be offered the work.
- 3.7.13.2 Existing Framework Agreements or Dynamic Purchasing Systems let by the Council or other Third Party that cover the scope of the procurement shall be used were they are available.
- 3.7.13.3 If neither section 3.7.13.1 nor 3.7.12.2 applies, Chief Officers shall where reasonably practicable invite and consider at least four written relevant quotations from suitable third parties, at least two of which shall be sought from local businesses located within the Tees Valley area and two from businesses randomly selected using the e-quotation system if necessary.
- 3.7.13.4 If quotations are received and the value exceeds the tender threshold, the quotes shall be treated in the same manner as acceptance of tenders as per Rule 22.



### **3.7.14. Tender Procedures**

#### **3.7.14.1 Open Procedure**

3.7.14.1.1 The Open procedure means a tender procedure leading to the award of a contract whereby all interested persons may tender for the contract.

3.7.14.1.2 Tender documentation shall be sent to all persons who apply prior to the tender closing date.

#### **3.7.14.2 Restricted Procedure**

3.7.14.2.1 The Restricted Procedure means a tender procedure leading to the award of a contract whereby only persons pre-qualified by the Council may submit tenders for the contract (see Rule 15).

3.7.14.2.2 Officers should select not less than five companies or individuals to be invited to tender.

#### **3.7.14.3 Competitive Dialogue Procedure**

3.7.14.3.1 Competitive Dialogue Procedure means a procedure in which any third party may make a request to participate, and whereby the Council conducts a dialogue with each third party admitted to that procedure with the aim of developing one or more suitable alternative solutions capable of meeting its requirements and on the basis of which the third parties chosen by the Council are invited to tender.

3.7.14.3.2 The Competitive Dialogue Procedure may only be used in the award of contracts, which are in the opinion of the Director of HR, Legal and Communications complex contracts and where there is a need for the Council to discuss all aspects of the proposed contract with candidates. This procedure may only be used in exceptional circumstances and must be agreed by the Director of HR, Legal and Communications and Director of Finance and Business Services. Such dialogue is not permitted under open and restricted procedures.

#### **3.7.14.4 Competitive Procedure with Negotiation**

3.7.14.4.1 Competitive Procedure with Negotiation means a procedure leading to the award of a contract whereby the contracting authority negotiates the terms of the contract with one or more third parties selected by it.

3.7.14.4.2 This procedure may only be used in very exceptional circumstances and must be agreed by the Director of HR, Legal and Communications and Director of Finance and Business Services.

#### **3.7.14.5 Innovation Partnership**

3.7.14.5.1 Innovation Partnership means a procedure leading to the award of contract whereby the contracting authority conducts a

dialogue with each third party admitted to that procedure with the aim of developing one or more suitable alternative solutions capable of meeting its requirements for both the development and subsequent purchase of a product/ service not already available on the market.

- 3.7.14.5.2 This procedure may only be used in very exceptional circumstances and must be agreed by the Director of HR, Legal and Communications and Director of Finance and Business Services.
- 3.7.14.6 Social and Other Specific Services (Light Touch Regime)
  - 3.7.14.6.1 Social and Other Specific Services means those services listed in Schedule 3 of the EU Regulations. Senior Managers shall use one of the existing procedures listed in Section 14 or develop a bespoke procedure in consultation with the Director of Finance and Business Services and the Director of HR, Legal and Communications.
- 3.7.14.7 Contracting Techniques
  - 3.7.14.7.1 Framework Agreements let by the Council
    - (a) Senior Managers shall maintain Framework Agreements with a range of third parties for works, supplies or services. The third parties on these Agreements have already been appointed and as such can be chosen, without advert, to supply quotations or tenders.
    - (b) Any Framework Agreement shall be tendered in accordance with these Procedure Rules.
  - 3.7.14.7.2 Dynamic Purchasing Systems
    - (a) Senior Managers shall maintain Dynamic Purchasing Systems with a range of third parties for works, supplies or services. Third parties on these systems have already been appointed and as such can be chosen, without advert, to supply quotations or tenders.
    - (b) Additional third parties may join the Dynamic Purchasing System at any time provided they meet the selection criteria.
    - (c) Any Dynamic Purchasing System shall be tendered in accordance with these Procedure Rules
- 3.7.14.8 Preliminary Market Engagement
  - 3.7.14.8.1 Before commencing a quotation or tender procedure, a Senior Managers may conduct market consultations with a view to preparing the quotation/ tender and informing third parties of their plans and requirements.
  - 3.7.14.8.2 Information and advice received may only be used in the planning and conduct of the quotation or tender procedure, provided that it does not have the effect of distorting competition

and does not violate the principles of non-discrimination and transparency.

### **3.7.15. Pre – Qualification or Selection**

- 3.7.15.1 The Crown Commercial Services (CCS) standard Selection Questionnaire (“SQ”) must be provided to all third parties requesting to participate, which shall be used to determine the third party’s eligibility, financial standing and technical capacity.
- 3.7.15.2 The Council shall treat as ineligible and shall not select any third party who has been convicted of any of the offences set out in Regulation 57 of the Public Contracts Regulations 2015.
- 3.7.15.3 A Senior Managers shall only agree to the selection of a third party once s/he is objectively satisfied as to the third party’s:
- a) eligibility;
  - b) suitability to pursue a professional activity
  - b) economic and financial standing;
  - c) technical or professional ability.

### **3.7.16. Invitation to Tender**

- 3.7.16.1 The Invitation to Tender (or Participate in Dialogue, Competitive Procedure with Negotiation or Innovation Partnership) shall include details of the Council’s requirements for the particular contract including:
- a) a description of the works, supplies or services;
  - b) the rules and instructions for submitting of tenders including the tender return date and time;
  - c) a specification/ brief;
  - d) a statement as to whether any variants to the specification are permissible;
  - e) the Council’s standard terms and conditions applicable to the contract;
  - f) a statement as to whether the tender will be evaluated by lowest price or Most Economically Advantageous Tender (MEAT)
  - g) for tenders evaluated by MEAT, the evaluation criteria including applicable weightings and or sub-criteria;
  - h) pricing schedule and instructions for completion;
  - i) a statement as to whether in the Council’s view TUPE will apply;
  - j) instructions for the completion and content of any method statement;
  - k) the period which the Council requires that the tender offer shall remain open;
  - l) a statement that the Council does not bind itself to accept the lowest or any tender;
  - m) the Council’s requirements in respect of any bond, parent company guarantee or liquidated damages;
  - n) the Council’s requirements in respect of insurance and indemnity;
  - o) a statement that no tender will be considered unless it complies with the requirements set out in the invitation to tender;
  - p) a statement setting out how the Freedom of Information Act will apply to the tender.
- 3.7.16.2 Where an appropriate International Standard or Code of Practice is current at the date of the tender, every contract shall require that all supplies, and where appropriate all workmanship, shall be in accordance with that Standard, or a

Standard recognised by another Council or State of the European Union or an International Standard offering equivalent guarantees of safety, fitness for purpose, and reliability. Where there are no European Standards or Codes of Practice, British Standards or Codes of Practice should be specified.

3.7.16.3 All tenders shall be issued on the Council's standard tender documentation.

### **3.7.17 Submission of Tenders, Quotations, Framework or Dynamic Purchasing System Bids**

3.7.17.1 Tenders, Quotations, Framework or Dynamic Purchasing System Bids shall comply and be submitted in accordance with the rules and instructions set out in either the respective invitation to tender, invitation to submit a quotation or invitation to bid.

3.7.17.2 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 Business Services agrees (in exceptional circumstances) that postal / hard copy tenders may be used.

3.7.17.3 Electronic Tenders submitted are kept in a separate secure system under the control of the Director of HR, Legal and Communications which is not opened until the deadline has passed for receipt of Tenders.

3.7.17.4 Use of the Council's e-procurement System ensures

3.7.17.4.1 that tenders and quotations will only be available for the submission up to the stated time and date.

3.7.17.4.2 the date and time of each Tender or Quotation received will be fully auditable and automatically recorded.

3.7.17.5 Where in exceptional circumstances tenders are submitted as postal / hard copy, the tender documents must be submitted in a plain sealed envelope which shall bear the word "tender" followed by the subject to which it relates and addressed to the Director of HR, Legal and Communications, but shall not bear any name or mark indicating the sender. Such envelopes shall remain in the secure custody of the Director of HR, Legal and Communications until the appointed time for their opening.

3.7.17.6 No tenders received / submitted after the specified date and time for their receipt shall be considered.

### **3.7.18 Opening of Tenders, Quotations, Framework or Dynamic Purchasing System Bids**

3.7.18.1 Quotations for a particular contract shall be opened at one time and in the presence of at least two authorised Officers

3.7.18.2 Tenders (and framework and dynamic purchasing system bids valued in excess of the tender threshold) for a particular contract shall be opened at one time and only in the presence of a member of the Council and the Deputy Chief Executive or any officer designated by him. The Deputy Chief Executive shall keep a Register of Tenders opened. The Register of Tenders shall include the names of tenderers, the date and time of opening.

3.7.18.3 The Councillor and officer in whose presence tenders are opened shall initial the Register, and any summary page of the tender.

- 3.7.18.4 Officers who have been involved in preparing an in-house bid for a particular contract must not be involved in the recording, opening or evaluation of tenders or quotations in respect of that contract.

### **3.7.19 Amending Tenders, Quotations, Framework or Dynamic Purchasing System Bids and Errors**

- 3.7.19.1 Where a tenderer identifies an error in their tender after submission but before the closing date for receipt of tenders, they may submit a correction in accordance with the rules applicable to the submission of tenders generally.
- 3.7.19.2 Genuine arithmetical error(s) may be amended with the consent of the tenderer.
- 3.7.19.3 Correction of any other tender error(s) shall be made at the discretion of the Director of HR, Legal and Communications.

### **3.7.20 Evaluation of Tenders, Quotations, Framework or Dynamic Purchasing System Bids**

- 3.7.20.1 Evaluation criteria shall be determined in advance of the tender/ quote and set out in descending order of importance, indicating evaluation weightings in the Invitation to tender/ quote documentation.
- 3.7.20.2 Selection and award criteria must be clearly distinguished and highlighted as part of the tender documentation. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the procurement procedure.

### **3.7.21 Negotiations and Supplementary Information**

- 3.7.21.1 The Council may require a third party to provide information supplementing the information provided in their quotation, tender, framework bid or dynamic purchasing system bid.
- 3.7.21.2 The Council may require a third party to clarify information relating to their eligibility, economic and financial standing or technical or professional ability or information included in their tender or quotation, provided this does not discriminate either in favour or against the third party.
- 3.7.21.3 In open and restricted procedures all negotiations with candidates or tenderers on fundamental aspects of contracts or variations, which are likely to distort competition (in particular on prices), are not permitted.

### **3.7.22 Acceptance of Tenders, Framework or Dynamic Purchasing System Bids**

- 3.7.22.1 General
  - 3.7.22.1.1 Before accepting any quotation, tender, framework bid or dynamic purchasing system bid, the appropriate Senior Manager must consult with the Director of Finance and Business Services.
  - 3.7.22.1.2 Before accepting any quotation, tender framework bid or dynamic purchasing system bid, the appropriate Senior Manager must be satisfied that there is sufficient provision in the relevant revenue or capital budget.

3.7.22.1.3 A register of all contracts entered into by the Council shall be kept and maintained by the Director of Finance and Business Services and the Director of HR, Legal and Communications. Such a register shall for each contract, specify the name of the contractor, the works to be executed or the goods or services to be supplied and the contract value.

3.7.22.2 Acceptance of Quotations, Framework or Dynamic Purchasing System Bids (£15,001 to OJEU Supplies & Services Threshold)

3.7.22.2.1 A Senior Manager may accept a quotation, framework bid or dynamic purchasing system bid on the basis of the offer, which he considers, is the most economically advantageous to the Council or offers the lowest price.

3.7.22.2.2 The decision to accept a quotation, framework bid or dynamic purchasing system bid must be recorded on an Officer Decision form.

3.7.22.3 Acceptance of Tender, Framework or Dynamic Purchasing System Bids (over OJEU Supplies & Services Threshold)

3.7.22.3.1 A Senior Manager may accept a tender, framework bid or dynamic purchasing system bid on the basis of the offer, which he considers, is the most economically advantageous to the Council or offers the lowest price.

3.7.22.3.2 The decision to accept a tender, framework bid or dynamic purchasing system bid must be recorded on a Consultation with Cabinet Councillor Decision form.

### 3.7.23. Standstill Period

Category	Contract Value	Procurement Process	Contract Award Notice	
			OJEU	Contracts Finder
<b>Supplies and Services (general)</b>	£15,001 to OJEU Supplies & Services Threshold (currently £181,302)	Quotation or call off from an existing framework agreement/ dps	No	Yes (contracts above £25,000), including call off
	Over the OJEU Supplies & Services Threshold (currently £181,302)	Tender or call off from an existing framework agreement/ dps	Yes within 30 days of award  No for call off	Yes within reasonable time after published on OJEU  Yes for call off
<b>Social and Other Specific</b>	£15,001 to OJEU Supplies & Services Threshold	Quotation or call off from an existing	No	Yes (contracts above £25,000), including call off

<b>Services (Light Touch Regime)</b>	(currently £181,302)	framework agreement/ dps		
	£181,302 to OJEU Light Touch Regime Threshold (currently £615,278)	Tender or call off from an existing framework agreement/ dps	No	Yes, including call off
	Over the OJEU Light Touch Regime Threshold (currently £615,278)	Tender or call off from an existing framework agreement/ dps	Yes within 30 days of award No for call off	Yes within reasonable time after published on OJEU Yes for call off
<b>Works</b>	£15,001 to £1,000,000	Quotation or call off from an existing framework agreement/ dps	No	Yes (contracts above £25,000), including call off
	£1,000,000 to OJEU Works Threshold (currently £4,551,413)	Tender or call off from an existing framework agreement/ dps	No	Yes, including call off
	Over the OJEU Works Threshold (currently £4,551,413)	Tender or call off from an existing framework agreement/ dps	Yes within 30 days of award No for call off	Yes within reasonable time after published on OJEU Yes for call off

3.7.23.1 In respect of a contract subject to the EU Regulations, as soon as possible after the decision has been made to award a contract, the Senior Manager shall give notice to any third party which submitted an offer or applied to tender, of the decision to award.

3.7.23.2 The notice referred to in section 23.1 shall include:

- a) the criteria for the award of the contract;
- b) the reasons for the decision, including the characteristics and relative advantages of the successful tender;
- b) where practicable the score obtained by the third party which is to receive the notice; and the score obtained by the third party to be awarded the contract;
- c) the name of the third party to be awarded the contract.

3.7.23.3 The Senior Manager shall allow a period of at least 10 working days to elapse between the date of despatch of the notice referred to in section 23.1 and the date on which he proposes to enter into the contract during which time an unsuccessful third party may raise legitimate challenges to the intended award.

- 3.7.23.4 The Director of HR, Legal and Communications or the Director of Finance and Business Services may suspend completion of the contract for additional examination if justified by requests or comments made by unsuccessful third parties during the standstill period or as a consequence of any other relevant information that is received during that period.

### **3.7.24. Contract Award Notice**

- 3.7.24.1 In respect of a contract awarded falling within the thresholds in the table below, a Contract Award Notice shall be published by the Director of Finance and Business Services in the OJEU and or Contracts Finder. It is the responsibility of all officers to ensure that the Director of Finance and Business Services is promptly notified in order that this can occur.

### **3.7.25 Contract Terms and Conditions**

- 3.7.25.1 All contracts and orders shall be in writing or in an approved electronic format, in a form to be approved by the Director of HR, Legal and Communications and executed in accordance with the requirements of the Council's Constitution.
- 3.7.25.2 Letters of Intent and or Interim Agreements may only be used in exceptional circumstances and written authorisation must first be obtained from the Director of HR, Legal and Communications. Where a Letter of Intent or Interim Agreement is used and where the terms and conditions of any contract are not fully agreed then no Contractor shall be allowed to commence delivery of goods, works or services until an adequate risk assessment has been carried out by the relevant Senior Manager as to the possible implications to the Council by the Contractor being allowed to commence work before the contract has been finalised.
- 3.7.25.3 The Director of HR, Legal and Communications shall determine whether the Council's General Conditions of Contract are applicable to a procurement and may decide that they must be used.
- 3.7.25.4 Bribery and Corruption
- 3.7.25.4.1 Every written contract shall include a clause (approved by the Director of HR, Legal and Communications) which gives the Council the right to immediately terminate the contract if the contractor, or any of its employees or agents, commits an offence under the Bribery Act 2010, fraud or other serious offence involving dishonesty.
- 3.7.25.5 Prohibition against Assignment or Novation
- 3.7.25.5.1 Every written contract shall include a clause (approved by the Director of HR, Legal and Communications) prohibiting the Third party from transferring, assigning sub-letting or novating directly or indirectly, to any person or persons, either the whole or any portion of the contract without the express written permission of the Council. This prohibition shall not apply to sub-letting which may be customary to the trade concerned.
- 3.7.25.5.2 The relevant Senior Manager, Director of Finance and Business Services and the Director of HR, Legal and Communications



shall be consulted and their views taken into account before any permission to assign is given pursuant to section [3.7.25.5.1](#)

#### 3.7.25.6 Liquidated Damages and Guarantees

3.7.25.6.1 In respect of the performance of every contract the Council shall consider the need for and where appropriate shall require and take sufficient security or assurances as shall be determined by the Director of Finance and Business Services in consultation with the appropriate Senior Manager.

3.7.25.6.2 Every contract that is either for works, services or for supplies to be made otherwise than at one time requires the Senior Manager to consider whether it is appropriate the contract should provide for a sum or sums of money to be paid by the third party as liquidated and ascertained damages in case the terms of the contract are not duly performed.

#### 3.7.25.7 Safeguarding Children/ Vulnerable Adults

3.7.25.7.1 Every contract, which the applicable Senior Manager considers relevant, shall set out the Council's responsibility to ensure that children and/or vulnerable adults are safeguarded. These contracts must contain adequate arrangements for safeguarding children and/or vulnerable adults. Arrangements shall include a requirement for appropriate checking procedures for new and existing third party's staff that are in contact with children and/or vulnerable adults, including DBS checks.

3.7.25.7.2 All placement contracts for looked after children and vulnerable adults shall include specific safeguarding requirements and a system to monitor their application.

#### 3.7.25.8 Termination

3.7.25.8.1 In respect of a contract subject to the EU Regulations, every written contract shall include a clause (approved by the Director of HR, Legal and Communications) that requires provisions to enable contract terminations where:

3.7.25.8.2 The contract has been subject to substantial modification which would have required a new tender in accordance with the EU Regulations;

3.7.25.8.3 The contractor has, at the time of contract award, been in one of the situations described in regulation 57 (1) or (2) (the mandatory exclusion grounds) of the Public Contract Regulations 2015 and should have been excluded; or

3.7.25.8.4 The contractor should not have been awarded the contract in view of serious infringement of the obligations under the EU Regulations.

#### 3.7.25.9 Payment of undisputed invoices

3.7.25.9.1 Every written contract shall include a clause (approved by the Director of HR, Legal and Communications) that requires any payment due to a third party under the contract is made no later than the end of a period 30 days from the date on which the relevant invoice is regarded as valid and undisputed.

3.7.25.9.2 The contract shall also include a clause (approved by the Director of HR, Legal and Communications) containing suitable provisions to impose similar obligations as between the contractor and subcontractor and so on down the supply chain.

**3.7.26. Keeping Written Records of Tenders and Tenders for the establishment of Framework Agreements or Dynamic Purchasing Systems (over the relevant OJEU Threshold)**

3.7.26.1 Each Senior Manager must keep a written record of:

- (a) the name and address of the Council, the subject-matter and value of the contract, framework agreement or dynamic purchasing system;
- (b) where applicable, the results of the pre-qualification/selection and reduction of numbers, namely:—
  - (i) the names of the selected candidates or tenderers and the reasons for their selection;
  - (ii) the names of the rejected candidates or tenderers and the reasons for their rejection;
- (c) the reasons for the rejection of tenders found to be abnormally low;
- (d) the name of the successful tenderer and the reasons why its tender was selected and where known—
  - (i) the share (if any) of the contract or framework agreement which the successful tenderer intends to subcontract to third parties, and
  - (ii) the names of the main contractor's subcontractors (if any);
- (e) for competitive procedures with negotiation and competitive dialogue, the circumstances which justify the use of those procedures;
- (f) for negotiated procedures without prior publication, the circumstances which justify the use of this procedure;
- (g) where applicable, the reasons why the contracting authority has decided not to award a contract or framework agreement or to establish a dynamic purchasing system;
- (h) where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
- (i) where applicable, conflicts of interests detected and subsequent measures taken.

**3.7.27 Documentation of Progress and Decisions**

3.7.27.1 Each Senior Manager must ensure each stage of the procurement process is adequately documented to include:

- a) communications with third parties and internal deliberations
- b) preparation of the procurement documents
- c) dialogue or negotiation if any
- d) selection and award of contract.

The documentation shall be kept for a period of 3 years from the date of award of contract.

### **3.7.28 Contracts Register**

3.7.28.1 A Contracts Register will be held by the Director of Finance and Business Services. Senior Managers should ensure this register is updated for all contracts within their Service Groups.

### **3.7.29 Contract / Performance Monitoring**

3.7.29.1 During the term of a contract, the applicable Senior Manager shall undertake monitoring and evaluation to include the following items:

- a) Performance;
- b) Compliance with specification and contract;
- c) Cost;
- d) User satisfaction; and
- e) Risk management.

### **3.7.30 Nominated Contractors and Sub-Contractors**

3.7.30.1 The provisions of these Contract Procedure Rules where appropriate shall apply where a sub-contractor or contractor is to be nominated to a main contractor.

3.7.30.2 The Senior Manager concerned shall have authority to accept a tender submitted in respect of a nominated subcontractor provided that the tender is the lowest or the most economically advantageous received and does not exceed the amount provided for the sub-contract work concerned in the main contract and is satisfactory in all other respects.

### **3.7.31 Contract Extensions**

3.7.31.1 A contract may be extended before the expiry date where the extension is made in accordance with any option to extend set out in the original contract with the approval of the applicable Senior Manager, the Director of Finance and Business Services and the Director of HR, Legal and Communications.

3.7.31.2 Where the contract terms do not include any express option to extend, any decision to vary the contract in order to extend must be undertaken in accordance with Section 5 prior to the variation being agreed.

3.7.31.3 Where the contract is extended:

- a) the Director of HR, Legal and Communications must be instructed to issue the contract variation, and
- b) the Contract Register must be updated.

### **3.7.32 Contract Variations**

- 3.7.32.1 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed, unless authorised in accordance with Rule [3.7.30.2](#)
- 3.7.32.2 Any variation or series of variations increasing the scope of a contract must be authorised by the Director of HR, Legal and Communications and the Director of Finance and Business Services prior to the services, works or supplies being ordered.
- 3.7.32.3 All Contract variations must be in writing and signed by both the Council and the Contractor except where different provisions as to the making of variations are prescribed within the Contract terms
- 3.7.32.4 Where the contract is varied
  - a) the Director of HR, Legal and Communications must be instructed to issue the contract variation, and
  - b) the Contract Register must be updated

### **3.7.33 Termination**

- 3.7.33.1 Where a Senior Manager wishes to terminate a contract early s/he may do so only after consulting with the Director of Finance and Business Services and Director of HR, Legal and Communications as to the financial and legal impact of the termination.

### **3.7.34 Breaches of Contract Procedure Rules**

- 3.7.34.1 In the event of a significant breach of these rules, the circumstances and details shall be referred to Internal Audit for investigation.

## **Part 3.8 Employment Procedure Rules**

### **3.8.1 Recruitment and Appointment of Employees**

- 3.8.1.1 Declarations
  - 3.8.1.1.1 All candidates should complete an appropriate application form which incorporates an Equal Opportunities form. Forms are available from individual Departments. Appointing officers should particularly establish the relationship (if any) of candidates to existing employees or Councillors; whether the applicant has previously worked for the Authority; and, where necessary or appropriate, ensure that a criminal records bureau check is carried out.
- 3.8.1.2 Seeking support for appointment

- 3.8.1.1.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or employee for any appointment with the Council.
- 3.8.1.1.2 No Councillor or employee will seek support for any person for any appointment with the Council.
- 3.8.1.1.3 Nothing in the two paragraphs above precludes Councillors or Officers from providing references for a candidate or existing employee in connection with applications for a job or post with the Authority.

### **3.8.2 Recruitment of Head of Paid Service and Chief Officers**

- 3.8.2.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment will be made exclusively from among the existing officers, the Council will:
  - 3.8.2.1.1 draw up a statement specifying:
    - (a) the duties of the officer concerned; and
    - (b) any qualifications or qualities to be sought in the person to be appointed;
- 3.8.2.2 The Council may choose to make an internal appointment to the Head of Paid Service or Chief Officer post without considering external candidates. However, where the Authority proposes to consider external candidates, arrangements will be made for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- 3.8.2.3 The declarations mentioned in above are detailed on the application form.

### **3.8.3 Appointment of Head of Paid Service, Chief Officers and Deputy Chief Officers and Political Assistants**

- 3.8.3.1 The arrangements for the appointment of all Chief Officers and Deputy Chief Officers will include an Appointment Panel established specifically for that purpose. The Panel will include at least one Cabinet Councillor.
- 3.8.3.2 The Appointment Panel will consider and refer to the full Council with recommendations for approval, the arrangements for the designation of the Head of Paid Service.
- 3.8.3.3 The recommendation of the Appointment Panel (“the Appointor”) will be submitted to the full Council for approval and the Council must approve a proposed appointment before an offer of appointment is made.
- 3.8.3.4 For the purposes of (c) above the Proper Officer will summon a special meeting of full Council, giving five clear working days’ notice of the meeting, unless the matter can conveniently be dealt with at an ordinary meeting of the Council.
- 3.8.3.5 The Agenda for any such meeting of the Council will contain an item seeking the approval of the Council to the proposed appointment to the post and a summary report of the process followed by the Appointor, together with a note

of their decision and recommendation, and will be circulated to all Councillors at least five clear working days prior to the Council meeting.

- 3.8.3.6 It is expected that non-approval will occur only in exceptional circumstances, based on objections which are material and well-founded, such as an undeclared relationship to a Councillor, or non-declaration of an unspent conviction. If approval is not granted, the Council must indicate the reasons for non-approval and the matter will be referred back to the Appointor for further consideration.
- 3.8.3.7 An offer of an appointment to the position of Head of Paid Service, a Chief Officer or Deputy Chief Officer will not be made by the Appointor until:
- 3.8.3.7.1 the Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - 3.8.3.7.2 the Proper Officer has notified every member of the Cabinet of:
  - 3.8.3.7.3 the name of the person to whom the Appointor wishes to make the offer;
  - 3.8.3.7.4 any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
  - 3.8.3.7.5 the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer (being a period of no longer than 48 hours from the time of dispatch of the notification); and either:
  - 3.8.3.7.6 the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the Appointor that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
  - 3.8.3.7.7 the Proper Officer has notified the Appointor that no objection was received by him/her within that period from the Leader; or
  - 3.8.3.7.8 the Appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
  - 3.8.3.7.9 for the purposes of (c) (iii) above, the Appointor will consider any such objection from the Leader at a meeting of the Appointor (Panel) duly called by the Proper Officer for that purpose.
- 3.8.3.8 For the purposes of paragraph (g) (C) (iii) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. This means that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the facts or information are accurate and true. In addition, it must also be material, i.e. it must be relevant to the process and the post and be sufficient to warrant a decision not to make the offer of appointment. This is seen as being likely to be very much an exceptional circumstance.

- 3.8.3.9 Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, by e-mail or by fax but in any event must be received by the recipient within the relevant period specified.
- 3.8.3.10 The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group and in accordance with and subject to the provisions and requirements of the Local Government and Housing Act 1989 and the Local Authorities (Standing Orders) (England) Regulations 2001. In particular:
- 3.8.3.10.1 No appointment shall be made to any post allocated to a political group until the authority has allocated a post to each of the groups with qualify for one;
  - 3.8.3.10.2 No post shall be allocated to a political group which does not qualify for one;
  - 3.8.3.10.3. No more than one post shall be allocated to any political group;
  - 3.8.3.10.4 No political assistant shall be a term exceeding four years.
  - 3.8.3.10.5 A group qualifies for a post if the membership of that group comprises at least one-tenth of the membership of the Council, the number of the other groups (if any) which are larger than that group does not exceed two, and where the number of the other groups which are the same size as or larger than that group exceeds two, the Council has determined that that group should be a group to which a post is allocated.

#### **3.8.4 Other Appointments**

- 3.8.4.1 The shortlisting, interviewing and appointment to all other vacancies, including posts deemed to be politically restricted, shall be dealt with by the Chief Executive, or by a Chief Officer, Deputy Chief Officer or appropriate senior officer nominated in writing by the Chief Executive. Councillors will not be involved in such appointments.

#### **3.8.5 Disciplinary Action and Dismissal**

- 3.8.5.1 Suspension
- 3.8.5.1.1 All Chief Officers including the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay unless directed otherwise by the relevant Committee, Sub-Committee, Panel or Officer.
- 3.8.5.2 Independent Persons

The Head of Paid Service, Monitoring Officer and Chief Finance Officer (“relevant officers”) may not be dismissed by the Council unless the following procedure is complied with:

- 3.8.5.2.1 The Council must invite relevant Independent Persons to be considered for appointment to an [Independent Persons Panel](#), with a view to appointing at least two such persons to the Panel.
- 3.8.5.2.2 Independent Person means a person appointed under Section 28(7) of the Localism Act 2011.
- 3.8.5.2.3 A Panel means a committee appointed by the Council under Section 102(4) of the Local Government Act 1972 for the purpose of advising the Council on matters relating to the dismissal of relevant officers of the Council.
- 3.8.5.2.4 The Council must appoint to the Panel such relevant Independent Persons who have accepted an invitation to be considered for appointment to the Panel, in accordance with the following priority order:
  - (a) A relevant Independent Person who has been appointed by the Council and who is a local government elector (a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts);
  - (b) Any other relevant Independent Person who has been appointed by the Council;
  - (c) A relevant Independent Person who has been appointed by another authority or authorities.
- 3.8.5.2.5 The Council is not required to appoint more than two relevant Independent Persons in accordance with the preceding paragraph, but may do so.
- 3.8.5.2.6 The Council must appoint a Panel at least 20 working days before a meeting (“the relevant meeting”) of the Council to consider whether or not to approve a proposal to dismiss a relevant officer of the Council.
- 3.8.5.2.7 Before taking a vote at the relevant meeting on whether or not to approve such a dismissal the Council must take into account, in particular:
  - (a) Any advice, views or recommendations of the Panel;
  - (b) The conclusions of any investigation into the proposed dismissal; and
  - (c) Any representations from the relevant officer
- 3.8.5.3 Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration,



allowances or fees payable to their independent person in respect of that person's role as an independent person under the Localism Act 2011.

- 3.8.5.4 Dismissal of, and taking disciplinary action against any employee of the Council other than the Head of Paid Service, Monitoring Officer or Chief Finance Officer will be the responsibility of the Chief Executive, or a Chief Officer, Deputy Chief Officer or appropriate senior officer nominated by the Chief Executive.
- 3.8.4.5 Councillors will not be involved in disciplinary action against any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to Councillors in respect of disciplinary action.
- 3.8.4.6 Where a Committee, a Sub-Committee or a Panel ("the Dismissor") is discharging the function of dismissal of a Chief Officer, Deputy Chief Officer or Political Assistant, at least one Cabinet Councillor must be a member of that Committee, Sub-Committee or Panel.
- 3.8.5.7 Notice of the dismissal of the Chief Executive, Chief Officer, Deputy Chief Officer or Political Assistant will not be given by the Dismissor until:
  - 3.8.5.7.1 the Dismissor has notified the Proper Officer of the name of the person who the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal;
  - 3.8.5.7.2 the Proper Officer has notified every member of the Cabinet of:
    - (a) the name of the person who the Dismissor wishes to dismiss;
    - (b) any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
    - (a) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer (being a period no longer than 48 hours from the time of the notification); and
  - 3.8.5.7.3 either:
    - (a) the Leader has, within that period specified in the notice under sub-paragraph (B) (iii) notified the Dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
    - (b) the Proper Officer has notified the Dismissor that no objection was received by him within that period from the Leader; or

- (c) the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 3.8.5.8 for the purposes of (C) (iii) above, the Dismissor will consider any such objection from the Leader in a meeting of the Dismissor duly called, as appropriate, by the Proper Officer for that purpose.
- 3.8.5.9 For the purposes of (f) above, an objection must be material and well-founded.
- 3.8.5.10 Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, e-mail or fax, but in any event must be received by the recipient within the relevant period specified.

# **STOCKTON-ON-TEES BOROUGH COUNCIL**

## **CONSTITUTION**

### **Part 4 – Codes and Protocols**

## PART 4.1 MEMBERS' CODE OF CONDUCT

### 4.1.1 Introduction and Interpretation

- 4.1.1.1 This Code applies to **you** as a Councillor when you are acting in that capacity
- 4.1.1.2 This Code is based upon and is intended to be consistent with the General Principles of Public Life.
- 4.1.1.3 It is your responsibility to comply with the provisions of this Code.
- 4.1.1.4 This Code does not cover matters in respect of which the Secretary of State may under the Localism Act specifically provide that criminal sanctions will apply.
- 4.1.1.4 Further guidance on this Code and dealing with Member Councillors conduct is available here and there is also a [Planning Code of Good Practice](#).

### 4.1.2 General Conduct

- 4.1.2.1 You must treat others with respect.
- 4.1.2.2 You must not do anything which may cause the Council to breach its equality and diversity obligations including those under the Equality Act 2010.
- 4.1.2.3 You must not bully any person and you must not intimidate or attempt to intimidate any person who is involved in any complaint about any alleged breach of this Code.
- 4.1.2.4 You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
- 4.1.2.5 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a Councillor, into disrepute.
- 4.1.2.6 You must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
- 4.1.2.7 When using or authorising the use by others of the resources of the Council:
  - 4.1.2.7.1 You must act in accordance with the Council's reasonable requirements.
  - 4.1.2.7.2 You must ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - 4.1.2.7.3 You must have regard to any Local Authority Publicity Codes and Guidance.

- 4.1.2.8 You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
- 4.1.2.9 You must not disclose information which is given to you in confidence, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
- (a) you have the consent of a person authorised to give it; or
  - (b) you are required by law to do so; or
  - (c) 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
  - (d) the disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
- 4.1.2.10 Where you have been involved in the making of any decision or the taking of any action by the executive of the Council, any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees or area committees, which is subsequently subject to scrutiny by the Executive Scrutiny Committee or a select committee of the Council, you must not take part in that scrutiny process other than for the purpose of answering questions or giving evidence relating to the business.
- 4.1.2.11. When making decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) the Council's Chief Finance Officer; or
  - (b) the Council's Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties.
- 4.1.2.12 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

### **4.1.3 Registration of Members' Interests**

- 4.1.3.1. Subject to paragraph 4.1.4 , you must register in the Council's register of members' interests ("Register") information about your personal interests. For the purposes of paragraphs 4.1.3.1 to 4.1.5.3 inclusively 'your personal interests' or 'personal interest' means:
- 4.1.3.1.1 any 'disclosable pecuniary interest' (as specified in the Appendix to this Code or as defined by any statutory provisions in force from time to time under the Act) which you know about and which is held by

- you, or
- your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you are civil partners; and

4.1.3.1.2 any other interests held by you as set out in paragraph 4.1.3.3 .

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

- your election or appointment as a member of the Council; and of
- becoming aware of any new interest or change to any registered interest.

4.1.3.3 You have a personal interest in any business of the Council and for the purposes of paragraph 4.1.3.1.2 where either it relates to or is likely to affect:

4.1.3.3.1 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;

4.1.3.3.2 any body of which you are a member (or in a position of general control or management); which:

4.1.3.3.3 exercises functions of a public nature; or

4.1.3.3.4 is directed to charitable purposes; or

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);

#### **4.1.4 Sensitive Information**

4.1.4.1. Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the monitoring officer; and if the monitoring officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

#### **4.1.5 Declaration of Interests**

4.1.5.1 Where you attend a meeting and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then you must disclose to that meeting the existence and nature of that interest at the start of the consideration of that item of business, or when the interest becomes apparent, if later.

- 4.1.5.2 Where you have a personal interest in any business of the Council which relates to or is likely to affect a body of a type described in paragraph 11(a) and 11(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 4.1.5.3 Where you have a personal interest but, by virtue of paragraph 12, sensitive information relating to it is not registered in the Register, you must indicate to the meeting that you have a personal interest, but you need not disclose the sensitive information to the meeting.
- 4.1.5.4 Where you attend a meeting, and you are, or ought reasonably to be, aware that a decision in relation to any 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 17, to a greater extent than most of the inhabitants of the area affected by the decision, then you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
- 4.1.5.5 The persons referred to in paragraph 16 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 a company of which they are a director;
  - (d) any person or body in whom persons described in (a) and (b) have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (e) any body of a type described in paragraph 11 (a) and (b)
  - (f) a person from you have received gifts and hospitality in connection with your role as a Councillor with a value of over £25 in the last year.

#### **4.1.6 Non participation**

- 4.1.6.1 Where you have a personal interest of the type described in paragraph 16 in any business of the Council, and 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 the business:
- (a) affects your financial position or the financial position of a person or body described in paragraph 17(a) to (e) inclusively; or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body referred to in the preceding sub-paragraph (a),

then, subject to paragraphs 19 and 20:

- (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; and
- (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.

4.1.6.2 Where you have an interest of the type described in paragraph 18 in any business of the Council, you may attend the meeting and make representations, answer questions or give evidence relating to that business before the business is considered and voted upon, provided the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or the Council's constitution, otherwise you should leave the room or chamber.

4.1.6.3 Subject to disclosing the interest at the meeting, you may attend a meeting, participate in any discussion and vote on a matter in which you have such an interest, where that interest relates to the functions of the Council in respect of:

- (a) housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
- (b) 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 those functions relate particularly to the school which the child attends;
- (c) 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;
- (d) an allowance, payment or indemnity given to a Councillor;
- (e) any ceremonial honour given to a Councillor; and
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

#### **4.1.7 Disclosable Pecuniary Interests**

4.1.7.1 In addition to the requirements of the Act regarding the registration and declaration of a disclosable pecuniary interest, you must also comply with any requirements relating to withdrawal from participating in any discussion or voting on any matter in which you have a disclosable pecuniary interest (unless a dispensation has been granted).



#### **4.1.8 Requirement to leave a meeting room**

- 4.1.8.1 You must comply with any procedural rule or standing order adopted by the Council which requires a member to leave the room during any meeting at which a matter in which they have a disclosable pecuniary interest or a prejudicial personal interest is being discussed.

#### **4.1.9 Application for a dispensation**

- 4.1.9.1 An application for dispensation must be in writing and must be submitted to the Council's Monitoring Officer, in the first instance. A group secretary or other member may co-ordinate, prepare and submit an application on behalf of his/her group member(s) or other members/co-opted members provided that all of the requirements below are satisfied.

An application for a dispensation should indicate:

- (a) the name or names of the Councillor or Councillors who require a dispensation;
  - (b) the reasons why each member considers that he or she needs a dispensation (i.e. why the Member is prohibited from participating in the particular business of the Council and the interest or interests (whether a disclosable pecuniary interest or a personal interest) which give rise to the prohibition);
  - (c) the business or matter and specific meeting or meetings (including dates) to which any dispensation would apply if granted (and whether it should apply for up to four years); and
  - (d) should be signed by the Member or on behalf of the Members requesting the dispensation.
- 4.1.9.2 The application should, wherever possible, be received by the Monitoring Officer at least five clear working days before the date of the meeting to which the requested dispensation would relate. If it is not possible to comply with this timescale, this may result in the application not being able to be considered either at all, or in time to determine the application prior to the meeting to which the requested dispensation would apply.
- 4.1.9.3 Following receipt of an application, the Monitoring Officer will use best endeavours to ensure that she/he considers it no later than the day before the date of the meeting to which the requested dispensation would relate. The Monitoring Officer may (but is not obliged to) consult an Independent Person.
- 4.1.9.4 If it should not be reasonably practicable or possible for the application to be considered in advance of the meeting or if the Monitoring Officer determines that it would not be appropriate to grant a dispensation, the Monitoring Officer will, as soon as reasonably practicable, advise the applicant Member(s), and any Group Secretary(ies) of the fact and will take all

appropriate action regarding the meeting(s) to which the application related.  
An appeal may be made to the Standards Panel.

- 4.1.9.4 Where the Monitoring Officer or the Panel determines that it would be appropriate to grant a dispensation, the Monitoring Officer will, as soon as reasonably practicable, advise the Member(s) and any Group Secretary(ies) of the decision and will ensure that details of the existence, duration and nature of the dispensation are recorded in writing and kept with the Council's Register of Interests established under the Localism Act.

**Disclosable Pecuniary Interests**

The duties to register, disclose and not to participate in respect of any matter in which a member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) as follows:

<b>Interest</b>	<b>Prescribed Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefits from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: <ul style="list-style-type: none"> <li>(a) under which goods or services are to be provided or works are to be executed; and</li> <li>(b) which has not been fully discharged</li> </ul>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): <ul style="list-style-type: none"> <li>(a) the landlord is the relevant authority; and</li> <li>(b) the tenant is a body in which the relevant person has a beneficial interest</li> </ul>
Securities	Any beneficial interest in securities of a body where: <ul style="list-style-type: none"> <li>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li> <li>(b) either –</li> </ul>

- (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.

For this purpose:

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“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.

## **Part 4.2 OFFICER CODE OF CONDUCT**

### **4.2.1 Purpose**

4.2.1.1 This code sets out the standard of conduct that the Council expects from its Officers. The aim is to promote high standards of conduct and to maintain public confidence in the Council's services.

### **4.2.2 General Principles**

4.2.2.1 Officers. The role of Officers is to represent the Council in delivering services to the local community. Officers must act in accordance with the Council's Culture Statements and Behaviours. Officers must at all times act in accordance with the trust that the public is entitled to place in them.

4.2.2.2 This code should be read in conjunction with the other parts of the Council's Constitution, and with the Council's Human Resources Policies and Procedures.

### **4.2.3 Gifts and Hospitality**

4.2.3.1 All offers of gifts or hospitality should be treated with caution. Where a gift or hospitality could be perceived as an inducement or reward for performing Council duties, or where acceptance of the gift or hospitality could be open to misinterpretation, Officers should tactfully but firmly refuse the offer.

4.2.3.2 Gifts of a promotional nature, e.g. calendars, diaries and pens which are of a low monetary value i.e. less than £25 may be accepted.

4.2.3.3 All offers of gifts and hospitality of £25 or more in value, including any offers of sponsorship for training or development, whether or not they are accepted, must be recorded promptly (and no later than 28 days from the date of the offer) in a register held by a nominated officer in the relevant service grouping. Completed forms are to be submitted to and approved by the appropriate Head of Service or Director. Copies are sent to Democratic Services for recording and monitoring purposes.

4.2.3.4 The Bribery Act 2010 includes a number of criminal offences, and you should seek guidance if you are in any doubt. However, you should in particular note the following circumstances in which you could commit a criminal offence:

4.2.3.4.1 It is a criminal offence to accept a bribe or to bribe another person. The offence of being bribed will occur where an Officer agrees to receive or accepts an advantage (for their own or another's benefit whether or not he or she actually receives it), in order to carry out the improper performance of a Council function, or where the advantage may be a reward for already having performed the function improperly.

4.2.3.4.2 It is a criminal offence to bribe another person. The offence of bribing another person occurs where an Officer offers, promises or gives a financial or other advantage to another person, with the intention that this will induce that person to improperly perform a function or activity, or in order to reward that person for the improper performance of such a function or activity.

4.2.3.5 Guidance on the Bribery Act 2010 indicates that bona fide hospitality and promotional, or other business expenditure which seeks to improve the image of a commercial organisation, better to present products and service, or to establish cordial relations, is recognised as an established and important part of doing business and it is not the intention of the Act to criminalise such behaviour.

4.2.3.6 **If Officers are in any doubt about the acceptance of a gift or hospitality they should inform their Head of Service or Line Manager in advance (where feasible) and seek advice.**

4.2.3.7 **Where an Officer receives an unsolicited gift or believes that a person is otherwise attempting to influence him or her, the Head of Service or Line Manager should be informed immediately.**

4.2.3.8 Particular care should be taken by Officers concerned with purchasing or the award of official contracts. An Officer who knowingly accepts a gift or favour from a contractor or other person seeking services to or from the Council may put themselves at risk of a disciplinary investigation. Failure to record offers of gifts and hospitality may also be the subject of investigation by managers.

#### **4.2.4 Legacies**

4.2.4.1 Officers are not permitted to accept a bequest or agree to be a beneficiary under the terms of a client/service user's will or testament. Any bequest made or received by an Officer or a relative or close associate of the Officer must be reported to the Head of Service or Line Manager.

4.2.4.1 To avoid any allegations of improper conduct or undue influence, Officers are not permitted to be involved in the preparation, writing, witnessing or signing of a client/service user's will or testament.

#### **4.2.5 Confidential Information**

4.2.5.1 Officers should treat all information they receive in the course of their employment as confidential to the Council. Officers must not use information in the Council's possession to further their private interests or those of their relations and friends. Deliberate exploitation of confidential information for personal gain may result in disciplinary action including dismissal.

4.2.5.2 Officers may only disclose confidential information where it is required by law or where the Council has agreed to make the information available to the public. Where Officers are in any doubt as to whether they are permitted to release information they must consult their line manager or Head of Service before any disclosure is made.

4.2.5.3 Officers must at all times comply with the Council's relevant policies and procedures.

#### **4.2.6 Officer Interests**

4.2.6.1 Officers must disclose any personal conflicts of interest and must not involve themselves in any decisions or matters where their actions could be perceived as biased. A personal conflict may arise where an Officer provides consultancy services in a private capacity which conflict with or are of a similar nature to the Council's services, or which may result in a reduction of Council

services. Another example is where an Officer, acting in a private capacity, causes conflict with the service provided by the Council to a service user.

- 4.2.6.2 Officers must disclose in writing all interests in contracts or proposed contracts or arrangements:
- 4.2.6.3 where they (or a partner, spouse, relative or close associate) have any financial interest, direct or indirect, in any contract which the Council has entered into or is proposing to enter into, or any application for a licence, consent or permission.
- 4.2.6.4 where they are involved as either as an individual or as a partner in a business or as a Director of a Company or where they have a substantial shareholding in a public or private company which regularly has dealings with the Council. For this purpose, "substantial" can be defined as more than £25,000 nominal value or 1/100th of the issued share capital of the company whichever is the lower
- 4.2.6.5 Friendship or membership of an association or society could also influence an Officer's judgement and should be treated in the same way.
- 4.2.6.6 If Officers are in any doubt as to what interests they need to declare they should seek guidance from their Head of Service or Line Manager. Failure by Officers to declare interests in contracts or companies is a criminal offence. Failure to disclose a conflict of interest may result in disciplinary action.

#### **4.2.7 Public Office**

- 4.2.7.1 Officers who wish to seek public office in an Authority other than that with whom they are employed are not generally prevented from doing so unless they occupy politically restricted posts under the Local Government and Housing Act 1989, but should discuss their intentions and the implications with their Head of Service and seek legal advice. Arrangements for time off for public duties are explained in the Council's leave policy.
- 4.2.7.2 Officers other than holders of politically restricted posts who become Councillors of other Local Authorities should ensure that their two capacities are kept separate. In particular, they should take care that they do not disclose or use for an unauthorised purpose confidential information which could benefit or cause harm either to the Authority represented or to the employing Authority.

#### **4.2.8 Political Activities**

- 4.2.8.1 Political activities relate to standing for public elected office, engaging in party political debate in a personal capacity, by speaking or writing in public and canvassing at elections. The ability of Officers to indulge in such activities is restricted if they occupy politically restricted posts.
- 4.2.8.2 An Officer who proposes to engage in political activities should consider all aspects of this Code and ensure there is no conflict of interest between their duties as an employee and their political activities. Officers at a senior level who regularly advise Councillors, regularly have contact with the public or media, or exercise delegated powers should take particular care when they propose to engage in political activities. They must in all cases consult their Head of Service or Line Manager.

- 4.2.8.3 Where Officers are required to advise Councillors they must do so in ways which do not compromise their political neutrality and must not allow their own personal or political opinion to influence or interfere with their work.

#### **4.2.9 Recruitment and Employment**

- 4.2.9.1 Officers involved in recruitment or decisions relating to discipline, promotion or grading must not be involved where they are related to an applicant or have a close association with an applicant or Officer.
- 4.2.9.2 All Officers involved in recruitment and selection on behalf of the Council must be familiar with, and abide by, the Council's recruitment policy and procedures.
- 4.2.9.3 Canvassing of Councillors relating to any employment matter including appointments, is strictly prohibited and may result in disciplinary action.

#### **4.2.10 Sustainability Issues**

- 4.2.10 Officers are required to consider sustainability and environmental issues when undertaking their duties, including the procurement of goods and services. In particular they should seek opportunities to improve and promote energy conservation, advocate recycling and waste minimisation, reduce pollution and support Council initiatives to improve the environment.

#### **4.2.11 Diversity**

- 4.2.11.1 Officers should not act in a discriminatory way with regard to, for example, a person's age, gender, race, disability, religion, ethnicity, nationality or sexual orientation or otherwise act in a way that puts the Council in breach of its duties under the Equality Act 2010.
- 4.2.11.2 All members of the local community, customers, contractors, Councillors and Officers have a right to be treated with fairness and dignity. All Officers are required to comply with Council diversity policies and in accordance with the legal requirements placed upon the Council.

#### **4.2.12 Intellectual Property/Copyright/Lecture Fees**

- 4.2.12.1 Fees for giving lectures or writing articles may only be retained by Officers where these activities are not integral to their employment or position with the Council and they are conducted in the Officers own time. Officers above level [ ] require written line manager approval before conducting any paid work, whether under a contract of employment or otherwise.
- 4.2.12.2 Where Officers are interviewed by the media or agree to give lectures in connection with their official duties the Council's Assistant Director must be consulted on any intended lecture or publication in the press or other media which is connected to their official duties and prior consent of their Head of Service or line manager must be obtained.
- 4.2.12.3 Officers should take care when expressing their personal views publicly that they do not undermine confidence in their objectivity in the performance of their duties.



#### **4.2.13 Use of Council Facilities**

- 4.2.13.1 Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.
- 4.2.13.2 The Council's resources should be used solely in respect of its business and in accordance with Council policies

#### **4.2.14 Performance of Duties**

- 4.2.14.1 Officers are required to observe agreed working procedures, operational regulations, health and safety rules, regulations, professional codes of practice and the provisions of the Council's constitution and to carry out reasonable and proper instructions in matters relating to their duties.
- 4.2.14.2 An Officer must not:
  - (a) Fail to discharge through carelessness, or neglect an obligation placed upon him/her by contract or by law;
  - (b) Fail to report any matter which he/she is required to report;
  - (c) Fail to wear safety clothing or footwear, or use safety equipment which has been issued as being necessary in the interests of health & safety or otherwise fail to have due regard to health & safety requirements.
- 4.2.14.3 Failure to observe the Officer Code of Conduct or Human Resources Policies and Procedures (specifically those relating to substance misuse, smoking or ICT protocols) or other Council policies, regulations or standards, may lead to disciplinary action in accordance with the Council's disciplinary procedures.

## **PART 4.3 Protocol on Member/Officer Relations**

### **4.3.1. The Role and Purpose of the Protocol**

- 4.3.1.1 Stockton-on-Tees Borough Council operates with, and promotes high ethical values and standards and in an environment which demands close and effective working relations between all Councillors and Officers without either seeking to take unfair advantage of their position.
- 4.3.1.2 This is achieved by means of a culture of mutual respect, trust, courtesy, openness and understanding. Councillors and Officers feel free to speak to one another openly and honestly.
- 4.3.1.3 With this in mind, the purpose of this protocol is not in any way to change that relationship, but to offer guidance to Councillors and Officers on their respective roles and their working relations with one another, in order to help them to perform more effectively and thereby to ensure the efficient and effective running of the authority and the delivery of best value services to the local community.
- 4.3.1.4 The relations between Councillors and Officers are complex and varied. This protocol does not therefore aim to be either prescriptive or comprehensive. It is intended simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a reference document for dealing with other issues.
- 4.3.1.5 This protocol relies to a large extent on current practice and convention. It does, however, attempt to promote greater clarity and certainty for the benefit of both Councillors and Officers.
- 4.3.1.6 The Protocol also seeks to reflect and bring together the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared objective of these Codes is to enhance and maintain the integrity (both real and perceived) of Local Government and those who work within it and to maintain the very high standards of personal conduct required of all who serve the public.
- 4.3.1.7 Increasingly Councillors and Officers are required to represent the Council on a variety of outside bodies and organisations with statutory and non-statutory links to the Council. Whilst the procedural aspects of the Protocol relate mainly to the Council, it is expected that Councillors and Officers representing the Authority on outside bodies, continue to maintain the ethos of courtesy, respect and understanding advocated by this Protocol.
- 4.3.1.8 The Protocol must be read and operated in the context of all relevant legislation and national and local codes of conduct and the Council's Policy on confidential reporting reproduced in this part of the Constitution. Advice and guidance in connection with the Code and Policy, together with this Protocol can be obtained from the Council's Monitoring Officer.

### **4.3.2. The Roles of Councillors and Officers**

#### **4.3.2.1 Councillors**

The roles of Councillors and Officers are different, but complementary. The former National Code of Local Government Conduct for Councillors indicated that:

*“Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council’s work under the direction and control of the Council.*

*Mutual respect between Councillors and Officers is essential to good Local Government. Close personal familiarity between individual Councillors and Officers can change this relationship and prove embarrassing to the Councillors and Officers.”*

4.3.2.2 There are a number of crucial roles for Councillors. Four, in particular, can be summarised as follows:

- (a) to provide strong leadership for communities and to share in the policy and budget decisions of the full Council, suggest policy improvements and scrutinise the Executive’s policy proposals and their implementation;
- (b) to monitor and review the Authority’s performance in implementing approved policy and in delivering services;
- (c) to represent their constituents, promoting and communicating the interests of those who elected them within the Council decision making processes and dealing with their day to day problems and concerns as they arise;
- (d) to represent the Authority externally on joint committees, and on key partner and other outside bodies.

4.3.2.3 The Council adopted six guiding principles for its structure, with a view to it being:

- a) **Transparent** – to ensure that the public are clear about who is responsible for particular decisions.
- b) **Understandable** – to ensure that the decision making process is simple, clear and unambiguous to Councillors, Officers and the public.
- c) **Efficient** – to enable swift and responsive action.
- d) **Accountable** – to ensure that decisions are open to scrutiny by Councillors and by the public and that members of the public are able to measure the Council’s actions against the policies upon which it was elected.
- e) **Community Focussed** – to ensure that Councillors are not only highly visible within their communities but are also able to pursue their role as community leaders – championing local issues and priorities and taking action, in partnership with others, to promote achievements and tackle disadvantage.
- f) **Providing Best Value** - to promote continuous improvement within the Authority and demonstrate Best Value in ensuring resources are directed to supporting Councillors in the performance of their representational role.

### 4.3.3 Officers

4.3.3.1 Officers serve the whole Council. Officers support and advise the Council, and the constituent parts of its decision-making machinery; implement Council decisions and may themselves take decisions formally delegated to them through the approved Scheme of Delegation. All Officers are required to be politically neutral, and for senior Officers this is enforced through the political restrictions of the 1989 Local Government and Housing Act. This

position is also enshrined in the Council's Officers' Code of Conduct which forms part of the Council's Constitution.

4.3.3.2 Within this context, it is important to recognise the differing roles of certain Officers:

- The Chief Executive and Directors of Service form the Corporate Management Team, which provides a formal interface between Councillors and Officers and has a leading role in relation to policy co-ordination and performance management.
- Assistant Directors and other Chief Officers are directly responsible for the day to day delivery of services within the Council's established policy and decision-making framework.
- Officers within services themselves are primarily accountable to their Directors and when assisting Councillors should always do so within the parameters of whatever authority they have been given by their Director.

4.3.3.3 In particular, it should be recognised that Councillors do not, as elected or co-opted members, have any special immunity from civil or criminal wrongs that they may commit against fellow Councillors, Officers or members of the public. Councillors must ensure that they do not, therefore, for example, bully, harass, slander or libel another person. During public meetings of the Council, the Cabinet and Committees statements made by Councillors may attract "legal privilege" which may be a defence to an action for defamation. Unlike Parliament and the Courts, local authorities only benefit from "qualified", rather than "absolute" privilege. As such there are conditions that must be met before qualified privilege will attach to a statement (including that councillors should generally believe that statements they make are true and they should be made without malice).

4.3.3.4 Any member of the public (including Officers) can complain to the Council's Monitoring Officer about a Councillors' alleged breach of the Council's Members Code of Conduct and/or bring private, civil action against a Councillor. The external Auditor can also take legal action against a Councillor and the Council, as a whole, for any alleged breach of the law.

#### **4.3.4 Councillors' expectations**

4.3.4.1 Councillors can expect from Officers:

- (a) A commitment to the Authority as whole, and not to any political group.
- (b) A working partnership based on an understanding of and support for respective roles, workloads and pressures
- (c) Reasonable and timely response to enquiries and complaints.
- (d) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.
- (e) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to Councillors needs, having regard to any individual responsibilities that they have and positions that they hold.
- (f) Awareness of and sensitivity to the political environment.
- (g) Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- (h) Relevant training and development in order to carry out their role effectively.

- (i) Integrity, mutual support and appropriate confidentiality
- (j) That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly.
- (k) That Officers will at all times comply with the relevant Code of Conduct.
- (l) Support for the role of Members as the local representatives of the Council, within the parameters of support approved by the Authority.
- (m) That Officers will promote equality of opportunity in all Council matters.

#### **4.3.5 Officers' Expectations**

##### **4.3.5.1 Officers can expect from Councillors:**

- (a) A working partnership based on an understanding of and support for respective roles, workloads and pressures.
- (b) Political leadership and direction.
- (c) Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.
- (d) Integrity, mutual support and appropriate confidentiality.
- (e) Not to be subject to bullying or harassment or to be put under undue pressure. Councillors should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between Councillors and Officers, and the potential vulnerability of Officers, particularly at junior levels.
- (f) That Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly.
- (g) That Councillors will at all times comply with the Members' Code of Conduct
- (h) That Councillors will promote equality of opportunity in all Council matters.

#### **4.3.6 Limitations on Behaviour**

##### **4.2.6.1 The distinct roles of Councillors and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:**

- (a) Close personal, as opposed to working, relationships between Councillors and Officers can confuse these separate roles and detrimentally affect the proper discharge of the Council's functions, not least by creating the perception in others that a particular Councillor or Officer may be securing advantageous treatment.
- (b) The need to maintain the separate roles means that there are limits to the matters on which Councillors may seek the advice of Officers, both in relation to personal matters and party political issues.
- (c) Relationships with a particular individual or party groups should not be such as to create public suspicion that an Officer favours that Councillor or group above others. The issue of Officer attendance and advice to political groups is specifically covered at paragraphs 7.1 to 7.7 of this Protocol.

#### **4.3.7 Grievances or Complaints**

##### **4.3.7.1 Procedure for Officers**

4.3.7.1.1 From time to time the relationship between Councillors and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Councillor, Officers will have recourse to the Grievance Policy and Procedure, where the matter concerns their employment or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the appropriate group leader will decide on the course of action to be taken.

##### **4.3.7.2 Procedure for Councillors**

4.3.7.2.1 In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an Officer, he/she should not raise the matter in public or before the press, as Officers have no means of responding to the same in public. The matter should be raised with the appropriate Director of Service. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Monitoring Officer. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.

#### **4.3.8 The Mayor/Deputy Mayor and Officers of the Council**

4.3.8.1 The Mayor is elected by the Council annually and as a Councillor is bound by both the Members Code of Conduct which applies to all Councillors and to the provisions of this Protocol in addition having [his/her specific responsibilities](#)

4.3.8.2 The Deputy Mayor supports and assists the Mayor in fulfilling all of his/her responsibilities.

4.3.8.3 The Mayor's Attendant should assist the Mayor and Deputy Mayor with the full delivery of the Council's civic functions and services and should also assist any other Councillors who may undertake Mayoral or civic events or engagements from time to time.

4.3.8.4 Subject to the provisions relating to Councillors access to documents and information, Officers shall give full impartial advice to the Mayor and Deputy Mayor to assist with the fulfilment of their responsibilities to uphold and promote the purposes of the Constitution; to interpret its terms and to preside over meetings of the Council.

4.3.8.5 All Officers of the Council should, so far as reasonably practicable support the Mayor and Deputy Mayor with the promotion of public involvement in Council activities and civic and ceremonial events, but should always bear in mind that they are accountable to the whole Council.

#### **4.3.9 Leader/Cabinet Members and Officers**

4.3.9.1 The Leader is elected by the full Council. The other members of the Cabinet are appointed by the Leader.

- 4.3.9.2 As a result of their additional responsibilities as members of the executive, the working relationships between Cabinet Members and Officers as employees may be different from and more complex than those of other Councillors and this is recognised in the expectations they are entitled to have. However the following provisions of the Protocol are designed to ensure that the Leader and Cabinet members nevertheless work to a set of ground rules designed to maintain high standards of conduct, public accountability and mutual respect between Councillors and Officers, and a clear understanding of the executive and scrutiny functions within the Council's decision-making structures. 4.3 Non-Cabinet Members can raise items that they may wish to see discussed by the Cabinet either through Officers or the relevant Member of Cabinet, who will consider the request and, if considered appropriate, request Officers to prepare a report.
- 4.3.9.3 The Chief Executive will be the principal Advisor to the Cabinet. Individual Cabinet Members with functional responsibilities will also have Principal Advisors in accordance with those functional responsibilities. These Advisors will be drawn from the Corporate Management Team. The Chief Executive (with the support of the rest of the Corporate Management Team) will act as Principal Advisor to the Leader and/or Deputy Leader.
- 4.3.9.4 In undertaking the roles inherent in the Council's political management system, Cabinet Members, Directors of Service and other Officers should respect the following protocols:
- (a) As "visible" and accountable elected representatives, with defined responsibilities, Cabinet Members need to be properly briefed on all significant aspects of the work of the one or more services that operate within their remit. Directors of Services, as Principal Advisors, should ensure a proper information flow so as to ensure that Cabinet Members with functional responsibilities can effectively undertake their role.
  - (b) Good communications can best be achieved through planned and programmed meetings and briefing arrangements. On the basis that Directors of Service should be ensuring that the information needs of Cabinet Members are met, Cabinet Members should in turn seek to avoid making requests for unanticipated briefings, or detailed information-gathering exercises, which can unbalance planned service workloads.
  - (c) Cabinet Members should channel requests for information, advice and other support via the Director of Service or via such arrangements as are agreed and established with the Director (eg Director's PA, specific Management Team members on specific issues or otherwise). Cabinet Members should not normally approach other staff direct with requests for information (except in cases of urgency) or seek to commission work from individual staff, as this can create conflict with day to day line management accountabilities.
  - (d) While Cabinet Members will wish to work with Directors and senior managers in the development of policies and programmes, they should recognise that there are categories of officer-level meetings, both inside and outside the Council where attendance by a Cabinet Member (or other Councillors) may not be appropriate.
  - (e) Cabinet Members (and other Councillors) have collective responsibility to the Council for the conduct of employment policy and the Council acts as the employing body for all Council staff. These employment policies are implemented via Directors of Service. Cabinet Members should avoid becoming over-involved in issues of individual

performance of Officers, or individual cases of e.g. grievance, disciplinary action or harassment. Cabinet Members have the right, however, to bring to the notice of relevant Directors any instances within their area of responsibility, where they have evidence that there are problems of inefficiency or ineffectiveness and to be kept informed of what course of action is being pursued in such circumstances.

- (f) Cabinet Members are expected to justify and account for any proposals relevant to their portfolio to the Council and to the Executive Scrutiny and Select Committees as appropriate. When fulfilling this responsibility, Cabinet Members should take appropriate advice from relevant Directors, and Directors should ensure that full and proper professional, legal and financial advice is provided in a timely fashion.
- (g) When new policies and proposals are brought forward, Cabinet Members may wish to discuss with Directors and via Directors with senior Officers preparing reports, the content of such reports and the framing of recommendations. While Cabinet Members may wish to make suggestions on content and drafting, to achieve clarity of presentation, simplify jargon, or better explain issues, they should not attempt to edit out or override any content of a report which Directors or Senior Officers feel it is important to put before the Council. This is especially relevant to matters of a professional or technical nature, and all Chief Officers must be able to retain a right to report direct to the Council and all committees where they consider it necessary.
- (h) A number of Officers exercise statutory functions or have individual responsibilities. Cabinet Members should not attempt to interfere with these roles. These include the functions of Proper Officers

4.3.9.5 Where reports are called in for scrutiny, Cabinet Members (if asked to do so) should attend to answer questions. Cabinet Members should normally be sufficiently briefed to answer the majority of questions themselves, and to be able to provide justification for the recommendations in a report. On more technical or professional issues, however, Cabinet Members may wish to call on Directors or specialist Officers to answer questions and explain the basis for recommendations.

4.3.9.6 The same principles should apply where Cabinet Members wish to discuss issues relating to their portfolios with individual Councillors or groups of Councillors. Cabinet Members should also always ensure, in accordance with the Concordat for Consultation and Communication with Members, that they consult on issues affecting individual wards. Cabinet Members should also make themselves available for discussion with Leaders/Spokespersons of other political groups in respect of forthcoming Cabinet business. On request the Chief Executive and Members of the Corporate Management Team will be available to discuss forthcoming agenda items for Cabinet with Leaders/Spokespersons of political groups.

4.3.9.7 Notwithstanding the above, it should be recognised that the following principles are paramount:

- (a) Chief Officers are employed to serve the whole Council and remain ultimately accountable to the whole Council.
- (b) All Officers are required to be politically neutral. All Officers are required to abide by the Council's Code of Conduct for Officers. The impartiality of Officers must therefore be respected and they must not be asked to undertake work of a party political nature.



- (c) Chief Officers have individual responsibilities as defined in their job descriptions. In some cases these will include professional or technical responsibilities of a statutory nature (eg regulatory functions, Proper Officer functions).
- (d) Chief Officers with professional responsibilities may also have a duty to observe codes and standards set by outside professional bodies (eg accountancy, law, structural engineering). There may be occasions on which these require to be treated as over-ruling the views of Cabinet Members or Council policy decisions (and should such circumstances arise Chief Officers will need to report the position via the decision-making process).
- (e) Certain Officers eg Head of Paid Service (Chief Executive), Monitoring Officer and Chief Finance Officer (Section 151 Officer) have other responsibilities, which in law have primacy over and above their other obligations to the Council and individual Members, and Members must therefore respect these obligations, not obstruct those Officers in the discharge of their duties and must not victimise them for fulfilling their responsibilities.
- (f) The Chief Executive and the Corporate Management Team have a collective responsibility to advise the Council on its priorities, allocation of resources and forward programmes.
- (g) Officers should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to the Leader and Cabinet Members without fear or favour, and make all information relevant to a decision available to them. They should not deceive or knowingly mislead Cabinet Members, other Councillors or the public, or withhold information that may be relevant to a decision.

#### **4.3.10 Chairs and Members of Executive Scrutiny and Select Committees and Officers**

- 4.3.10.1 The Head of Democratic Services will be the Principal Advisor to the Executive Scrutiny Committee. She or he will meet with the Chair and Vice-Chair to discuss any items which may have been called-in and will arrange in liaison with the nominated Democratic Services Officer, if required, for the attendance of any Cabinet Members, Senior Officers or other parties at the proposed Executive Scrutiny Committee meeting at which the called-in item or items are to be discussed.
- 4.3.10.2 In addition to complying with the Code of Conduct for Members, the Chair and members of the Committee have responsibility for ensuring the scrutiny process operates fairly and openly. In particular, they will have responsibility for ensuring that members of the Cabinet and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Councillor. Equally, it has to be recognised that Executive Scrutiny and Select Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of Councillors) or the relevant Chief Officer/Chief Executive (in respect of Officers).
- 4.3.10.3 The Chair and Members of the Committee should expect executive Councillors and Officers to be as open as legally possible with the Committee. In a public forum information should not however be disclosed where it is categorised as exempt under the Access to Information Procedure Rules.

- The Chair and Members of the Committee will still need to demonstrate the same need to know in respect of access to information as other Councillors.
- 4.3.10.4 The Chair of the Committee should keep separate his/her role as chair and as constituency Councillor, and should seek to ensure that no conflicts of interest arise. He/she should not seek to use his/her position to influence events unduly.
- 4.3.10.5 In accordance with the Code of Conduct, Councillors must not use Council resources for party political purposes. They must uphold the political impartiality of the Officer body, and not ask Officers to act in any way which would conflict with the Officer Code of Conduct, this Protocol, and any other part of the Constitution or National Conditions of Service.
- 4.3.10.6 Officers are required to assist the Executive Scrutiny Committee in the delivery of its role. The Chair and Members of the Committee, as with all Councillors undertaking scrutiny, will however have to be aware of the resource consequences of any proposals. In some instances requests for research in pursuit of scrutiny may have to be refused on grounds of expense or time. In any event information currently under confidential review by the Cabinet will not normally be available on request to Councillors undertaking scrutiny.
- 4.3.10.7 The overriding principles outlined in paragraph 4.10 of this protocol apply to the scrutiny process, just as they do to the Council's executive decision-making arrangements.
- 4.3.10.8 The provisions of paragraphs 5.4 to 5.10 inclusively of this Protocol apply equally to the Chairs and Members of Select Committees, as they do to the Chair and Members of the Executive Scrutiny Committee.

#### **4.3.11 Chairs and Members of Committees and Officers**

- 4.3.11.1 Whilst it is clearly important that there should be a close working relationship between the Chairperson and/or Vice-Chairperson of a Committee and a Corporate Director and other Officers of any Service which reports to that Committee, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially and fairly with other Members and other party groups.
- 4.3.11.2 Whilst the Chairperson and/or Vice-Chairperson of a Committee will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations a Director will be under a duty to submit a report on a particular matter. Any issues arising between a Chairperson and/or Vice-Chairperson and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 4.3.11.3 In relation to action between meetings, it is important to remember that the Council's Constitution only allows for decisions (relating to the discharge of any of the Council's functions) to be taken by the Committee a sub-committee or an Officer. In the latter case such decisions may need to be taken in consultation with a Chairperson and Vice-Chairperson or some other Member of the Council. The Constitution does not allow for such decisions to be taken by a Chairperson or indeed by any other single Member.
- 4.3.11.4 The provisions of paragraphs 5.4 to 5.10 inclusively of this Protocol apply to the Chairs and Members of all the Council's quasi-judicial and regulatory Committees, including the Standards Panel, just as they apply to the Chairs and Members of the Authority's Executive Scrutiny and Select Committees.

#### 4.3.12 **Officers and Party Groups**

- 4.3.12.1 There is now statutory recognition for Party Groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Party Groups therefore have an important part to play in the development of policy and the political management of the Authority. In view of this it is in the interests of the Authority to support the effective operation of political groups insofar as Council business is concerned and Officers may therefore properly be called upon to support and contribute to deliberations by such groups.
- 4.3.12.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Cabinet or Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 4.3.12.3 Certain points must however be clearly understood by all those participating in this type of process. Members and Officers alike, given the particular risks it can pose in terms of the impartiality of Officers. In particular:
- (a) Political Group meetings, whilst they are an important part in the preliminaries to the decision-making process, are not formal decision-making bodies of the Council and, as such, are not empowered, even under the new constitutional arrangements, to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that Members and Officer understand and interpret such decisions accordingly.
  - (b) Any political group may request the Chief Executive or a Director of Service to attend a meeting of the group to provide information and to advise on any particular matter relating to the authority. Political groups may also request the Chief Executive or a Service Director to prepare written reports on matters relating to the authority for consideration by the group.
  - (c) The Chief Executive or Director of Service may arrange for the attendance of a representative in his/her stead, or may decline to attend or to provide a representative where he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
  - (d) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of *Council* business and, where a report is presented, should be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Council. Officers must not be involved in advising on matters of party business or political implications. They should remain politically neutral. The observance of this distinction will be assisted if Officers are only expected to be present and remain in attendance at Group meetings when matters of Council business are being discussed; and
  - (e) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council/executive meeting when the matter in question is considered formally.

- 4.3.12.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Councillors. Such persons will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 4.3.12.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the contents of any such discussions to another party group.
- 4.3.12.6 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will then discuss them with the relevant Group Leader(s).
- 4.3.12.7 All Councillors should appreciate that the only basis on which the Council can lawfully provide support services (eg computers, stationery, typing, printing, photocopying, transport etc) to Councillors is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in order to support Councillors in connection with any party political or campaigning activity or for Councillors private purposes. In particular, Councillors should not personalize the stationery they receive from the Council by adding political logos or referring to themselves as a specific political party member or representative. Councillors should also not ask Officers to provide support services other than those which are to be used for Council business purposes.
- 4.3.12.8 All Councillors should comply with the provisions of the Protocols relating to the use ICT and other facilities and services.

#### 4.3.13 **Ward Members and Officers**

- 4.3.13.1 Although all Councillors have a primary, overall responsibility and accountability to the Council as a whole, they also have a wider duty to represent their constituents and local communities.
- 4.3.13.2 Ward Councillors should aim to ensure that the Council is aware of the views and interests of those people who elect them. They may take a lead role in developing local networks of organisations and individuals, providing local interpretations of the Council Plan and they may promote local democratic engagement.
- 4.3.13.3 A community Member's "champion role" has a number of key elements. The following are some of the principal ones:
  - (a) **Signposting** – community Members know how the system works and who to contact. They are well placed to advise local people about local issues and can point people in the right direction;
  - (b) **Monitoring** – community Members can help local people to make progress by overseeing and intervening on their behalf;
  - (c) **Advocacy** – community Members have the necessary status, skills and ability to tackle failure. When things go wrong or break down, as elected representatives, they are well placed to intervene and to seek redress on behalf of local people; and
  - (d) **Representing** – community Members can spot emerging issues and trends. They will know when a series of individual issues indicates that

there is a real failure in the system that needs to be taken up by the Council itself and they can feed views into the local authority.

- 4.3.13.4 Whichever of these roles Ward Councillors perform, they need to be properly supported if they are to be effective.
- 4.3.13.5 The Democratic Services Unit and individual Democratic Services Officers will support Ward Councillors by (amongst other things) providing information and documentation (subject to the following paragraphs of the protocol regarding access to information and Council documents); undertaking research about local issues; putting them in contact with individuals and groups in their Wards and adjoining Wards; arranging Ward Surgeries and local meetings on their behalf; arranging informal meetings with Officers and other Members; highlighting issues of local interest ensuring access to Council meetings, agendas, minutes and facilities ; maintaining the Members' Library; co-ordinating a support service in connection with technology in Councillors' homes.
- 4.3.13.6 All Officers should ensure that the Council's Concordat for Communication and Consultation with Members is followed at all times.
- 4.3.13.7 All Officers and, where appropriate, Members of the Cabinet should consult with Ward Members on issues which relate to their Ward. Such issues may typically include:
- changes in service delivery
  - planning applications and proposals
  - regeneration initiatives
- 4.3.13.8 All Officers should identify any issues which may have implications for more than one Ward and consult with all the Ward Members who may be affected.
- 4.3.13.9 All Officers should always try to ensure, so far as it is reasonably practicable to do so, that Councillors have a realistic timescale in which to respond to consultation on matters affecting or relating to their Ward or constituents. Where, however, urgent action is required to address a particular issue which, for instance, does not realistically allow time for Ward Members to consult their constituents, Officers should inform the Councillors concerned as soon as possible of any actions taken.
- 4.3.13.10 All Officers acting within the remit of their delegated powers should ensure that they identify at an early stage any issues which should be drawn to the attention of Ward members or which should form part of a prior consultation exercise with them.
- 4.3.13.11 Whenever a public meeting is organised by or on behalf of the Council to consider a local issue all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

#### **4.3.14 Non-Councillor Members of Council bodies**

- 4.3.14.1 All non-Councillor representatives appointed to the Council's bodies, whether they have voting rights or not, should comply with the Council's Code of Conduct for Members, particularly with regard to personal conduct; the declaration of interests; acceptance of gifts and hospitality; use of Council facilities and the basic principles of mutual trust and respect between Councillors and Officers.

4.3.14.2 All non-Councillor representatives should abide by and be subject to the provisions of this Protocol insofar as they can sensibly be applied to them when fulfilling their duties as representatives on Council Committees.

4.3.14.3 All non-Councillor representatives will be subject to the same requirements and restrictions as Members in respect of access to Council documents and information.

#### **4.3.15 Publicity Material and Press Releases**

4.3.15.1 The guiding principles as to the publication of publicity material and the issuing of press releases by local authorities are to be found in the Local Government Act 1986 and the related Code of Conduct or Code of Recommended Practice on Local Authority Publicity as further revised by the Secretary of State on 31 March 2011.

4.3.15.2 The following is an extract from the 1986 Act:

*“A local authority shall not publish any material which, in whole or in part, appears to be designed to affect support for a political party.*

*In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters;*

- *whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;*
- *where material is part of a campaign the effect which the campaign appears to be designed to achieve.”*

4.3.15.3 A copy of the Code of Conduct or Code of Recommended Practice on Publicity is accessible at [www.communities.gov.uk/publications/localgovernment/publicitycode2011](http://www.communities.gov.uk/publications/localgovernment/publicitycode2011)

4.3.15.4 The Council is not therefore permitted to fund the publication of publicity material and/or the production of press releases which are party political. To assist in defining this, the following checklist can be used:

- party political logos should not be used
- party political names should not be used except where they are necessary in describing a position
- publicity should not be used to promote individual Councillors unless they are acting on behalf of or representing the Council.

4.3.15.5 The names of Members, and a short quote from them, may be included in press releases relating to a ward-specific issue in their ward or, in the case of Group Leaders, to a Council/Borough-wide issue. This may only occur where the Councillors concerned are speaking on behalf of the Council or in support of Council policy.

4.3.15.6 If these rules are respected there is no reason whatsoever as to why effective publications and other material cannot be produced and issued without contravening the law. Such material can be written by paid officers and printed by the local authority.

- 4.3.15.7 Any publication or press release which breaches any of the above will be deemed political and will need to be funded by the political party and Officers will not be able to participate.
- 4.3.15.8 Councillors acting as spokespersons for the Council, when responding to the press and media and making public statements on behalf of the Council should liaise with the Authority's Communications Team on the form and content of any response or statement.

#### **4.3.16 Correspondence**

- 4.3.16.1 Correspondence between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor unless a prior protocol to that effect has been agreed eg as in the case of advice on Members' interests. Where exceptionally, without such agreement being in place, it is necessary to copy correspondence to another Councillor, this should be made clear to the original Councillor. In other words, a system of "silent copies" should not be employed.
- 4.3.16.2 Official letters on behalf of the Council should normally be sent out under the name of the appropriate Officer, rather than under the name of a Councillor. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear under the name of a Councillor, 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 never be sent out under the name of a Councillor.
- 4.3.16.3 Correspondence between Officers and Members of Parliament should be copied to the Leader and Deputy Leader of the Council.
- 4.3.16.4 Where correspondence is proposed to be copied to another Councillor, or to any other person or body, and that correspondence contains, or includes as an attachment personal information regarding a third party (e.g. a constituent), copying should not take place in breach of the requirements of Data Protection Legislation. Where there is any doubt in this respect, appropriate legal advice should be obtained before copying takes place.
- 4.3.16.5 It is also accepted by convention that a Member of one party group will not have a "need to know" and therefore a right to inspect, a document which forms part of the internal workings of another party group.

#### **4.3.17 Reporting on, and Recording Meetings**

- 4.3.17.1 Reporting on meetings between Councillors by Councillors, or between Officers and Councillors by either party, where reporting includes filming, photographing or making an audio-recording of the business of the meeting, and using any other means for enabling persons not present at a meeting to see or hear the business of the meeting as it takes place or later, should not take place without prior notice, thereby allowing those present at the meeting either to request that no reporting takes place, or to moderate the nature and content of the business appropriately.





# **STOCKTON-ON-TEES BOROUGH COUNCIL**

## **CONSTITUTION**

### **Part 5 – Members' Allowances Scheme**

In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) ("the Regulations"), the Council's scheme for the payment of allowances, with effect from 1st April, 2018 is as follows:-

**5.1 Basic Allowance**

5.1.1 A basic allowance of £9,300 per annum will be paid to each Member of the Council.

5.1.2 Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office as member subsists bears to the number of days in that year;

**5.2. Special Responsibility Allowance**

5.2.1 The following Special Responsibility Allowances will be paid to the Members of the Council specified:-

<u>Post</u>	<u>Allowance per annum £</u>
Leader and Cabinet Member for Corporate Management and Finance	25,000
<sup>13</sup> Deputy Leader	13,750
Cabinet Member for Access, Communities and Community Safety	11,250
Cabinet Member for Regeneration & Transport	11,250
Cabinet Member for Adult Services and Health	11,250
Cabinet Member for Arts, Leisure & Culture	11,250
Cabinet Member for Children & Young People	11,250
Cabinet Member for Environment & Housing	11,250
Chair of Executive Scrutiny Committee	6,250
Vice-Chair of Executive Scrutiny Committee	3,125
Chair of Adult Services and Health Select Committee	6,250
Vice-Chair of Adult Services and Health Select Committee	3,125
Chair of Children & Young People Select Committee	6,250
Vice-Chair of Children & Young People Select Committee	3,125
Chair of Crime and Disorder Select Committee	6,250
Vice-Chair of Crime and Disorder Select Committee	3,125
Chair of People Select Committee	6,250
Vice-Chair of People Select Committee	3,125
Chair of Place Select Committee	6,250
Vice-Chair of Place Select Committee	3,125
Chair of Audit Committee	6,250
Vice-Chair of Audit Committee	3,125
Chair of Planning Committee	6,250
Vice-Chair of Planning Committee	3,125
Chair of Licensing Committee	6,250
Vice-Chair of Licensing Committee	3,125
Largest Minority Group Leader	5,000

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<sup>13</sup> NB The Deputy Leader will be assigned one of the Cabinet portfolios.

- (a) Where a Member does not have throughout the whole of a year any such special responsibilities as entitle him to a Special Responsibility Allowance, his entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (b) No Member must receive more than one Special Responsibility Allowance from the Council, including Mayoral Allowances, and where a Member occupies two or more positions qualifying for such an Allowance, then only the higher or highest Special Responsibility Allowance will be paid.

### 5.3. Mayoral Allowances

5.3.1 The following allowances will be payable:-

Mayor	15,625
Deputy Mayor	4,910

### 5.4. Child Care and Dependent Carers' Allowance

5.4.1 A child care and dependent carers' allowance of up to £8.71 per hour (or, in special cases, such larger sum as shall be certified as necessary and reasonable by the Corporate Director of Children, Education and Social Care) (actual expenditure), with a maximum monthly payment to a claimant of £400, will be payable to any Member of the Council who incurs child care and dependent carers' costs, for the duration of an approved duty, plus reasonable travelling time to and from that duty and carers' reasonable travelling expenses at Members' rates.

5.4.2 An approved duty will consist of any of the following:-

- a meeting of the Cabinet
- a meeting of the Council
- a meeting of a committee of the Council
- a meeting of some other body to which the Council makes appointments or nominations, or
- a meeting of a committee or sub-committee of a body to which the Council makes appointments or nominations.
- a meeting which has **both** been authorised by the Council or a committee of the Council or a joint committee of the Council and one or more other authorities, or a sub-committee of a joint committee and to which representatives of more than one political group have been invited
- a meeting of a local authority association of which the Council is a member
- duties undertaken on behalf of the Council in pursuance of any standing order requiring a Member or Members to be present while tender documents are opened
- duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises
- duties undertaken on behalf of the Council in connection with arrangements made by the Council for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996
- any other duty approved by the Council in connection with discharging the duties of the Council or its committees.

## 5.5 Co-Optees Allowances

5.5.1 The following allowances will be payable to co-optees (persons who are not Members of the Council but who are members of a Committee of the Council, with or without voting rights) – except for co-optee posts for diocesan and parent governor representatives.

All co-optees	650
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(One payment only per co-optees)

5.5.2 Where the appointment of a co-optee begins or ends otherwise than at the beginning or end of a year, his entitlement shall be to payment of such part of the co-optees' allowance as bears to the whole the same proportion as the number of days during which his term of office as member subsists bears to the number of days in that year.

## 5.6 Travel and Subsistence Allowances

### 5.6.1 Mileage Allowances

<u>Member's motorcycle</u>	21.45p per mile
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#### Member's Car

Motor car/tricar up to 999cc	46.9p per mile
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Motor car/tricar 1000 cc and above	47.7p per mile
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Bicycle/Cycle	23p per mile
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**In addition 3p per mile can be claimed for each passenger carried (up to a maximum of 4) to whom a travelling allowance would otherwise be payable.**

### 5.6.2 Meal Allowances

(a)	Breakfast allowance (provided the journey starts before 7.00 am)	£7.76
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(b)	Evening meal allowance (provided the journey ends after 8.30 pm)	£13.25
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### 5.6.3 Subsistence Allowance

Overnight or for an annual conference of the Local Government Association (including or not including an annual meeting) or of such other association of bodies as may be approved for the time being for the purpose. This allowance would normally cover the cost of accommodation and all meals within a 24 hour period. However, additional reimbursement for meals can be claimed in accordance with the scheme, if these, together with the cost of accommodation exceed £102.84.

£102.84

5.6.4 Travelling and subsistence allowances may be paid for:-

- a meeting of the Cabinet
- a meeting of the Council
- a meeting of a committee of the Council

- a meeting of some other body to which the Council makes appointments or nominations, or
- a meeting of a committee or sub-committee of a body to which the Council makes appointments or nominations.
- a meeting which has **both** been authorised by the Council or a committee of the Council or a joint committee of the Council and one or more other authorities, or a sub-committee of a joint committee and to which representatives of more than one political group have been invited
- a meeting of a local authority association of which the Council is a member
- duties undertaken on behalf of the Council in pursuance of any standing order requiring a Member or Members to be present while tender documents are opened
- duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises
- duties undertaken on behalf of the Council in connection with arrangements made by the Council for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996
- any other duty approved by the Council in connection with discharging the duties of the Council or its committees.

5.6.5 Within the context of this section of the Scheme “Member” includes a Co-optee.

## **5.7 General**

5.7.1 A person may, by notice in writing given to the Proper Officer of the Council, elect to forgo his entitlement or any part of his entitlement to allowances.

5.7.2 The time limit from the date on which an entitlement to each of the following allowances arises during which a claim for such allowances must be made by the person to whom they are payable is two months:-

- (i) dependants’ carers allowance;
- (ii) travelling and subsistence allowance; and
- (iii) co-optees’ allowance.

This will not however prevent the Council from making a payment where the allowance is not claimed within the period specified in the scheme should the circumstances justify doing so.

5.7.3 Where a Member of the Council is also a member of another authority, that Member may not receive allowances from more than one authority in respect of the same duties.

5.7.4 The Basic, Special Responsibility and Co-optees Allowances will be paid on a monthly basis.

5.7.5 Where payment of any allowance has already been made in respect of any period during which the Member concerned:-

- (i) ceases to be a Member of the Council; or
- (ii) is in any other way not entitled to receive the allowances in respect of that period,

the Council may require that such part of the allowance as relates to any such period be repaid to the Council.

**The Previous Members’ Allowances Scheme is revoked.**

## GLOSSARY OF TERMS

<b>Terms</b>	<b>Description</b>
Annual Meeting of the Council	The Annual Meeting of the Council (sometimes referred to as Annual Council or the Annual Meeting) is a special meeting which takes place each year, at which the Council elects a new Mayor and Deputy Mayor and agrees the appointment of councillors to committees and outside bodies. In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Council will take place in March, April or May.
Background Papers	Documents on which reports are primarily based.
Cabinet	The executive body of the Council comprising the Leader, as Chair, and up to nine other Councillors appointed by the Leader.
Call-In	The process of delaying the implementation of a Cabinet decision while the Executive Scrutiny Committee considers it in more detail. The Committee may refer the decision back to the Cabinet to be reconsidered
Chair	The Member who presides over a meeting of the Council's Cabinet, Committees, Sub-Committees or Panels.
Chief Executive	The Councils most Senior Officer and also the Head of Paid Service.
Chief Finance Officer	An Officer appointed by the Council to ensure the proper financial management of the Councils affairs and setting the Prudential Borrowing Limits.
Chief Officers	The following officers of the Council are Chief Officers for the purposes of this Constitution: <ul style="list-style-type: none"> <li>• Chief Executive (and Head of Paid Service)</li> <li>• Deputy Chief Executive (and s.151 Officer)</li> <li>• Director of Finance and Business Support</li> <li>• Director of HR, Legal and Communications (Monitoring Officer)</li> <li>• Director of Children's Services (Statutory DCS)</li> <li>• Director of Adults and Health (Statutory DASS)</li> <li>• Director of Economic Growth and Development</li> <li>• Director of Culture, Leisure and Events</li> <li>• Director of Community Service</li> </ul> <p>along with other senior officers who are appointed on Chief Officer terms and conditions of service.</p>

<b>Terms</b>	<b>Description</b>
Co-opted Members	Persons, who are not elected, but appointed to a Council Committee, Sub-Committee or Panel, with or without voting rights
Council Functions	Activities which can only be the responsibility of the Council.
Councillors	Persons elected as Members of the Council by the voters of each Ward every fourth year.
Corporate Management Team	A team of senior officers comprising the Chief Executive, the s.151 Officer, the Monitoring Officer and some of the other Chief Officers mentioned above
Deputy Leader	The Councillor elected or nominated to the position of Deputy Leader by the Leader of the Council.
Deputy Mayor	A Councillor elected annually by the Council to act as deputy to the Mayor.
DPS	Dynamic Purchasing System. This is a fully electronic system for the procurement of goods and services.
Executive	The Cabinet
Executive Arrangements	Arrangements by a Local Authority for and in connection with the creation and operation of an executive
Executive Functions	Activities which can only be the responsibility of the Cabinet.
Forward Plan	A document which indicates what key decisions are likely to be made by or on behalf of the Cabinet
Full Council	All 56 Members of the Council meeting together
Head of Paid Service	The most senior Officer of the Authority, with responsibility for the management of all the Council's Officers, designated by full Council.
Joint Arrangements	Services provided in partnership with other Councils or by or on behalf of those Councils, sometimes also with health bodies, police and fire.
Key Decision	A decision by the Cabinet, a Committee of Cabinet, portfolio holder or by an Officer which involves significant expenditure or which has a significant effect on local communities and as described in more detail in Part 2 – 4 Executive Functions para. 6(d).
Leader	The Councillor elected to the position of Leader, and Chair of the Cabinet, by the full Council.
Local Choice Functions	Activities which can be the responsibility of either the Council or the Cabinet. This means that the Council can decide which of these decisions should be taken by the Full Council and which should be taken by the Cabinet.
Mayor	A Councillor who is elected annually by the Council to chair full Council meetings and to be the first citizen of the Borough.
Medium Term Financial Plan	A plan containing future years resource allocations (revenue and capital)

<b>Terms</b>	<b>Description</b>
Members' Code of Conduct	A Code prepared and approved by the Council in accordance with the requirements of the Localism Act 2011 that governs the behaviour of councillors
Municipal Year	The period of approximately 12 months between two Annual Meetings of the Council, typically held during May.
Monitoring Officer	An Officer appointed by the Council, with responsibility on the lawfulness and reasonableness of the Council's actions and ombudsman complaints.
Ombudsman	A person independent of the Council who has power to investigate maladministration by the Council.
Political Group	At least two Councillors who agree to form a Group and notify the proper officer in writing that they have done so. Political groups are entitled to places on non-executive committees in proportion to their size (known as political balance).
Proper Officer	An Officer designated by the Council to fulfil a range of specific statutory functions.
Regulatory Committees	Committees appointed by the Council to be responsible for functions such as planning and licensing.
Reports	Written items prepared by Officers for consideration by Members, usually setting out recommendations for action.
Returning/Acting Returning Officer	An Officer designated by the Council to fulfil the duties of Returning/Acting Returning Officer in Parish, District, European and General Elections
Executive Scrutiny Committee	A Committee established by the Council to scrutinise and, where appropriate, call-in decisions of the Cabinet.
Select Committees	Committees established by the Council to review and recommend improvements to the Council's service delivery arrangements and policies.
Standards Panel	A Panel of members established by the Council to with duties and responsibilities regarding the Council's local standards of conduct regime
Vice-Chair	The Member who deputises for the Chair.
Non-Executive Function	Non-Executive Functions are powers and duties that under legislation are not the responsibility of the leader or Cabinet. They include regulatory functions such as planning and licensing.
Section 151 Officer	the Authority's 'responsible financial officer' under all relevant legislation who is responsible for the proper administration of the Council's financial affairs
Accounting Instructions	Detailed financial rules approved by the Council's section 151 Officer
Thirteen Housing Group	