CONSTITUTION

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PART A

Summary & Explanation
SUMMARY AND EXPLANATION

1. THE COUNCIL’S CONSTITUTION

The Council’s Constitution sets out in detail how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. This edition of the Constitution is current at May 2017.

The arrangements will:

- Facilitate the community leadership role of the Council.
- Promote partnership working with other public bodies, residents and stakeholders.
- Provide enhanced opportunities for residents to be involved in decision making.
- Assist in achieving improvements in services and the drive for Best Value.
- Help the Council to deliver its vision and its priority outcomes of :-
  
  ➢ Stable and independent families
  ➢ Healthier people
  ➢ A regenerated South Tyneside with increased business and jobs
  ➢ Better housing and neighbourhoods

The Constitution commits the Council to provide clear community leadership and to ensure that it operates with transparency, efficiency and accountability. It also explains how the Council operates.

2. WHAT’S IN THE CONSTITUTION?

The Constitution document is split into several sections and includes:-

- The role of Members of the Council.
- The role of Members of the Public and the Council.
- The Council meeting.
- Scrutiny of decisions.
- The Leader.
- The Cabinet
- Regulatory and other Committees.
- The Standards Committee.
- Area Committees/Community Forums.
- Joint Arrangements.
- Officers.
- Decision Making.

3. HOW THE COUNCIL OPERATES

The Council is composed of 54 Councillors elected in thirds in three out of every four years. Councillors are democratically accountable to residents of their wards. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The names and addresses of all Councillors together with membership of political groups are published on the Council’s website at www.southtyneside.info and in the Council’s yearbook which is publicly available.

Councillors are required to agree to observe a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advice on the Code of Conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council’s overall policies and set the budget each year. The Council appoints the Leader, who serves a four year term. The Council also decides on the delegation of non-executive functions to Committees and to officers.

The Leader decides the number of members who will sit in the Cabinet, appoints them and appoints one of them as the Deputy Leader. The Leader also decides the process for decision making within the Cabinet and the delegation of executive functions to the Cabinet, Committees of the Cabinet, Cabinet members and officers.

The Council holds the Cabinet to account by appointing Scrutiny Committees to question decisions and to propose policy changes across all of the Council’s areas of operation.

4. HOW DECISIONS ARE MADE

All executive decision making power is exercisable by the Leader. The Leader is required to appoint between 2 and 9 executive members who, together with the Leader, make up the Cabinet. The Leader must decide which functions to delegate to the Cabinet or Cabinet members or officers.

When major executive decisions are to be discussed or made (known as “key decisions”), these are published in the Key Decision Plan in so far as they can be anticipated. If these key decisions or indeed any decisions, are to be discussed with Council Officers at a meeting of the Cabinet, this will be open for the public to attend except in limited circumstances.
The Council has adopted the principle of openness as far as reasonably possible in operating this Constitution and accordingly the Cabinet will hold its meetings in public, except when “confidential” or “exempt” business is to be discussed (i.e. personal or confidential matters - see Part D Section 2 Access to Information for what this means in practice.)

Executive decisions must be in line with the Council’s overall policies and budget. If it is proposed to make a decision which is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide, (unless it falls within certain exceptions set out later).

5. SCRUTINY

The Overview and Scrutiny Co-Ordinating and Call In Committee and the People and Place Select Committees support the work of the Cabinet and the Council as a whole. These Committees will prepare reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Select Committees also monitor the decisions of the Cabinet. They can ‘call-in’ a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. If the Cabinet decides not to change a decision after it has been called in then the Scrutiny Committee may refer the decision to the Council for further consideration. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy, particularly those decisions included within the Key Decision Plan. The 2 Select Committees each link to a number of the Council’s priorities.

6. THE COUNCIL’S EMPLOYEES

The Council employs people to give advice, implement decisions and manage the day-to-day delivery of its services. Officers are politically neutral; they advise on policy and implement Council decisions. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol governs the relationships between Officers and Members of the Council (see Part E Section 4).

7. ARRANGEMENTS FOR AUDIT

The Council’s Corporate Director of Business and Resources is responsible for conducting a continuous internal audit of the financial affairs of the Council, as required by the Accounts and Audit (England) Regulations 2011 and for maintaining an adequate and effective system of internal audit. The Council also has an internal audit service. Further information on the Council’s accounting arrangements and audit are available from the Corporate Director of Business and Resources.

The Council is subject to external audit of its financial affairs, through auditors appointed by the Audit Commission (an independent body established in 1983). PWC are the Council’s external auditors.

External auditors have an important role to play in ensuring that there is accountability for public money, stewardship of public resources and effective corporate governance. In particular the external auditor will:-
provide an opinion on the accounts and financial statements of the Council;

review the arrangements for Best Value, and whether they secure economy, efficiency and effectiveness in exercising the Council’s functions;

ensure that arrangements for the publication of performance information are satisfactory;

give electors the opportunity to raise questions about the accounts and deal with any objections raised pursuant to the provisions of the Audit Commission Act 1998; and

deal with Advisory Notices under the Local Government Act 2000, where the auditor considers that there may be the potential for unlawful expenditure.

External auditors operate within the Code of Audit Practice and other requirements laid down by the Audit Commission.

8. PUBLIC RIGHTS

Members of the public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council’s own processes. The local Citizens Advice Bureau or Community Legal Service may be able to advise on individuals’ legal rights.

Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they have additional rights. These are not covered in this Constitution.

Residents have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, its Committees and the Cabinet, except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum for an elected Mayor (a referendum may only be held once every five years);
- in the case of members of the public resident in the Council’s area, participate in the Council’s question time;
- find out, from the Cabinet’s Key Decision Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- see reports and background papers, and any record of decisions made by the Council and Cabinet unless the matter is to be considered in confidential session in accordance with procedures in Part D Section 2 of this Constitution;
- use the Council’s Complaints Procedure regarding any action by the Council (leaflets explaining this procedure are available at Council Offices and public libraries);

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council’s own complaints process;

- complain to the Head of Legal Services, who is the Council’s Monitoring Officer, in writing if they have evidence which they think shows that a Councillor has not observed the Members’ Code of Conduct;

- inspect the Council’s accounts (subject to certain limitations) and make their views known to the external auditor; and

- access the name, home address, political group, home telephone number and e-mail address of all elected members.

9. Armed Forces Community Covenant

South Tyneside Council and its partners signed a Community Covenant with the Armed Forces Community in the Borough, which spelled out our commitment to:

- encourage local communities to support the Armed Forces Community in their areas, and vice versa;
- promote understanding and awareness amongst the public of issues affecting the Armed Forces Community;
- recognise and remember the sacrifices made by the Armed Forces Community; and
- encourage activities which help to integrate the Armed Forces Community into local life.

The Council has embedded this commitment in the Shaping our Future Strategy. As part of this commitment, the Corporate Lead Human Resources shall be responsible for ensuring that the Council fulfils its commitment as an employer in respect of the Ministry of Defence Employer Recognition scheme.

10. KEY CONTACT POINTS

- Members of the Council.
- Cabinet Members and Chairpersons
- Chief Executive/Corporate Directors/Heads of Service
- Head of Legal Services/Monitoring Officer
- Commission for Local Administration: Local Government Ombudsman, Beverley House, 17 Shipton Road, York, YO30 5FZ
Committee Structure

South Tyneside Council
54 Members

Cabinet

Leader

Deputy Leader

Lead Member
Regeneration and Economy

Lead Member
Children, Young People and Families

Lead Member
Independence and Wellbeing

Lead Member
Resources and Innovation

Lead Member
Voluntary Sector Partnerships and Co-operatives

Lead Member
Area Management and Community Safety

Lead Member
Housing and Transport

Non Exec Committees

General Purposes

Pensions

Human Resources

Appeals

Regulatory Committees

Standards

Audit

Regulatory / Licensing

Planning

Overview and Scrutiny Co-ordinating and Call In Committee

‘People’ Select Committee
Children, Families & Adults
Health and Wellbeing

‘Place’ Select Committee
Regeneration, Business, Transport
Neighbourhoods and Communities

Performance Panels

Contracts Performance Panel

Safeguarding and Education Panel

Housing Performance Panel

West Shields, Cleadon and East Boldon

East Shields and Whitburn

Jarrow and Boldon

Hebburn

Riverside

Community Area Forums
CORPORATE GROUP STRUCTURE CHART

Chief Executive:
Martin Swales

- Corporate Management
- Overall Operational Management Responsibility
- Statutory Head of Paid Service
- Registration Officer

Business and Resources
Corporate Director:

- Audit, Risk and Insurance
- Cultural Services
- Finance
- Human Resources
- Legal, Elections and Registration
- Pensions
- Strategic Partnerships Client Role
- Strategy, Performance and Democracy

Children, Adults and Health
Corporate Director: John Pearce

- Adult Social Care
- Children's Centres
- Children's Social Care
- Fostering and Adoption
- Out of School Network
- Public Health
- Schools
- Services for Young People
- Youth Offending Service

Economic Regeneration
Corporate Director: David Cramond

- Asset Management,
- Area Management and Highways Engineering
- Business, Employment and Skills
- Economic Regeneration
- Housing Policy
- Marketing and Communications
- Planning, Built Design, Development & Control
- Regulatory Services

Corporate Management
Overall Operational Management Responsibility
Statutory Head of Paid Service
Registration Officer
Audit, Risk and Insurance
Cultural Services
Finance
Human Resources
Legal, Elections and Registration
Pensions
Strategic Partnerships Client Role
Strategy, Performance and Democracy
Adult Social Care
Children's Centres
Children's Social Care
Fostering and Adoption
Out of School Network
Public Health
Schools
Services for Young People
Youth Offending Service
Asset Management,
Area Management and Highways Engineering
Business, Employment and Skills
Economic Regeneration
Housing Policy
Marketing and Communications
Planning, Built Design, Development & Control
Regulatory Services
PART B

Articles of the Constitution
ARTICLES OF THE CONSTITUTION

ARTICLE 1

1. PURPOSE OF THE CONSTITUTION

1.1. Powers of the Council

This Constitution, and all its appendices, together form the Constitution of South Tyneside Borough Council. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2. Purpose of the Constitution

The purpose of the Constitution is to:

1.2.1. enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;

1.2.2. support the active involvement of residents in the process of local authority decision-making;

1.2.3. help Councillors represent their constituents more effectively;

1.2.4. enable decisions to be taken efficiently and effectively;

1.2.5. provide a means of improving the delivery of services to the community;

1.2.6. create a powerful and effective means of holding decision-makers to public account;

1.2.7. ensure that no one will review or scrutinise a decision in which they were directly involved; and

1.2.8. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions.

ARTICLE 2

2. MEMBERS OF THE COUNCIL

2.1. Composition

The Council is made up of 54 elected members, called Councillors, representing 18 wards. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State from time to time.
2.2. **Eligibility**

Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor. Any person who holds paid office or employment with the Council, or has been made subject to a bankruptcy restrictions order or interim order or has in the last five years had a sentence of imprisonment of not less than three months (whether suspended or not) imposed upon them, is disqualified from being a councillor.

2.3. **Election and terms of Councillors**

The regular election of Councillors will usually be held on the first Thursday in May in thirds, three years out of every four years. Councillors are elected for a term of four years. 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 election at which their seat comes up for re-election.

2.4. **Roles and functions of all Councillors**

All Councillors will:

- **2.4.1.** ensure that decisions are taken with consideration to the views of all stakeholders;
- **2.4.2.** represent the views of all constituents to the Council;
- **2.4.3.** represent the views of stakeholder groups to the Council;
- **2.4.4.** provide a regular, advertised, referral and direct advice service for constituents and to deal with problems raised by them carefully and promptly;
- **2.4.5.** promote consultation with all stakeholders, encourage their involvement in the decisions of the Council and develop the Council’s community strategy, particularly through developing the role and work of the Council’s Community Area Forums;
- **2.4.6.** promote the Council’s mission, values, aims and objectives;
- **2.4.7.** represent the Council as required on other bodies;
- **2.4.8.** comply at all times with the requirements of the law and the Members’ Code of Conduct;
- **2.4.9.** contribute to, and participate in, the decision making processes of the Council, including determination of the Budget and Policy Framework, through membership of the Council, its Regulatory and Appeal Committees and other bodies;
- **2.4.10.** for Councillors who are not members of the Cabinet, to hold the Cabinet to account, particularly through their work as members of the Council and in Scrutiny Committees;
2.4.11. participate in policy development and review work through Scrutiny Commissions and Task Groups;

2.4.12. participate in the work of the appropriate political group;

2.4.13. participate in Members’ training and development;

2.4.14. participate in the work of advisory/support (link) groups for Cabinet members.

2.5. **Rights and duties of Councillors**

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

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

2.6. **Conduct**

Councillors will act in accordance with the General Obligations contained in the Members Code of Conduct and will observe the Code of Conduct and the Protocol on Member/officer Relations set out in Part E of this Constitution.

2.7. **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in this Constitution (Part F).

**ARTICLE 3**

3. **MEMBERS OF THE PUBLIC AND THE COUNCIL**

3.1. **Rights of Members of the Public**

The rights of members of the public are set out in this Article. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part D Section 2 of this Constitution.

3.2. **Voting and petitions**

Members of the public on the electoral roll for the area have the right to:

3.2.1. vote;

3.2.2. sign a petition to request a referendum for an elected mayor form of Constitution;

3.2.3. sign any other petition they wish to support.
3.3. Information

Members of the public have the right to:

3.3.1. attend and record meetings of the Council and its Committees except where confidential or exempt information (as detailed in Rule 9 of the Access to Information Rules in Part D section 2) is likely to be disclosed, and the meeting is therefore held in private;

3.3.2. attend and record meetings of the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

3.3.3. find out from the Key Decision Plan what key decisions are to be taken by the Council, who is going to take them, and when;

3.3.4. see reports and background papers and any records of decisions made by the Council and the Cabinet (for a period of up to 6 years) with the exception of confidential or exempt matters; and

3.3.5. inspect the Council's accounts, subject to certain restrictions, and make their views known to the external auditor.

3.4. Complaints

Members of the public have the right to complain to:

3.4.1. the Council itself under its complaints scheme;

3.4.2. the Ombudsman (usually after first using the Council’s own complaints scheme);

3.4.3. the Head of Legal Services/Monitoring Officer about a breach of the Members Code of Conduct.

3.5. Residents' responsibilities

Residents and other members of the public must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers. They must not speak at any meeting of the Council or its Committees unless invited to do so and must not create any disturbance.

ARTICLE 4

4. THE COUNCIL

4.1. Role

A meeting of the Council is one which all fifty four members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the
responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to Committees or named officers.

4.2. **Plans and Budgets**

The Council is responsible for the determination of its Budget and Policy Framework. The Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

4.3 **Policy Framework**

The Policy Framework means the following three categories of plans and strategies:

4.3.1 Those required by law to be adopted by the Council, namely:

   4.3.1.1 *South Tyneside Plan*: South Tyneside’s Sustainable Community Strategy

   4.3.1.2 Child Poverty Needs Assessment and Strategy

   4.3.1.3 Childcare Sufficiency Assessment

   4.3.1.4 South Tyneside Community Safety Partnership Plan

   4.3.1.5 The Development Plan Documents which together comprise the Development Plan (including the emerging Local Development Framework)

   4.3.1.6 Licensing Authority Policy Statement

4.3.2 Those which the Council has chosen to adopt as part of the Policy Framework, namely:

   4.3.2.1 Corporate Plan

   4.3.2.2 Capital Strategy

   4.3.2.3 Medium Term Financial Plan

   4.3.2.4 Workforce Development Plan

   4.3.2.5 Corporate Equality Plan

   4.3.2.6 Race Equality Scheme

   4.3.2.7 Housing Strategy

   4.3.2.8 Regeneration Strategy

   4.3.2.9 Coastal Management Strategy
4.3.3 Any plan or strategy required by law to be sent to a Minister of the Crown for approval.

4.4 Budget

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of expenditure limits and permitted budget transfers.

4.5 Functions of the Council

Only the Council will exercise the following functions:

4.5.1 adopting and changing the Constitution;

4.5.2 approving or adopting material changes to the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;

4.5.3 approving the Statement of Accounts and the Council’s Final Accounts (unless dealt with by General Purposes Committee);

4.5.4 subject to the urgency procedure contained in the Access to Information Procedure Rules in Part D of this Constitution, making decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;

4.5.5 appointing the Mayor and the Deputy Mayor

4.5.6 appointing and removing the Leader;

4.5.7 determining which Committees, Sub-Committees, working parties, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;

4.5.8 appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;

4.5.9 adopting a scheme for members’ allowances;

4.5.10 changing the name of the Council’s area;

4.5.11 conferring the title of Honorary Alderman or Freeman of the Borough;
4.5.12 confirming the appointment of the Head of Paid Service; Chief Finance Officer and designating the Monitoring Officer and the taking of any disciplinary action against these Officers and the designating of “Proper Officers”;

4.5.13 the approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties or where consent is required for disposal of land used for residential purposes;

4.5.14 the approval of an increase in rents for Council housing properties;

4.5.15 making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;

4.5.16 adopting a Code of Conduct for Members (councillors);

4.5.17 taking decisions in respect of functions which are not the responsibility of the Leader and which have not been delegated by the Council to Committees, Sub-Committees or officers;

4.5.18 the making of Procedure Rules (except the Executive Procedure Rules) including in relation to Contracts and Finance;

4.5.19 the delegation of non-executive functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;

4.5.20 all other matters which, by law, must be reserved to the decision of the Council as a whole;

4.5.21 to provide a means whereby councillors may ask questions of matters relevant to the Council’s functions and to bring forward motions for debate;

4.5.22 to receive reports from the Leader, the Cabinet, the Standards Committee and the Audit Committee which they have referred to Council;

4.5.23 to consider and decide on recommendations of Committees on non-Cabinet functions not within their delegation or which a committee has referred to the Council for decision;

4.5.24 to consider reports on lawfulness and maladministration;

4.5.25 to consider decisions referred from the Overview Scrutiny Co-ordinating and Call-in Committee in respect of executive functions where decisions have not yet been implemented and the Committee considers the decisions may be contrary to the Budget or Policy Framework;
4.5.26 to receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;

4.5.27 to take all decisions in respect of delegating non-executive functions to another local authority;

4.5.28 to set the Council Tax Base and the Council Tax;

4.5.29 any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of The Local Authorities Functions and Responsibilities (England) Regulations, 2000 as amended;

4.5.30 making arrangements for appeals against exclusion of pupils;

4.5.31 making arrangements for admission appeals;

4.5.32 making arrangements for appeals by governing bodies;

4.5.33 questions on Police matters;

4.5.34 arrangements for the appointment of members of the Police and Crime Panel;

4.5.35 applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements.

4.6 Council meetings

There are three types of Council meeting:

- the Annual Meeting;
- ordinary meetings;
- extraordinary meetings;

These meetings will be conducted in accordance with the Council Procedure Rules in Part D Section 1 of this Constitution.

4.7 Responsibility for functions.

The Council will maintain those parts of the Scheme of Delegations in Part C of this Constitution setting out the responsibilities for the Council’s functions which are not the responsibility of the Cabinet.

ARTICLE 5

5 CHAIRING THE COUNCIL

5.1 Ceremonial Role
The Mayor is the ceremonial head of the Council and its representative at civic and social occasions. The role is separate from that of the Leader of the Council who speaks for the Council on all aspects of policy and Cabinet business.

5.2 Chairing the Council Meeting

The Mayor (or in his/her absence, the Deputy Mayor) will be the person presiding over Council meetings.

The Mayor will be elected by the Council annually from among the Councillors and will receive regular briefings by the Chief Executive and Leader on current issues. The Mayor will have the following responsibilities:

5.2.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary during Council meetings;

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

5.2.3 to 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 or the Chairperson of a Committee are able to hold the Cabinet and Committee Chairpersons to account;

5.2.4 to promote public involvement in the Council’s activities;

5.2.5 to attend such civic and ceremonial functions as the Council and the Mayor determines appropriate; and

5.2.6 to decide whether or not to agree that a key decision is required at short notice as a matter of urgency and cannot reasonably be deferred. (The Chairperson of the relevant Scrutiny Committee also has this power.)

ARTICLE 6

6. THE LEADER

6.1 Election

The Leader will be elected at the Annual Meeting of the Borough Council in May 2010 and thereafter at the Annual Meeting immediately following the Leader’s normal day of retirement as a Councillor. In the event of the Leader leaving office before his/her normal retirement date as a Councillor, a new Leader shall be elected by the Borough Council at an ordinary meeting, or at the Annual meeting if sooner.

6.2 Role of the Leader
6.2.1 The Leader is responsible for carrying out, or delegating, all of the Council’s executive functions, that is, those functions which are not the responsibility of any other part of the Council whether by law or under this constitution. The Council has decided that the following local choice functions will also be the responsibility of the Leader:

- Any function related to contaminated land;
- The discharge of any function relating to the control of pollution or the management of air quality;
- The service of an abatement notice in respect of a statutory nuisance;
- The inspection of the authority’s area to detect any statutory nuisance;
- The investigation of any complaint as to the existence of a statutory nuisance;
- The making of agreements for the execution of highway works;
- The making of agreements with other authorities for the placing of staff at the disposal of those other authorities.

6.2.2 The Leader can exercise his/her functions himself/herself, or can delegate them to the Cabinet, to a committee of the Cabinet, to individual Cabinet members, or to an officer.

6.2.3 Whether they are delegated or carried out by the Leader, these functions must be exercised within the Policy Framework and the Budget set by the Council. The Leader has a key role in proposing the Budget and Policy Framework to the Council.

6.2.4 The Leader is responsible for –

- leading the Community Planning process;
- leading the drive for Value for Money;
- leading in the preparation of the Council’s policies including the South Tyneside Plan and Budget;
- taking decisions on resources and priorities;
- being the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs;
- responding to any recommendations and reports from other Council Committees.
6.2.5 The Leader must appoint one of the Cabinet members as the Deputy Leader of the Council. The Leader may at any time dismiss the Deputy Leader or any Cabinet member.

6.2.6 A new Deputy Leader must be appointed immediately following the dismissal of the preceding Deputy Leader. New Cabinet members can be appointed at the Leader's discretion, but the membership of the Cabinet must never be less than 3 or greater than 10 (including the Leader and Deputy Leader).

6.2.7 The Leader is responsible for maintaining those parts of the Scheme of Delegations in Part C of this Constitution setting out the responsibilities for the executive functions of the Council.

6.3 Leader's Term of Office

6.3.1 The Leader will be a Councillor elected to the position of Leader by the full Council at its Annual meeting in 2010. The Leader will hold office until the day of the Annual Meeting of the Council immediately following his/her normal day of retirement as a Councillor, or until any of the following events arises;

he/she resigns from the office;

he/she is disqualified from being a Councillor; or

where the Council passes a resolution removing him/her from office;

6.3.2 If any of the events described in 6.3.1 above arises, the Deputy Leader shall act in the Leader's place until the appointment of a new Leader by the Council.

6.3.3 If, for any other reason, the Leader is unable to act, the Deputy Leader will act in his/her place until either the Leader is able to act again, or is removed from office and a replacement appointed by the Council.

6.3.4 If both the Leader and the Deputy Leader are for any reason unable to act or their offices are vacant, the Cabinet must act in the Leader's place or arrange for one of the Cabinet members to do so until the Council appoints a new Leader.

6.3.5 In the event of there being no Leader, Deputy Leader or Cabinet members, the Chief Executive will act in their place until the Council appoints a new Leader.

6.3.6 Subsequent Leaders shall be elected by the Annual Meeting of the Council immediately following the normal retirement day as a Councillor of the previous Leader. There is no limit on the number of terms (successive or otherwise) a Leader may serve.
ARTICLE 7

7. THE CABINET

7.1 **Form and composition**

The Cabinet must comprise the Leader and at least two, but not more than nine, other members of the Council. The Leader is responsible for deciding the number of members of the Cabinet within those parameters. The Leader is also responsible for deciding and allocating the portfolios of responsibilities of Cabinet Members. These are set out in the Executive Procedure Rules. The Leader must appoint one of the Cabinet members as the Deputy Leader.

7.2 **Deputy Leader and Cabinet Members – Term of Office**

The Deputy Leader and other Cabinet Members will hold office until the day of the Annual meeting of the Council immediately following the normal retirement day of the Leader as a Councillor, or, if sooner, any of the following events occurs:

7.2.1 he/she is removed from office by the Leader; or

7.2.2 he/she resigns from office; or

7.2.3 he/she ceases to be a Councillor; or

7.2.4 he/she or disqualified from being a Councillor.

7.3 **Proceedings of the Cabinet**

The proceedings of the Cabinet will be conducted in accordance with the Executive Procedure Rules (Part D Section 4 of this Constitution).

7.4 **Delegation of Functions**

7.4.1 The Scheme of Delegation of executive functions to any Committee of the Cabinet or to an officer (including delegation of some functions to officers to be exercised in consultation with the appropriate Cabinet Member) is set out in Part C.

7.4.2 The Leader or the Cabinet may appoint a Committee of the Cabinet or an officer to carry out or to support the Cabinet in the carrying out of its functions. Any decision of a Cabinet Committee is a decision of the Cabinet for the purpose of the ‘call-in’ procedure.

ARTICLE 8

8. **SCRUTINY OF DECISIONS**

8.1 **Terms of reference**

The Council will appoint the following Committees to discharge its overview and scrutiny functions.
Overview and Scrutiny Co-ordinating and Call in Committee
(15 members) Will include the Chairs and Vice Chairs of the two Scrutiny Select Committees. This Committee will have a separate Chair and Vice Chair. The role of this committee will be to:

- approve an annual overview and scrutiny programme and to review that programme regularly;
- determine which Scrutiny Committee should consider an issue where there is overlap;
- scrutinise cross-cutting issues where this is appropriate;
- resolve any disputes between Scrutiny Committees;
- manage the overview and scrutiny process and ensure its efficient operation;
- decide priorities within the overview and scrutiny system;
- operate as the Call-In Committee for all called in decisions in accordance with the Scrutiny Procedure Rules in Part D Section 5 of this Constitution;
- operate as the Crime and Disorder Committee to deal with referrals of that nature, working with the Select Committee where appropriate and co-ordinating responses;
- act as the referral point for the Local Involvement Network (LINK) in respect of Health matters, allocating referrals to the relevant Select Committee where appropriate and co-ordinating responses;
- act as the referral point for Councillor Calls for Action, ensuring that referrals are dealt with at the next available Committee meeting, allocating referrals to the relevant Select Committee where appropriate and co-ordinating responses;
- act as the responsible body for ensuring that the Council’s statutory health functions are undertaken, including the power to scrutinise the planning, provision and operation of health services within the Borough. This work may be undertaken in conjunction with Select Committees where appropriate;
- undertake scrutiny of partners as described in the Local Government and Public Involvement in Health Act 2007 and in relation to the Police and Justice Act 2006;
- consider quarterly performance reports;
- scrutinize the Council’s implementation of its public health responsibilities;
- review value for money and service improvement programmes;
- meet 6 weekly in accordance with the Council diary but may hold special meetings if the Chair considers it necessary.

In addition, this committee will be responsible for scrutinising corporate issues, including:

- Policy and Performance Management
- Equality and Diversity
- Finance
- HR
**Place Select Committee**
This Committee will have 15 non-executive members. This committee will have its own separate Chair and Vice Chair

This committee will deal with matters relating to:

- Asset Management
- Cultural Services
- Economic Regeneration (including Marketing)
- Housing Policy
- Planning, Built Environment, Development & Control
- Regulatory Services (including Trading Standards)
- Transport Policy

**People Select Committee**
(15 non-executive members - plus 2 Parent Governor reps and 2 Church reps (RC & C of E)). This Committee will have its own separate Chair and Vice Chair

This committee will deal with matters relating to:

- Adult and Community Learning
- Adult Care Services
- Children’s Safeguarding and Social Care
- Education
- Family Support
- Fostering and Adoption
- Public Health and Wellbeing
- Services for Young People

**8.2 General role of Scrutiny Committees**
Within their terms of reference and as directed by the Overview and Scrutiny Coordinating and Call-in Committee, Scrutiny Committees will:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s executive functions;
- make reports and/or recommendations to the full Council, the Cabinet or any Joint Committee, in connection with the discharge of any executive functions;
- consider any matter affecting the area or its inhabitants;
- exercise the right to call-in, for reconsideration of;
- decisions made but not yet implemented by the Cabinet; and
- key decisions made but not yet implemented by officers under delegated powers;
- consider Value for Money, Service Improvement programmes and Performance Management in undertaking scrutiny reviews
• Select Committees will meet six-weekly, in accordance with the Council Diary, but may hold special meetings if the Chairperson considers it necessary;
• Select Committees may hold joint meetings with other Select Committees if the relevant Chairpersons consider it appropriate;
• Select Committees will undertake scrutiny of partners as described in the Local Government and Public Involvement in Health Act 2007 and in relation to the Police and Justice Act 2006.

8.3 Specific functions of Scrutiny Committees

8.3.1 Policy development and review
Scrutiny Committees may:
• assist and advise the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
• conduct research, undertake residents and other consultation in the analysis of policy issues and possible options including the setting up of Scrutiny Commissions and the agreement of their terms of reference;
• consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
• question members of the Cabinet and/or Committees and Corporate Directors and Senior Officers about their views on issues and proposals affecting the Council’s area;
• liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
• initiate investigations or inquiries into matters of local concern.

8.3.2 Performance and Service Improvement
Scrutiny Committees may:
• review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;
• review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas including budgets;
• question members of the Cabinet and/or Committees, Corporate Directors and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
• make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
• review and scrutinise the performance of other public bodies in the area or Joint Committees on which the Council is represented and invite reports from them by requesting them to address the relevant Committee and local people about their activities and performance;
• question and gather evidence from any person (with their consent).

8.4 **Finance**
Scrutiny Committees will exercise overall responsibility for any finances made available to them.

8.5 **Proceedings of Scrutiny Committees**
Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part D of this Constitution including, where necessary, consulting other Committees, stakeholders, residents or community groups and forming commissions and task groups as appropriate.

**ARTICLE 9**

9. **REGULATORY AND OTHER COMMITTEES**

9.1 **GENERAL PURPOSES COMMITTEE**
The General Purposes Committee will comprise 16 members and will have the following functions:

9.1.1 to exercise all non-executive functions which have not been delegated to another committee and which by law are not required to be exercised by full council

9.1.2 to approve the Council’s Statement of Accounts

9.2. **THE LICENSING AND REGULATORY COMMITTEE**

9.2.1. The Licensing Committee will comprise 15 Members and will have the functions described in this Article.

9.2.2. To consider, in accordance with the Council’s Licensing Policy Statement, matters which are functions of the local authority by virtue of the Licensing Act 2003 in so far as those matters are not dealt with by the relevant Corporate Director under his/her delegated powers, and in particular, but not limited to, the following:

9.2.2.1. Applications for personal licences (if representation(s) made)

9.2.2.2. All cases of applications for personal licences where there are unspent convictions

9.2.2.3. Applications for premises licences/club premises certificates (if representation(s) made)
9.2.2.4. Applications for provisional Statements (if representation(s) made)

9.2.2.5. Applications to vary premises licences/club premises certificates (if representation(s) made)

9.2.2.6. Applications to vary designated personal licence holder (if police representation)

9.2.2.7. Applications for transfer of premises licence (if police representation)

9.2.2.8. Applications for Interim Authorities (if police representation)

9.2.2.9. Applications to review premises licence/club premises certificate

9.2.2.10. Determination of a police representation to a temporary event notice

9.2.3 To consider all functions which are the responsibility of the Council pursuant to the Gambling Act 2005 insofar as those matters are not dealt with by the relevant Corporate Director under his/her delegated powers and particularly but not limited to the following:-

9.2.3.1 Applications for premises licences (where objections are made and not withdrawn).

9.2.3.2 Applications to vary premises licences (where objections are made and not withdrawn).

9.2.3.3 Applications to transfer licences where the Gambling Commission makes representations.

9.2.3.4 Applications for provisional statements (where representations are made and not withdrawn).

9.2.3.5 Applications to review premises licences.

9.2.3.6 The decision to issue a Counter Notice to a Temporary Use Notice.

9.2.3.7 Applications for Club Gaming Permits and Club Machine Permits (where objections are made and not withdrawn).

9.2.3.8 Cancellation of Club Gaming Permits or Club Machine Permits.
9.2.4 The Licensing Committee may appoint a Sub-Committee and/or a Panel comprising a number of its members to exercise any of its functions within the above terms of reference.

9.2.5 The functions delegated to the sub-committee and to officers are as follows:

**Under the Licensing Act 2003**

<table>
<thead>
<tr>
<th>Matters to be dealt with</th>
<th>Full Committee</th>
<th>Sub-committee</th>
<th>Officers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application for personal license</td>
<td></td>
<td>If a police objection</td>
<td>If no objection</td>
</tr>
<tr>
<td>Application for personal license with unspent convictions</td>
<td></td>
<td>All cases</td>
<td></td>
</tr>
<tr>
<td>Application for premises club/club premises certificate</td>
<td></td>
<td>If a relevant representation</td>
<td>If no relevant representation</td>
</tr>
<tr>
<td>Application for provisional statement</td>
<td></td>
<td>If a relevant representation</td>
<td>If no relevant representation</td>
</tr>
<tr>
<td>Application to vary premises club/club premises certificate</td>
<td></td>
<td>If a relevant representation</td>
<td>If no relevant representation</td>
</tr>
<tr>
<td>Application to vary designated premises supervisor</td>
<td></td>
<td>If a police objection</td>
<td>All other cases</td>
</tr>
<tr>
<td>Request to be removed as designated premises supervisor</td>
<td></td>
<td></td>
<td>All cases</td>
</tr>
<tr>
<td>Application for transfer of premises license</td>
<td></td>
<td>If a police objection</td>
<td>All other cases</td>
</tr>
<tr>
<td>Applications for interim authorities</td>
<td></td>
<td>If a police objection</td>
<td>All other cases</td>
</tr>
<tr>
<td>Application to review premises club/club premises certificate</td>
<td></td>
<td>All cases</td>
<td></td>
</tr>
<tr>
<td>Decision on whether a complaint is irrelevant, frivolous, vexatious etc</td>
<td></td>
<td>If officers take the view the representation may be irrelevant, frivolous or vexatious</td>
<td>In all other cases</td>
</tr>
</tbody>
</table>
### Under the Gambling Act 2005

<table>
<thead>
<tr>
<th>Matter to be Dealt With</th>
<th>Full Council</th>
<th>Full Committee</th>
<th>Sub-Committee of Licensing Committee</th>
<th>Officers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three Year Licensing Policy</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policy not to Permit Casinos</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fee setting (when appropriate)</td>
<td></td>
<td></td>
<td>Where representations have been received and not withdrawn</td>
<td></td>
</tr>
<tr>
<td>Application for Premises Licenses</td>
<td></td>
<td></td>
<td>Where representations have been received and not withdrawn</td>
<td>Where no representations received/representations have been withdrawn</td>
</tr>
<tr>
<td>Application for a Variation to a License</td>
<td></td>
<td>Where representations have been received and not withdrawn</td>
<td>Where no representations received/representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Application for a Transfer of a License</td>
<td></td>
<td>Where representations have been received from the Commission</td>
<td>Where no representations received from the Commission</td>
<td></td>
</tr>
<tr>
<td>Application for a Provisional Statement</td>
<td></td>
<td>Where representations have been received and not withdrawn</td>
<td>Where no representations received/representations have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Review of a Premises License</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application for Club Gaming/Club Machine Permits</td>
<td></td>
<td>Where objections have been made (and not withdrawn)</td>
<td>Where no objections made/objections have been withdrawn</td>
<td></td>
</tr>
<tr>
<td>Cancellation of Club Gaming/Club Machine Permits</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applications for Other Permits</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
The full Licensing Committee may consider any application referred to it by the Head of Development Services.

For the purposes of the Licensing Act 2003 and the Gambling Act 2005 and for the purposes of exercising the delegated powers listed in the tables above the following persons are authorised:

1  Head of Development Services
2  Senior Development Services Managers
3  Licensing and Trading Standards Operations Manager
4  Senior Licensing Officer
5  Licensing Officers

The Licensing and Regulatory Committee will also discharge the following functions: -

9.2.6. to determine applications for the granting or renewal of licences, permits and other matters referred to it and not otherwise dealt with by the Licensing Committee or the relevant Corporate Director;
9.2.7. to hear and determine appeals against refusal by the relevant Corporate Director of applications under the Marriage Act 1994;

9.2.8. to consider representations relating to Hackney Carriage Stands, Hackney Carriage Fares, Licence Fees, the designation of streets for Street Trading and other matters where representations are received as a result of public notices and to make any necessary decision;

9.2.9. to determine Hackney Carriage Fares

9.2.10. to determine other matters referred to it in relation to licences or permits and not otherwise dealt with by the relevant Corporate Director under his/her delegated powers.

9.3 THE PLANNING COMMITTEE

The Planning Committee will comprise 16 Members and its functions will involve the determination of the following matters:

9.3.1 Applications for major development as defined for the purposes of the Government PS2 return, namely:

- Residential development of 10 or more dwellings or, where numbers are not specified, the site area is more than 0.5 hectares;
- Other development where the floorspace to be created is 1000 sq metres or more or the site area is 1 hectare or more,

and for the purposes of this article 9.3.1:

9.3.1.1 an application for major development includes:

(a) any application for change of use in respect of major development;

(b) any application made under section 73 (determination of applications to develop land without compliance with conditions previously attached), or under section 73A (planning permission for development already carried out) of the Town and Country Planning Act 1990, for permission to carry out development without complying with a condition to which permission was granted, in respect of major development where, in the opinion of the Head of Development Services, the application raises such issues that it is considered that the application should be determined by Planning Committee; and

(c) any application for approval of a reserved matter in respect of an outline planning permission for major development; and
9.3.1.2 for the avoidance of doubt, an application for major development excludes any application for consent, agreement or approval required by any condition (other than a condition on an outline permission requiring approval of reserved matters) on an existing planning permission for major development.

9.3.1 mineral applications (other than those for the discharge of conditions) as defined for the purposes of the Government PS2 statistical returns;

9.3.2 applications where the Council would be required to consult the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009 if the Council was minded to grant permission for them: -

9.3.3 applications which are subject to an objection from a consultee (as defined in Article 16 of the Town & Country Planning (Development Management Procedure) (England) Order 2010) whom the Council are required to consult under Article 16 or 18 of that order and which has not been resolved by negotiation or the imposition of conditions;

9.3.4 applications submitted by or on behalf of the Council for its own development which are the subject of substantive planning objections which have not been resolved by negotiation or the imposition of conditions and/or would need to be notified to the First Secretary of State if the Council was minded to grant permission for them;

9.3.5 applications submitted by, or on behalf of, a Councillor or their spouse/partner where the proposal does not accord with the Council's development plan or development control policies and/or where there are objections from a consultee or member of the public;

9.3.6 applications submitted by, or on behalf of, any member of staff of the Planning Service or any Corporate Director or Head of Service of the Council or their spouse/partner where the proposal does not accord with the Council’s development plan or development control policies and/or where there are objections from a consultee or a member of the public;

9.3.7 applications where any Councillor, MP, or MEP has put forward an objection in writing or asked in writing with reasons that an application be determined by Committee;

9.3.8 applications where written representations for and/or against a development proposal have been made and speaking rights have been requested in accordance with the Council’s approved Protocol for Public Speaking at Planning Committee meetings;

9.3.9 applications which the Head of Development Services considers should be determined by the Planning Committee having regard to guidance approved by the Planning Committee on this matter.
9.3.10 enforcement issues relating to the exercise of the Council’s functions under Part VII of the Town and Country Planning Act 1990 which the Head of Development Services considers should be determined by the Planning Committee having regard to guidance approved by the Planning Committee on this matter.

The Planning Committee will operate in accordance with a Code of Conduct and Protocols to be agreed by that Committee and included in this Constitution at Part E Section 5.

9.4 HUMAN RESOURCES COMMITTEE

The Human Resources Committee will have 11 members, at least one of whom will be a Cabinet member, and will have the following functions:

9.4.1 to discharge functions relating to the appointment of employees referred to in Rules 3.1.1 to 3.1.4 in the Employment Procedure Rules in Part D Section 7 of this Constitution in accordance with Rule 4 of those Rules. The exercise of these functions will be delegated to the Human Resources Sub-Committee.

9.4.2 to determine the employment policies and the main terms and conditions of employment of employees of the Council.

9.4.3 to determine the numbers and grades of employees of the Council, including, Head Teachers, Deputies and Teachers where the Authority is the relevant Body for posts graded Band 8 and above (or equivalent salary).

9.4.4 to consider regular reports from the relevant Corporate Director concerning establishment changes, determination of numbers and gradings to posts graded up to Band 7 (or equivalent salary).

9.4.5 except for those applications in redundancy situations delegated to the relevant Corporate Director, to determine applications for early or flexible retirement from employees of the Council.

9.4.6 to determine applications for early release of pension benefits from former employees of the Council, and former employees of employing bodies which have ceased to exist but for which the Pension Fund still has a continuing liability.

9.4.7 to approve any Voluntary Retirement Scheme for Teachers.

9.4.8 to investigate and take disciplinary action in respect of Chief Officers and Deputies in accordance with the procedures set out in Rule 4 of the Employment Procedure Rules in Part D Section 7 of this Constitution (Appeals to go to the Employment Appeals Committee).

9.4.9 to receive and consider reports from an independent person designated to investigate disciplinary action against the Council’s Head of Paid Service, the Monitoring Officer or Chief Finance Officer and act
as the dismissing committee in accordance with Rule 4 of the Employment Procedure Rules in Part D Section 7 of this Constitution.

No member of the Human Resources Committee shall sit on an Appeals Committee that is dealing with an employment related matter.

9.5 THE APPEALS PANEL

Appeals will normally be heard by a Committee of 3 Members, chosen from an Appeals Panel of 13 Members. Where circumstances, or the law, requires, larger Committees may hear appeals. The Committee for each appeal will consist of the Chair or Vice Chair of the Panel, together with at least 2 other members of the Panel, chosen by the Head of Legal Services. If neither the Chair nor the Vice Chair are able to sit on a particular Committee, the Head of Legal Services shall chose the third Member. Members of the Human Resources Committee may not sit on an Appeals Committee dealing with an employment related appeal. The Appeals Committees will:

9.5.1 hear and adjudicate upon all appeals by employees of the Council with the exception of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer against a decision of either an Officer of the Council or a Committee of the Council to dismiss an employee from the Council’s employment or in the case of Article 9.5.8 above, against a decision of the Human Resources Committee to take disciplinary action (other than dismissal) in respect of a Chief Officer (or Deputy);

9.5.2 consider decisions of Employment Tribunals where reinstatement or re-engagement is ordered and to determine the action to be taken in each case;

9.5.3 hear and adjudicate on appeals by Local Government Services employees against the decision of the relevant officer on an application for regrading of their post, on the basis that there has been a substantial change in the duties and responsibilities of the post since appointment or since the post was last regraded;

9.5.4 hear employee grievance appeals;

9.5.5 hear and adjudicate on any appeals by Teachers where the Authority is the relevant Body against the decision of the relevant Corporate Director on annual salary reviews;

9.5.6 determine appeals by applicants for housing against the relevant decisions of South Tyneside Homes in accordance with prevailing legislation and the Council’s policy;

9.5.7 determine appeals against exclusions from the housing register;

9.5.8 determine appeals against decisions of the relevant Corporate Director under the terms of the concessionary travel scheme;
9.5.9 consider the recommendations of a Review Panel set up under the representations procedures for children and adults where its recommendations are not intended to be followed;

9.5.10 determine appeals against the refusal of the relevant Corporate Director to grant a Disabled Person’s Parking Permit;

9.5.11 determine appeals by parents against a contribution they are requested to make towards the cost of respite care under Part 3 of Schedule 2 of the Children Act 1989;

9.5.12 consider any proposal under the Care Standards Act 2000 to refuse an application for registration, to grant an application subject to a condition which is not agreed by the applicant, to vary an existing condition, to impose an additional condition or to cancel a registration (save for urgent cancellations under Section 20 of the Act);

9.5.13 consider any proposal to refuse an application for registration as a childminder or for the provision of day care, to cancel any such registration, to impose remove or vary a requirement as part of the registration or to refuse an application to remove or vary any such requirement where the applicant objects to the proposal;

9.5.14 to consider appeals on any other social services matters which the relevant Corporate Director may refer to the Committee for a decision;

9.5.15 to consider appeals on any other housing matters which South Tyneside Homes may refer to the Committee for a decision;

9.5.16 review decisions taken by the relevant Corporate Director regarding access to, or rectification or erasure of social services personal information;

9.5.17 review decisions taken by South Tyneside Homes regarding access to, or rectification or erasure of housing related personal information;

9.5.18 consider appeals against decisions taken by the relevant Corporate Director to refuse an application for any education allowance or award.

9.5.19 consider any other matter referred to the Committee by a Corporate Director.

9.6 The Audit Committee

There will be an advisory committee known as the Audit Committee comprising 5 Members and 2 external Members. Its roles will be to provide independent assurance of the Council’s risk management framework and the associated control environment, to independently scrutinise the Council’s financial and non-financial performance to assess the extent to which it exposes the Council to risk and weakens the control environment, and to oversee the Council’s financial reporting process. In carrying out these roles the Audit Committee will provide recommendations to the Council on how to
improve the risk management framework, the control environment and the financial reporting procedures.

The Audit Committee will also consider any matters raised with it by the Local Pension Board and provide its views to the Pensions Committee and the Local Pension Board.

The Audit Committee will:-

9.6.1 Consider the effectiveness of the Council’s risk management arrangements, the control environment and the associated anti fraud and corruption arrangements;

9.6.2 Receive reports on action that is being taken in respect of risk related issues identified in inspections and audits;

9.6.3 Satisfy itself that the Council’s assurance statements, including the Statement on Internal Control, properly reflect the risks facing the Council and any actions required to reduce them;

9.6.4 Review the Annual Audit Strategy and Plan and monitor the performance of the Internal Audit Service against them;

9.6.5 Review summaries of Internal and External Audit Reports and reports of inspection agencies and receive reports regarding action taken to address any issues identified;

9.6.6 Review the annual report of the Corporate Assurance Manager

9.6.7 Review the relationships between internal and external auditors, inspection agencies and other relevant bodies;

9.6.8 Actively promote the value of the audit process;

9.6.9 Review the Council’s financial Statements, external auditor’s opinions and reports to members, and receive reports on action taken to address any issues identified;

9.6.10 Make recommendations to the Council with a view to improving the effectiveness of the Council’s risk management framework.

9.7 The Common Land and Town and Village Greens Committee

9.7.1 The Common Land and Town and Village Greens Committee will have 13 members and will consider such applications for the registration of areas of land as common land or as a town or village green which the Head of Legal Services refers to the Committee.

9.8 Contracts Performance Panel
9.8.1 The Contracts Performance Panel (CPP) will have 10 members, at least one of whom will be a Cabinet member, and will have the functions set out in this Article.

9.8.2 To provide members with the opportunity to represent the views of the communities they serve and review the performance of a range of organisations which provide services to South Tyneside Council.

9.8.3 To agree a work-plan at the start of the year to review a range of larger contracts (with potential for more focused sub-groups)

9.8.4 To comment on service specifications to ensure that they are focusing on the outcomes that matter most to South Tyneside residents.

9.8.5 Through regular performance reports and service reviews, to comment on the effectiveness of commissioned services, with a particular focus on customer satisfaction and value for money.

9.8.6 To ensure that all commissioning activity contributes to the Council’s commitment to local spend.

9.8.7 Provide a sounding board for members on strategic commissioning issues.

9.8.8 The CPP will report directly to the Cabinet, and will have the power to recommend urgent action if it considers that the performance of a provider is inadequate, or if demand can be met from other existing services through new models of service delivery.

9.9 Housing Performance Panel

9.9.1 The Housing Performance Panel (HPP) will have 10 members, at least one of whom will be a Cabinet member, and will have the functions set out in this Article.

9.9.2 The HPP will provide members with the opportunity to represent the views of the communities they serve and review the performance of the housing provision we commission externally – with a particular focus on South Tyneside Homes (STH).

9.9.3 The HPP will help to shape the priorities in the STH Annual Delivery Plan in advance of its agreement by the Cabinet;

9.9.4 Through regular performance reports, the HPP will comment on the effectiveness of housing services against the STH Delivery Plan, as well as other housing support services (including Extra Care, and Supporting People contracts), with an emphasis on:

- Customer satisfaction
- Support for vulnerable tenants
• Re-let times and empty properties
• Repairs and maintenance
• Rent collection
• Sustainability of our housing estates

9.9.5 HPP will provide a sounding board for broader strategic housing issues, and review the supply and mix of good quality housing to meet the needs and aspirations of current and future residents.

9.9.6 The HPP will report directly to the Cabinet, and will have the power to recommend urgent action if they consider that the performance of a housing provider is inadequate.

9.10 SOUTH TYNESIDE HEALTH AND WELLBEING BOARD

9.10.1 Our Vision

“We will work in partnership to improve the health, wellbeing and quality of life of our children, adults and families, reduce health inequalities, and help people live longer and healthier lives.”

10.10.2 Purpose

10.10.2.1 Under section 194 of the Health and Social Care Act 2012, a Health and Wellbeing Board (HWB) is a committee of the Council which established it and it is to be treated as if appointed under section 102 of the Local Government Act 1972.

10.10.2.2 Health and Wellbeing Boards were introduced to build strong and effective partnerships that would improve services across NHS and local government, leading in turn to improved health and wellbeing for local people. The Health and Social Care Act 2012 creates a common flexible framework, by requiring that every upper tier local authority area establish a health and wellbeing board effective from April 2013.

10.10.2.3 The purpose of South Tyneside Health and Wellbeing Board will be to improve the health and wellbeing of the people of South Tyneside and reduce current inequalities in health outcomes. The Board will provide ‘whole system leadership’ for the local health economy and hold partner organisations to account for improving health and wellbeing outcomes.

10.10.3 Main Duty and Functions

10.10.3.1 In accordance with the provisions of the Health and Social Care Act 2012, the Health and Wellbeing Board has a duty to encourage integrated working for the purposes of advancing the health and wellbeing of the people in its area. Specifically, the Health and Wellbeing Board has the following functions
To assess the and understand the needs of the local population and lead the statutory Joint Strategic Needs Assessment (JSNA);
To promote integration and partnership across areas, including through promoting joined up commissioning plans across the NHS, social care and public health;
To support joint commissioning and pooled budget arrangements where all parties agree this makes sense.

9.10.4 Key Responsibilities

9.10.4.1 To provide strategic leadership in driving South Tyneside Health and Wellbeing Board’s vision for improving the health and wellbeing of children, adults;

9.10.4.2 To assess and understand the needs of the local population by overseeing the production of the statutory Joint Strategic Needs Assessment (JSNA) and families;

9.10.4.3 To effectively engage with our communities to better understand their health and wellbeing needs;

9.10.4.4 To produce and publish a Joint Health and Wellbeing Strategy based on the Joint Strategic Needs Assessment and monitor its delivery, holding partner organisations to account for performance in relation to agreed priorities;

9.10.4.5 To provide an opinion (which in its final form must be included in the published commissioning plan) to the local CCG on its draft commissioning plan to the extent that it considers it has taken proper account of the Joint Health and Wellbeing Strategy;

9.10.4.6 To promote integrated working between health and social care through joined up commissioning plans;

9.10.4.7 To support joint commissioning and pooled budget arrangements, where this is appropriate, ensuring that the quality and standards for health, public health and social care are met and represent value for money across the whole system;

9.10.4.8 To ensure that all strategies and commissioning plans comply with the Equality Duty.

9.10.5 Membership

9.10.5.1 The Health and Social Care Act 2012 requires that as a minimum a Health and Wellbeing Board must consist of at least one councillor of the local authority, the director of adult social services, the director of public health, a representative of the local Healthwatch organisation, a representative of each CCG, and such other persons as the local authority thinks appropriate.
9.10.5.2 The Chair of South Tyneside Health and Wellbeing Board will be the Leader of the Council, or their representative. This will be subject to review in line with the development of the Health and Wellbeing Board. The membership of the Health and Wellbeing Board will comprise the following:

<table>
<thead>
<tr>
<th>Sector</th>
<th>Designation/Organisation</th>
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<tbody>
<tr>
<td><strong>Local Authority</strong></td>
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<tr>
<td><strong>Elected Members</strong></td>
<td>Leader, South Tyneside Council</td>
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<tr>
<td></td>
<td>Lead Member, Public Health and Wellbeing, South Tyneside Council</td>
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<td></td>
<td>Lead Member, Children, Young People and Families, South Tyneside Council</td>
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<td></td>
<td>Lead Member, Adult Social Care and Support Services</td>
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<tr>
<td><strong>Local Authority Chief</strong></td>
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<tr>
<td><strong>Officers</strong></td>
<td>Corporate Director, Children, Adults and Families, South Tyneside Council</td>
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<td></td>
<td>Corporate Director Business and Resources</td>
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<td></td>
<td>Director of Public Health, South Tyneside Council</td>
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<tr>
<td><strong>NHS Commissioning</strong></td>
<td>Chair, South Tyneside Clinical Commissioning Group</td>
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<td></td>
<td>Chief Officer, South Tyneside Clinical Commissioning Group</td>
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<td>NHS Commissioning Board Area Team representative</td>
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<tr>
<td><strong>NHS Provider Services</strong></td>
<td>Chair, South Tyneside NHS Foundation Trust</td>
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<td></td>
<td>Chief Executive, South Tyneside NHS Foundation Trust</td>
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<td>Chief Executive, Northumberland, Tyne and Wear NHS Foundation Trust</td>
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<tr>
<td><strong>Patient Champions</strong></td>
<td>Representative, Local Healthwatch</td>
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<tr>
<td><strong>In attendance</strong></td>
<td>Strategy and Innovation Manager – People, South Tyneside Council</td>
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</tbody>
</table>

9.10.5.3 It will be possible for the Health and Wellbeing Board to appoint a Deputy Chair from within its membership.

9.10.5.4 It will be possible for members of the Health and Wellbeing Board to nominate a deputy to attend on their behalf with the prior agreement of the Chair. A register of attendance should be kept and members should not normally miss more than one meeting in a year.

9.10.5.5 It will be possible for the Health and Wellbeing Board to request the attendance of other relevant persons to support the Health and Wellbeing Board in its deliberations.

9.10.6 **Conflicts of Interest**

9.10.6.1 The regulations under section 194 of the Health and Social Care Act 2012 do not modify or disapply any legislation relating to codes of conduct and conflicts of interest. This means that legislation in relation to these issues will apply to health and wellbeing boards.
9.10.6.2 All councillors and co-opted members of council committees are required to comply with a code of conduct. This means that all voting members of HWBs will be governed by the local authority's code of conduct.

9.10.7 Accountability

9.10.7.1 The South Tyneside Health and Wellbeing Board will be accountable to the NHS Commissioning Board and South Tyneside Partnership. South Tyneside Council’s People Scrutiny Select Committee will also have the authority to scrutinise the work of the Board.

9.10.7.2 Members will be accountable through their own organisation’s decision-making processes for the decisions they take. Members should have delegated authority from their organisations to take decisions within these terms of reference.

9.10.8 Meetings

9.10.8.1 Meetings of the Health and Wellbeing Board will be held bi-monthly and will be conducted in public.

9.10.8.2 An extraordinary meeting will be called when the Chair considers this necessary and/or in circumstances where the Chair receives a request in writing of 50% of the membership.

9.10.8.3 Agendas, reports and minutes will be published on the Local Authority's website. Quorum for the meeting shall be 50% of the membership including at least one elected member of the Local Authority and one representative from the Clinical Commissioning Group.

9.10.8.4 The intention is that decisions will be made based on consensus in keeping with the spirit of partnership working. In the event of voting being necessary this shall be on the basis of a show of hands of the majority of the members present, with the Chair having a casting vote if necessary. All members will be eligible to vote.

9.10.9 Ways of Working and Identifying Needs and Priorities:

9.10.9.1 The Health and Wellbeing Board will take a key role in identifying future needs and priorities in South Tyneside to ensure priorities are evidence-based. In particular, the Health and Wellbeing Board will:

- Reach a shared understanding of the health needs, inequalities and risk factors in local populations, based on the JSNA and other evidence, and demonstrate how this evidence has been applied to the Health and Wellbeing Boards decisions and strategic priorities.
- Reach a shared understanding of how improvements in outcomes will be monitored and measured.
- Ensure that the CCG demonstrate how the JSNA and other appropriate evidence have been used in their commissioning decisions.
9.10.10 Strategy

9.10.10.1 The Health and Wellbeing Board will develop, publish and refine a Joint Health and Wellbeing Strategy which is supported by all stakeholders and sets out objectives, a rate of improvement for health and wellbeing outcomes, including reduction in health inequalities. In addition, the Health and Wellbeing Board will:

- Take account of the JSNA and the recommendations of the Director of Public Health’s Annual Report.
- Take account of the views of local patients and service users as captured by the local HealthWatch provider.
- Focus collective efforts and resources on the agreed set of strategic priorities for health and wellbeing.
- Ensure the work of the Health and Wellbeing Board develops in line with local and national policy developments and legislation.
- Ensure a strategic overview of the work of commissioners to further the work of the Board’s strategic objectives.
- Ensure that the Clinical Commissioning Group demonstrate how the Joint Health and Wellbeing Strategy has been used in their commissioning decisions.
- Quality assures and signs off joint delivery plans to achieve the Health and Wellbeing Board’s agreed strategic outcomes.
- Challenge performance of delivery plans which support the strategic priorities of the Health and Wellbeing Board, taking action as necessary, including by agreeing recovery and improvement plans.
- Be accountable for applicable outcomes, as agreed by partners, using agreed performance frameworks.

9.10.11 Achieving Outcomes

9.10.11.1 The Health and Wellbeing Board will have oversight, where appropriate, of the use of resources across a wide spectrum of services and interventions, to achieve its strategy and priority outcomes and to drive a genuinely collaborative approach to commissioning, including the co-ordination of agreed joint strategies. It will:

- Provide system level oversight to the totality of commissioning expenditure in South Tyneside which is relevant to achieving the Health and Wellbeing Board’s strategic priorities.
- Identify service areas where additional improvements in joint commissioning are required to achieve priority outcomes and recommend the development of aligned or pooled budgets where that would enable improved service delivery.
- Facilitate effective joint commissioning including the development of appropriate partnership agreements, financial protocols and monitoring arrangements.
- Where there are realistic efficiencies in relevant public sector services encourage partners to share or integrate services.
• Have an overview of the management of resources already committed.
• Make recommendations on the priority of projects and allocation of resources to service providers as appropriate, in order to achieve jointly agreed objectives.
• Have an overview of major service reconfiguration by providers of relevant services and make recommendations to those providers to enable improved and integrated delivery of services.

9.10.12 Communication and Engagement

9.10.12.1 The Health and Wellbeing Board will communicate and engage with local people in how they can achieve the best quality of life and be supported to exercise choice and control over their personal health and wellbeing. In support of this the Health and Wellbeing Board will:

• Develop and implement a Communication and Engagement strategy for the work of the Health and wellbeing Board, including how its work will be influenced by stakeholders and the public, and how it will discharge the specific duties in regard to consultation and engagement on service change.
• Represent South Tyneside at local, regional and national level.
• Work closely with local HealthWatch.

9.10.13 Review of Terms of Reference

9.10.13.1 These terms of reference will be reviewed annually or earlier as necessary, and will be revised as necessary to reflect latest guidance.

9.11 Safeguarding and Education Panel

The Safeguarding and Education Panel will have 10 members and will scrutinise issues in depth relating to the performance of children’s safeguarding services and local schools. The panel will:

9.11.1 The panel will, through regular performance reports, comment on the effectiveness of safeguarding services, with an emphasis on:

• The quality and effectiveness of social work practice
• Allegations management
• Local partnership safeguarding arrangements

9.11.2 The panel will scrutinise the performance of all education providers in the borough – including all schools and early years settings, with a focus on:

• Holding underperforming schools to account
• Analysis of the performance of independent academies
• Analysis of schools where attendance, exclusions, and children missing from education are a concern.
9.11.3 The panel will report directly to South Tyneside Council’s Cabinet, and will have the power to recommend urgent action if they have concerns about the effectiveness of local services.

9.11.4 The panel will receive referrals of matters from the People Select Committee.

9.12 Constitution Committee

The Constitution Committee will have membership comprising the Mayor, the Leader of the Council, the Deputy Leader of the Council, a representative from each of the 5 Community Area Forums and such number of members of the opposition political groups as is required to achieve political balance. The Constitution Committee will be the guardian of the Council’s Constitution and will oversee and make recommendations to Council in respect of civic awards and recognition. The Committee will:

9.12.1 consider any changes proposed as part of the Annual Review of the Constitution prior to making a recommendation to the Annual Meeting of the Council;

9.12.2 consider any other proposed changes to the Constitution prior to making a recommendation to Borough Council;

9.12.3 consider any proposals for conferring the Honorary Freedom of the Borough or Honorary Aldermanship prior to making a recommendation to Borough Council;

9.12.4 consider any proposals for conferring the Mayor’s Civic Award prior to making a recommendation to the Mayor;

9.12.5 consider any proposals for any other form of civic recognition prior to making a recommendation to the appropriate body or person.

ARTICLE 10

10. PENSIONS COMMITTEE

There will be a Pensions Committee to deal with all matters arising from the Council’s function and responsibilities as the administering authority for the Tyne and Wear Pension Fund.

10.1 The role of the Pensions Committee will be to control and resolve all matters relating to the administration of the Tyne and Wear Pension Fund and the management and investment of the assets of the Fund.

10.2 The Pensions Committee will have 8 councillors from South Tyneside Council and 1 councillor each from the other four Tyne and Wear local authorities. The other four Tyne and Wear authorities will also each appoint a substitute.
member to attend Committee in a voting capacity when the first nominated councillor cannot attend.

10.3. The relevant Trade Unions will nominate annually three representatives to sit on the Pensions Committee in an advisory capacity.

10.4. The employers who participate in the Tyne and Wear Pension Fund (other than the five local authorities) will nominate annually three representatives to sit on the Pensions Committee in an advisory capacity.

10.5. Three members of the Pensions Committee will sit on the Investment Panel along with the External Investment Advisor and appropriate officers. The Panel will scrutinise the investment manager structure and the performance of the managers and will report to each quarterly meeting of the Pensions Committee.

10.6. The responsibilities to be discharged by the Committee include:

10.6.1. Preparing, maintaining and publishing the Governance Compliance Statement.

10.6.2. Ensuring that the Fund complies with the Local Government Pension Scheme Regulations and all other legislation that governs the administration of the Fund.

10.6.3. Preparing, maintaining and publishing the Funding Strategy Statement.

10.6.4. Ensuring the Fund is valued as required and receiving and considering reports on each valuation.

10.6.5. Ensuring appropriate arrangements for the administration of benefits are in place.

10.6.6. Setting the admissions policy.

10.6.7. Preparing, maintaining and publishing the Communication Policy Statement;

10.6.8. Ensuring appropriate AVC arrangements are in place.

10.6.9. Preparing, maintaining and publishing the Statement of Investment Principles.

10.6.10. Setting the investment objectives and policy and the strategic asset allocation in the light of the Fund’s liabilities.

10.6.11. Appointing, dismissing and assessing the performance of Investment Managers and Custodians.

10.6.13. Preparing, maintaining and publishing the Corporate Governance Policy.

10.6.14. Ensuring appropriate arrangements for the Local Pension Board are in place and maintaining and publishing information about the Local Pension Board.

10.7 The Council must establish a Local Pension Board responsible for assisting the Pensions Committee in ensuring that the Fund complies with legislation relating to its governance and administration, its own rules and any requirements of the Pensions Regulator.

10.8 The Pensions Committee is at all times responsible for making all decision relating to the operation of the Fund, controlling and resolving all matters relating to the administration of the Fund and the management and investment of the assets of the Fund. The Local Pension Board does not share these responsibilities directly, but will ensure that the Pensions Committee complies with Scheme regulations and other legislation relating to the governance and administration for the Fund. The Local Pension Board does not make decisions which are the responsibility of the Pensions Committee.

10.9 The Local Pension Board will consist of 8 members. The relevant Trade Unions will nominate triennially 4 representatives to sit on the Local Pension Board as member representatives in a voting capacity. The employers who participate in the Fund (other than South Tyneside Council) will nominate triennially 3 representatives to sit on the Local Pension Board as employer representatives in a voting capacity. The Council will appoint 1 South Tyneside Councillor, independent of Pensions Committee and the discharge of the functions of the Administering Authority, to sit on the Local Pension Board as an employer representative in a voting capacity.

10.10 The responsibilities to be discharged by the Local Pension Board include:-

10.10.1 To secure compliance with the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 and the Local Government Pension Scheme Regulations 2013 (as amended) and any other legislation relating to the governance and administration of the Fund;

10.10.2 To secure compliance with any requirements imposed by The Pensions Regulator in relation to the Fund;

10.10.3 To ensure the effective and efficient governance and administration of the Fund; and

10.10.4 To provide the Pensions Committee with such information as it requires to be satisfied from time to time that none of the members of the Local Pension Board or person to be
appointed as a member of the Local Pension Board has a conflict of interest.

10.11. The Local Pension Board will report to the Pensions Committee.

10.12. The Council has adopted the key recommendations of the CIPFA Code of Practice on Public Sector Pensions Finance Knowledge and Skills.

10.13. The Council recognises that effective financial administration and decision-making can only be achieved where those involved have the requisite knowledge and skills.

10.14. Accordingly, the Council requires the Pensions Committee and Local Pension Board to ensure that they have formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective acquisition and retention of the Local Government Pension Scheme finance knowledge and skills for those responsible for financial administration and decision-making.

10.15. These policies and practices will be guided by reference to a comprehensive framework of knowledge and skills requirements such as that set down in the CIPFA Pensions Finance Knowledge and Skills Framework.

10.16. The Pensions Committee and Local Pension Board will report on an annual basis how these policies have been put into practice throughout the financial year.

10.17. The Council has delegated the responsibility for the implementation of the requirements of the CIPFA Code of Practice to the Corporate Director Business and Resources, who will act in accordance with the Council’s practices and, where s/he is a CIPFA member, with CIPFA Standards of Professional Practice.

ARTICLE 11

11. THE COMMUNITY AREA FORUMS

11.1 There will be five Community Area Forums (CAFs), one for each of the following areas.

11.1.1 **East Shields and Whitburn** (Cleadon Park, Harton, Horsley Hill and Whitburn and Marsden wards)

11.1.2 **Hebburn** (Hebburn North, Hebburn South and Monkton wards)

11.1.3 **Jarrow and Boldon** (Bede, Boldon Colliery, Fellgate & Hedworth and Primrose wards)

11.1.4 **Riverside** (Beacon & Bents, Simonside & Rekendyke, West Park and Westoe wards)
11.1.5 **West Shields and Cleadon and East Boldon** (Biddick & All Saints, Cleadon and East Boldon and Whiteleas wards)

11.2 **Role of Community Area Forums**

The roles of Community Area Forums will be to: -

11.2.1 lead in the process of identifying local issues and priorities and advise the Cabinet and the Scrutiny Committees on local matters;

11.2.2 assist local Members to listen to and represent the interests of their community;

11.2.3 build partnerships and inter-agency working with local public, private and voluntary organisations;

11.2.4 develop structures and approaches that ensure the involvement of residents, communities of interest and identify any hard to reach groups in local issues and decisions;

11.2.5 develop strong mechanisms for community participation;

11.2.6 contribute to the Transformational Plan, community planning, neighbourhood renewal and other area based initiatives to promote the wellbeing of the area;

11.2.7 receive local petitions and hear representations;

11.2.8 influence strategies and plans through local consultation;

11.2.9 consider how the Council’s policy objectives are being met in local areas and ensure that their work programmes are aligned with the Council’s strategic and corporate priorities;

11.2.10 to provide feedback on the provision of and effectiveness of Council and Partner services in the area including Community Safety and Social Inclusion;

11.2.11 examine local issues referred to the CAF by the Council, Cabinet or Overview and Scrutiny Committees;

11.2.12 to agree the expenditure of HIP and AMI funds to appropriate projects within their area in accordance with Council priorities and the budget allocated to them;

11.2.13 recommend and advise generally.

11.3 All 54 Councillors will sit on the CAF for the area they represent. The Committees will not, therefore, be politically balanced.

11.4 The CAFs will meet every six weeks in accordance with the Council diary. The meetings will be open to the press and public.
11.5 Ordinary meetings of the CAFs will be structured in three parts:

11.5.1 a public issues session (petitions, significant local issues e.g. community safety - to include the report from the Police, questions from the public on local issues of concern which affect communities rather than individuals). The public will be able to participate in the discussion during this section of the meeting.

11.5.2 a themed session (the Council’s eight priorities and other key strategies of the Council and Partners).

11.5.3 a business session (reports requiring decision e.g. financial matters).

11.6 CAFs may hold additional meetings on specific themes or issues as necessary.

11.7 Matters delegated to CAFs for decision will remain the responsibility of the Cabinet which is responsible for the clear, accountable corporate leadership of the Council. CAF’s will not ask for Borough wide policy reports unless invited to do so.

ARTICLE 12

12. THE STANDARDS COMMITTEE

12.1 Standards Committee
The Council will establish a Standards Committee.

12.2 Political Balance
The Standards Committee must comply with the political balance rules in section 15 of the Local Government and Housing Act 1989.

12.3 Membership
The Standards Committee will comprise:

12.3.1 Seven Councillors (including one Cabinet Member); and

12.3.2 One or more person(s) who is not a councillor or officer of the Council or any other authority which has a Standards Committee (Lay Member).

12.3.3 Any vacancy in the appointment of a Lay Member shall not invalidate the proceedings of the Committee.

12.3.4 The Leader of the Council shall not be a member of the Committee.

12.4 Lay members – entitlement to vote
The Lay Member(s) may not vote at meetings.
12.5 **Chairing the Committee**

A Lay Member will chair the Committee and any sub-committee of the Committee.

12.6 **Quorum**

The quorum for a meeting of the Standards Committee shall be three members (including a Lay Member).

12.7 **Role and Function**

The Standards Committee will have the following roles and functions:

**Statutory Ethical Framework**

12.7.1 promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;

12.7.2 assisting the Councillors and co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct;

12.7.3 advising the Council on the adoption or revision of the Members’ Code of Conduct;

12.7.4 monitoring the operation of the Members’ Code of Conduct;

12.7.5 advising, training or arranging to train Councillors and co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct;

12.7.6 granting dispensations to Councillors and co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members’ Code of Conduct in accordance with the relevant Regulations from time to time;

12.7.7 dealing with written allegations to the Standards Committee that a member or co-opted member (or former member or co-opted member) (including church or parent governor representatives) of the Council has failed, or may have failed, to comply with the Council’s Code of Conduct;

**Local Ethical Framework**

12.7.8 investigation of complaints of minor misconduct or any breach of Council Rules or Protocols which are outside the jurisdiction of the Committee;

**Whistleblowing**
12.7.9 overview of the Whistleblowing Policy;

Corporate Complaints and the Ombudsman

12.7.10 overview of complaints handling procedures and Ombudsman investigations;

Politically Restricted Posts

12.7.11 dealing with the granting and supervision of exemptions from political restrictions in respect of posts under the Council; and

Miscellaneous Matters

12.7.12 dealing with all other matters which by law are to be referred to a Standards Committee of the Council.

ARTICLE 13

13. JOINT ARRANGEMENTS

13.1 Joint arrangements

13.1.1 The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are non-executive functions. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.

13.1.2 The Leader may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.

13.1.3 The Leader may appoint Cabinet or non-Cabinet Councillors to a Joint Committee where that Committee is discharging a function in relation to five or more authorities or a function which is required to be discharged by a Joint Committee.

13.1.4 Where only one Member of the Council is required to be appointed to the Joint Committee that Member does not need to be a Cabinet Member.

13.1.5 If there is more than one Member of the Council required to be a Member of the Joint Committee at least one of the appointed Members must be a Cabinet Member.

13.1.6 Details of any joint arrangements including any delegations to joint committees are set out below in Article 13.5.
13.2 **Access to Information**

The Access to Information Procedure Rules apply to Joint Committees in a similar manner to local authority meetings at Council Committees.

13.3 **Delegation to and from other local authorities**

13.3.1 The Council may delegate non-executive functions to another council or, in certain circumstances, the Executive of another council.

13.3.2 The Leader may delegate executive functions to another council or the Executive of another council in certain circumstances.

13.3.3 The decision whether or not to accept such a delegation from another council shall be reserved to the full Council meeting.

13.4 **Contracting out**

Provided there is no delegation of the Council’s discretionary decision-making powers, the Leader may contract out to another body or organisation

- functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994
- under contracting arrangements, where the contractor acts as the Council’s agent under usual contracting principles.

13.5 **Joint Committees**

Currently the Council is represented on the following Joint Committees which take some executive decisions on its behalf:

13.5.1 Tyne and Wear Joint Museums Committee

- Management of Museums

13.5.2 Tyne and Wear Economic Development Joint Committee

- Management of Economic Development Grants

13.5.3 Tyne and Wear Archives Joint Committee

- Management of archive functions

13.5.4 Tyne and Wear Trading Standards Joint Committee

- Management of Tyne and Wear Metrology Laboratory and co-ordination of enforcement functions

13.5.5 North Eastern Purchasing Organisation
➢ Purchasing through a local authority consortium

13.5.6 Joint Committee for the North of England Open Air Museum
➢ Management of Beamish Museum

13.5.7 Tyne and Wear Public Arts Joint Committee
➢ Management of Art on the Riverside programme

ARTICLE 14

14 OFFICERS

14.1 Management structure

14.1.1 General

The Council may engage such employees as it considers necessary to carry out its functions.

14.1.2 Chief Officers

The full Council will engage persons for the following posts, who will be designated Chief Officers:

**Post Functions and areas of responsibility**

<table>
<thead>
<tr>
<th>Post</th>
<th>Duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>Corporate management and operational responsibility including overall management responsibility for all officers. To act as Head of the Paid Service.</td>
</tr>
<tr>
<td>Corporate Director – Business and Resources</td>
<td>Audit, Cultural Services, Finance, Human Resources, Legal Services, Pensions, Performance, Strategy and Democracy, Risk and Insurance, Strategic Partnership client role.</td>
</tr>
<tr>
<td>Corporate Director – Children Adults and Health</td>
<td>Adult Social Services, Early Intervention and Safeguarding, Public Health, Schools, Corporate Group Support. To act as Director of Children’s Services and Director of Adult Social Services.</td>
</tr>
</tbody>
</table>

14.1.3 Head of Paid Service, Monitoring Officer and Chief Financial Officer.
The Council will designate the following posts as shown:

<table>
<thead>
<tr>
<th>Post</th>
<th>Designation</th>
<th>Deputy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Executive</td>
<td>Head of Paid Service</td>
<td>appointed as required</td>
</tr>
<tr>
<td>Head of Legal Services</td>
<td>Monitoring Officer</td>
<td>appointed as required</td>
</tr>
<tr>
<td>Finance Director</td>
<td>Chief Finance Officer</td>
<td>appointed as required</td>
</tr>
</tbody>
</table>

Such posts will have the functions described in the Proper Office Roles in Part C Section 2 and in the Member and Officer Protocol in Part E Section 4.

**ARTICLE 15**

**15 DECISION MAKING**

15.1 **Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part C of this Constitution. Part D contains a Protocol for decision-making which should be borne in mind by all decision-making bodies.

15.2 **Key decisions**

15.2.1 A key decision which must be included in the Key Decision Plan is an executive decision which is likely:

15.2.1.1 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. The Council has decided that any decision involving expenditure in excess of £500,000 (excluding any decisions relating to investment of Council monies, or borrowing, undertaken as part of Treasury Management procedures or the purchase or sale of an investment or other transaction on behalf of the Tyne and Wear Pension Fund), will be a key decision; or

15.2.1.2 to be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards;
15.2.2 A key decision can only be made in accordance with the requirements of the Cabinet Procedure Rules set out in Part D of this Constitution.

15.3 Decision making by the full Council

The Council meeting will follow the Council Procedures Rules set out in Part D of this Constitution when considering any matter.

15.4 Decision making by the Leader or Cabinet

The Leader/Cabinet will follow the Cabinet Procedure Rules set out in Part D of this Constitution when considering any matter.

15.5 Decision making by Scrutiny Committees

Scrutiny Committees will follow the Scrutiny Procedures Rules set out in Part D of this Constitution when considering any matter.

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

Subject to Article 15.7 below other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part D of this Constitution as apply to them.

15.7 Decision making by Council bodies acting as tribunals

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

ARTICLE 16

16 REVIEW AND REVISION OF THE CONSTITUTION

16.1 Minor Amendments

The Chief Executive shall be responsible for keeping this document up to date and shall be authorised to make minor revisions or amendments as necessary.

16.2 Approval

Significant changes to the constitution will only be approved by the full Council on consideration of a report from the Chief Executive having consulted the Monitoring Officer and the Constitutional Committee.

16.3 Change from a Leader and Cabinet form of Executive Arrangements
The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change from the Leader and Cabinet model for executive arrangements.

ARTICLE 17

17 SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

17.1 Suspension of the Constitution

17.1.1 Limit to suspension

This Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

17.1.2 Procedure to suspend

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

17.1.3 Rules capable of suspension

In respect of business at Council meetings the Rules set out in Part D of this Constitution, may be suspended, save that the Cabinet or any of the Council’s Committees with delegated authority for agreeing contracts or a Chief Officer may waive provisions for specific contracts as provided for in the Procurement Procedure Rules in Part D.

17.2 Interpretation

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. Such interpretation will have regard to the purposes of this Constitution as set out in Article 1.

17.3 Publication

17.3.1 The Chief Executive will give a printed copy of this Constitution to each existing member of the Council when it is adopted and to all new members upon delivery to him/her of that new member’s form of declaration of acceptance of office.

17.3.2 The Chief Executive will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
17.3.3 The Chief Executive will ensure that the summary of the Constitution as set out in Part A is made widely available within the area and is updated as necessary.
PART C

Scheme of Delegations
SCHEME OF DELEGATIONS

Contents

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</table>
Delegations
SCHEME OF DELEGATION

INTRODUCTION

Section 1 of this part of the Constitution explains the powers which the Council and the Leader have decided to delegate to the Chief Executive and Corporate Directors and others authorised to act on their behalf. It also explains the restrictions on those powers and the consultation requirements.

Section 2 contains a list of Proper Officers who have been appointed by the Council for particular purposes.

Section 3 lists officers who are authorised by this Scheme to exercise delegated powers on behalf of the Chief Executive and Corporate Directors.

SECTION 1

A: INTERPRETING THE SCHEME

Meaning of Corporate Directors

1. The reference to Corporate Directors in this Scheme means the following officers:
   - Corporate Director Business and Resources
   - Corporate Director Economic Regeneration
   - Corporate Director Children, Adults and Health

2. If a power is delegated to a specific Corporate Director, rather than to Corporate Directors as a whole, the relevant post is referred to in the Scheme.

3. If the title or responsibilities of a Corporate Director (or other officer authorised to act on their behalf) changes for any reason, the Corporate Director (or other authorised officer) who takes over responsibility for that function is authorised to exercise the powers in question.

Extent of powers delegated

4. This Scheme is intended to make sure that the Chief Executive and Corporate Directors, other officers authorised to act on their behalf, and Proper Officers have all the powers which they need to carry out the functions for which they are responsible. The functions for which the Chief Executive and Corporate Directors are responsible are described in the Articles of the Constitution (Part B – Article 14).

5. The powers which are delegated are limited by restrictions and are subject to consultation requirements which are referred to in the Scheme.

6. The Chief Executive and Corporate Directors have the power to decide, having regard to this Scheme and the provisions of the Constitution as a
whole, whether they have the delegated powers to deal with any matter arising from the functions for which they are responsible, or whether the matter must be referred to the Council, Cabinet, or a Committee.

7. The Chief Executive has the power (see paragraph 40 below) to allocate responsibility for a function to a Corporate Director if this is necessary as a result of new legislation, uncertainty about responsibilities between Corporate Directors, or for any other reason.

Meaning of non-executive and executive functions

8. Non-executive functions are those which legally cannot be carried out by the Leader. They must be carried out by the Council or, on behalf of the Council, by Regulatory or other Committees, or by the Chief Executive or Corporate Directors.

9. Executive functions are those which legally cannot be carried out by the Council. They must be carried out by the Leader or, on behalf of the Leader, by the Cabinet, by members or committees of the Cabinet, or by the Chief Executive or Corporate Directors.

Delegation of non-executive functions

10. This Scheme delegates responsibility for non-executive functions to the Chief Executive and Corporate Directors except for those referred to in paragraph 11 below.

Non-executive and other functions not delegated to the Chief Executive or Corporate Directors

11. The Council, Regulatory and other Committees are responsible for carrying out the non-executive functions referred to in the following Articles of the Constitution:

   Article 4.5 (Functions of the Council);
   Article 9 (Functions of Regulatory and other Committees);
   Article 10 (Pensions Committee)
   Article 11 (Community Area Forums)
   Article 12 (Functions of the Standards Committee)
   Article 13 (Joint Arrangements)

Delegation by the Leader of Executive Functions

12. The role of the Leader is set out in Article 6 of the Constitution. The Leader can delegate his/her functions to the Cabinet, to members or committees of the Cabinet or to the Chief Executive or Corporate Directors.

13. The Chief Executive and Corporate Directors have delegated powers by this Scheme to carry out executive functions on behalf of the Leader, or any body or person(s) to whom the Leader has delegated such functions, subject to the requirements and restrictions set out in the Scheme.
Urgent action powers where powers not normally delegated to officers

14. In cases of urgency, power is delegated to the Chief Executive and Corporate Directors to make decisions in respect of non-executive and executive functions which are not normally delegated to them. The urgent action powers are explained in paragraphs 18 and 19 below.

B: THE DELEGATIONS

NOTE: All delegations are subject to the restrictions and consultation requirements set out in C and D below

Delegation - General

15. The Chief Executive and Corporate Directors are authorised by this Scheme to exercise the powers and carry out the duties arising from executive and non-executive functions for which they are responsible.

16. In exercising their delegated powers the Chief Executive and Corporate Directors have broad discretion to use the most efficient and effective means available to deliver services.

17. The delegated powers given to the Chief Executive and Corporate Directors include:

- managing their budgets;
- incurring expenditure which is within their approved budget;
- inviting and accepting tenders, entering into contracts, and procuring supplies, works and services which are required to assist in performing their functions, whether from inside or outside the Council, where the contract value does not exceed £500,000, with the exception of the Tyne and Wear Pension Fund where no financial limit applies;
- taking urgent action where they would normally require authority from the Leader, Cabinet, a Committee of Cabinet or a Committee of the Council in accordance with paragraphs 18 and 19 below;
- taking action in relation to an executive function for which provision is not made in this Scheme of Delegations after consultation with the Leader of the Council/Deputy Leader;
- dealing with issues concerning land in accordance with paragraphs 20 to 23 below;
- dealing with employee issues in accordance with paragraph 24 to 25 below;
- dealing with legal matters in accordance with paragraphs 26 to 29 below;
any other matters which they are required to do in order to perform the functions for which they are responsible subject to the overall restrictions set out or referred to in this Scheme.

Delegated powers - Urgent Action

18. The Chief Executive and Corporate Directors have power to take action in cases of urgency in consultation with the Leader or Deputy Leader in respect of any matter which is within the functions of the Cabinet, or in the case of a matter within the functions of a Committee, in consultation with the Chairperson of the relevant Committee.

19. The Chief Executive may take emergency action in respect of matters which are normally decided by the Leader or the Council, after consultation in the latter case with the Leader or Deputy Leader, and subject to Rule 3 of the Budget and Policy Framework Procedure Rules (Part D Section 3).

Delegations – Land Matters

20. The Corporate Director Economic Regeneration has delegated power to specify the property management arrangements for managing and maintaining the Council’s land and buildings.

21. The Chief Executive and Corporate Directors have the necessary powers to manage and maintain the land and buildings for which they are responsible (other than acquiring or disposing of interests in land – see paragraph 22 below) in accordance with the property management arrangements specified by the Corporate Director Economic Regeneration under paragraph 20 above, with the exception of the management, acquisition and disposal of Tyne and Wear Pension Fund properties which are delegated to the Head of Pensions and paragraphs 20, 22 and 23 herein do not apply.

22. The Corporate Director Economic Regeneration is responsible for negotiating terms and dealing with the tendering procedures, including accepting tenders up to a value of £500,000, for the acquisition or disposal of interests in land. The Corporate Director Economic Regeneration will consult with the Lead Member Resources and Innovation before making any decision to dispose of any land by way of sale.

23. The Chief Executive and Corporate Directors have power to appropriate land from one purpose to another in accordance with statutory requirements.

Delegations – Employee Matters

24. The Corporate Director Business and Resources is responsible for specifying corporate guidelines which are to be followed by the Chief Executive and Corporate Directors in dealing with matters concerning employees. The guidelines are contained or referred to in the Council’s Human Resources Manual.
25. The Chief Executive and Corporate Directors have delegated powers to deal with the following matters concerning the employees for whom they are responsible, subject to complying with the Human Resources Manual and subject to their actions being within their approved budget: -

- to deal with all employment matters concerning employees, including appointing and dismissing employees, dealing with grievances and taking disciplinary action against employees below Head of Service level;

- in consultation with the Corporate Lead HR, to make establishment changes, including determining the number and gradings of posts in their Corporate Groups up to and including posts graded Band 7 (or equivalent salary), subject to reporting these decisions on a regular basis to the Human Resources Committee;

- to exercise day to day management, supervision and control of employees in respect of any other matters arising.

**Delegation - Legal Matters**

26. The Chief Executive and Corporate Directors are authorised to take all necessary action in relation to legal matters of whatever nature where the matters relate to their areas of responsibility. This includes, but is not limited to, instituting, defending and lodging appeals in proceedings, tribunals and inquiries as well as settling proceedings where it is in the Council’s best interests to do so.

27. Generally, the Head of Legal Services will exercise the delegated powers in respect of legal matters in accordance with the instructions of the Chief Executive or relevant Corporate Director. If the Head of Legal Services is not exercising the delegated powers, the Chief Executive or relevant Corporate Director must make sure that the Council’s best interests are protected, taking legal advice as required.

28. The Chief Executive and Corporate Directors may serve and sign Notices or Orders, give Directions, undertake works in default, give Warnings and issue Cautions, and take any other action, statutory or otherwise, in connection with the exercise of any of their delegated functions.

29. The Chief Executive and Corporate Directors may implement and enforce Byelaws.

**Proper Officers**

30. A list of Proper Officers is attached in Section 2 to this Scheme. These officers are the proper officers for all purposes relating to the functions for which they are specified to be responsible.
31. Proper Officers have the same delegated powers as the Chief Executive and Corporate Directors to the extent that this is necessary to carry out the functions for which they are responsible.

32. To the extent that there are any other Proper Officer roles which are not referred to in Section 2, the Chief Executive and Corporate Directors (or other officers authorised to act on their behalf) are given delegated powers by this Scheme to act as the Proper Officers for all purposes relating to the functions for which they are responsible.

**Delegated Powers to Officers other than the Chief Executive and Corporate Directors**

33. Section 3 to this Scheme lists employees who are authorised to exercise delegated powers on behalf of the Chief Executive and Corporate Directors and Proper Officers.

34. Part A of Section 3 lists employees who are authorised to exercise delegated powers generally in respect of those functions for which they are responsible, including appointing to all posts under their control.

35. Part B of Section 3 lists employees who have restricted powers of appointment, as set out in the list.

36. In addition to the posts referred to in Section 3 the Chief Executive and Corporate Directors may also authorise officers individually to exercise delegated powers on their behalf. Such authorisation must be in writing and copied to the Council's Monitoring Officer.

37. Other authorised officers have the same delegated powers as the Chief Executive and Corporate Directors on whose behalf they are acting to the extent that it is necessary to carry out the functions for which those officers are responsible.

**Accountability of the Chief Executive and Corporate Directors for Delegated Decisions**

38. The Chief Executive and Corporate Directors remain responsible and accountable for any decisions taken by another officer authorised to act on their behalf.

**Corporate Directors - Unplanned Absence**

39. If a Corporate Director is absent on an unplanned basis from the workplace for more than 5 working days the Chief Executive has power to nominate another Corporate Director or Head of Service or Corporate Lead to act in his or her place during the period of the absence. The Chief Executive's nomination must be in writing addressed to the nominated Corporate Director or Head of Service or Corporate Lead and copied to the absent Corporate Director and the Monitoring Officer.
Allocation of responsibility for functions to a Corporate Director

40. If as a result of new legislation or for any other reason it appears that there is no Corporate Director responsible under the Constitution for a particular function or in the event that there is uncertainty as to which Corporate Director is responsible for a particular function, power is delegated to the Chief Executive in consultation with the Leader of the Council/Deputy Leader and the Monitoring Officer to allocate responsibility for the function to a Corporate Director.

Members Attendances at Conferences etc

41. The Chief Executive and Corporate Directors may approve member attendance at conferences, seminars and similar events in consultation with the Leader or Deputy Leader.

C: RESTRICTIONS ON DELEGATIONS TO OFFICERS

42. The Chief Executive and Corporate Directors may not carry out the functions referred to in Paragraph 11 of this scheme. These can only be carried out by the Council, other Committees of the Council or Joint Committees respectively unless a specific authorisation is given to an officer by this Scheme, by a decision at a particular Council or Committee meeting, or by the Chief Executive to perform the function in question.

43. The Chief Executive and Corporate Directors may not unless they are specifically authorised to do so: -

- change approved policies or strategies;
- create new policies or strategies;
- take decisions on the withdrawal or modification of public services;
- incur expenditure unless it is within their approved budget

44. Any exercise of delegated powers must comply with: -

- Any legal provisions relating to the power which is being exercised;
- Access to Information Procedure Rules;
- The Council’s Budget and Policy Framework;
- The Budget and Policy Framework Procedure Rules;
- Council's Procedure Rules;
- Procurement Procedure Rules;
Employment Procedure Rules;
Financial Procedure Rules;
Employees’ Code of Conduct;
Protocol for Member/ Officer Relations;
The Code of Recommended Practice on local authority publicity;
The principles of Best Value using the most efficient and effective means available;
Arrangements for management of the Council’s property specified by the Corporate Director Economic Regeneration;
Employment guidelines contained in the Human Resources Manual issued by the Corporate Director Business and Resources.

45. The Chief Executive and Corporate Directors are responsible for making sure that all delegated decisions taken by them or others authorised by them are properly recorded and published in accordance with the agreed corporate arrangements.

D: CONSULTATION

Other Officers

46. In exercising delegated powers, the Chief Executive and Corporate Directors must consult with other officers as appropriate and have regard to any advice given. In particular advice must be sought, if required, from appropriate officers on any legal or financial implications of the proposed decision.

Cabinet Members & Chair/ Vice-Chairpersons

47. If the Chief Executive or Corporate Directors consider that a decision which they propose to take under delegated powers has significant policy, service or operational implications, or is politically sensitive, they must consult with the Leader or Deputy Leader, or with the appropriate Cabinet Member(s), Committee Chairperson and Vice-Chairperson before exercising the delegated powers.

48. It is always open to an officer to consult with the Leader or Deputy Leader, a Cabinet member, or the Chairperson or Vice-Chairperson of a Committee before exercising his/ her delegated powers; or not to exercise delegated powers but to refer the matter to the Council, the Leader, Cabinet or a Committee for a decision.

Protocol On Member/ Officer Relations

49. The Chief Executive and Corporate Directors are responsible, when exercising delegated powers, for making sure that Members are consulted in
accordance with the Protocol on Member/Officer Relations (Part E – Section 5).

E: SCRUTINY

50. The Chief Executive and Corporate Directors are responsible under paragraph 45 above for making sure that each officer exercising delegated powers records decisions taken. In addition, a formal report in a format and at intervals to be determined by agreement of the Scrutiny Committee Chairperson, Leader or Cabinet Member and Corporate Director should be presented to the appropriate Scrutiny Committee in each cycle or as otherwise agreed.

51. Any member may request that decisions taken by officers under delegated powers can be the subject of scrutiny by the appropriate Scrutiny Committee, Regulatory Committee, Standards Committee and/or Cabinet. Scrutiny in this manner should be based on the provisions in this Constitution for preparing agendas for meetings.

52. Any such scrutiny will not make any action taken as a result of the decision invalid. However, the scrutiny body will be able to recommend a different course of action that would then be considered by the appropriate officer and/or the Leader or Cabinet member(s).

53. Key decisions, as defined in Article 15 of the Constitution, which are taken by the Chief Executive and Corporate Directors must follow the same procedure as the requirements in this Constitution for key decisions by members.
Proper Officer Roles
PROPER OFFICER ROLES

Chief Executive

1. The Chief Executive will be the Council’s Head of Paid Service.

2. The Chief Executive will report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

3. The Chief Executive will also be responsible for the following:-

   3.1 Acting as Registration Officer for the Parliamentary constituencies of Jarrow and South Shields

   3.2 Acting as the Acting Returning Officer for the Parliamentary constituencies of Jarrow and South Shields

   3.3 Acting as the Returning Officer for Local Authority Elections in the Borough

   3.4 Keeping the Register of Electors

   3.5 Signature of Summonses to Council meetings

   3.6 Any duties arising from a reference in a statutory provision before 1972 to the “Clerk” of the Council

   3.7 Keeping the Roll of Freemen

   3.8 Witness and receipt of declarations of acceptance of office

Corporate Director Business and Resources

4. The Corporate Director Business and Resources will be:-

   4.1 responsible for the determination of Guidelines in relation to the employment matters referred to in the Scheme of Delegations in Part C of this Constitution;

   4.2 the senior manager of the Corporate Internal Audit Manager and is responsible for ensuring the independence of the Internal Audit service, monitoring the quality of the Audit work produced and securing access by Internal Audit to all information necessary for them to carry out their audit functions. The current Terms of Reference of the Internal Audit service are set out at Annex 1 to this part of the Constitution. All officers and members of the Council are required to facilitate the work of the internal Audit service in accordance with their Terms of Reference, as amended from time to time by the Audit Committee.
5. The Finance Director will be the Council’s Chief Finance Officer for the purposes of section 151 of the Local Government Act 1972. The Chief Finance Officer will be responsible for the following:

5.1. **Ensuring lawfulness and financial prudence of decision making**

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

5.2. **Administration of financial affairs**

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

5.3. **Contributing to corporate management**

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

5.4. **Providing Advice**

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

5.5. **Providing financial information**

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

**Deputy Chief Finance Officer**

6. The Strategic Finance Manager will be the Council’s Deputy Chief Finance Officer for the purposes of Section 151 of the Local Government Act 1972.

**Corporate Director Children, Adults and Health**

7. The Corporate Director Children, Adults and Health (or other officer nominated by the Corporate Director Children, Adults and Health) is appointed Director of Children’s Services pursuant to section 18 of the Children Act 2004.

8. The Corporate Director Children, Adults and Health (or other officer nominated by the Corporate Director Children, Adults and Health) is appointed as the
Director of Adult Social Services pursuant to section 6 of the Local Authority Social Services Act 1970.

Director of Public Health

9. The Director of Public Health will be the Council’s statutory Director of Public Health for the purposes of section 73A of the National Health Service Act 2006. The Director of Public Health be responsible for the following:

9.1 Writing the Annual Report on the health of the local population;

9.2 All of the local authority’s duties to take steps to improve public health;

9.3 Any of the Secretary of State’s public health protection or health improvement functions;

9.4 Exercising the local authority’s functions in planning for, and responding to, emergencies that present a risk to public health;

9.5 Leading the local authority’s role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders;

9.6 Such other public health functions as the Secretary of State specifies in regulations;

9.7 Organising the local authority’s public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications;

9.8 Sitting on the local Health and Wellbeing Board;

9.9 DPH must undertake a Faculty of Public Health continuing professional development programme and maintain a portfolio of training that demonstrates competence with all aspects of public health accepted by the UK Public Health Register;

9.10 Where the DPH is also a medical consultant, there is a requirement for annual medical appraisal to be undertaken as an integral part of the revalidation process;

9.11 The DPH has a duty to ensure plans are in place to protect their population including through screening and immunisation.

Head of Legal Services

10. The Head of Legal Services will be responsible for the following: -

10.1 Local Registration under the Local Land Charges Act
10.2. The sealing of documents requiring the Council’s Common Corporate Seal and the authorisation of other officers to seal documents

10.3. Certification of photographic copies of documents

10.4. Authentication of documents

10.5. Keeping the Members Register of Disclosable Pecuniary Interests

10.6. Keeping the Employees Register of Interests

10.7. Keeping the Members Register of Gifts and Hospitality

10.8. The granting of Cemetery rights and the completion of burial deeds

10.9. Deputy Proper Officer for the functions allocated to the Head of Paid Service in 3.1 – 3.8 above

11. The Head of Legal Services will also be the Council’s Monitoring Officer for the purposes of Section 5 of the Local Government and Housing Act 1989.

12. The Monitoring Officer will be responsible for the following: -

12.1. **Maintaining the Constitution** –

   The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, employees and the public. He/she will advise the Council from time to time on necessary or desirable changes.

12.2. **Ensuring lawfulness and fairness of decision making** –

   After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to any Cabinet function if he or she considers that any proposal, decision or omission would give rise to unlawfulness. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. He/she will also report where the Ombudsman has carried out an investigation which results in a finding of maladministration.

12.3. **Supporting the Standards Committee** –

   The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

12.4. **Conducting investigations** –

   The Monitoring Officer will conduct investigations into matters covered by the Members’ Code of Conduct and make reports or
recommendations in respect of them to the Standards Committee. The Monitoring Officer will also investigate other matters as directed.

12.5. **Advising whether Cabinet decisions are within the Budget and Policy Framework** –

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

12.6. **Providing advice** –

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.

12.7. **Contributing to corporate management** –

The Monitoring Officer will contribute to the corporate management of the Council in particular through the provision of legal advice.

13. The Head of Legal Services will determine any applications for registration of areas of land as common land or as a town or village green. The Head of Legal Services may, where he thinks appropriate, refer any such application to the Common Land, Town and Village Greens Committee for determination.

14. The Head of Legal Services will appoint a Deputy Monitoring Officer.

15. The Head of Legal Services will be responsible for the following:

   16.1 Receipt of Members’ resignations from office
   16.2 Receipt of Notices regarding the address to which summonses to meetings is to be sent
   16.3 Deputy Registration officer for the parliamentary constituencies of South Shields and Jarrow (Register of Electors)
   16.4 Publication of Petition Number for a Referendum for Elected Mayor
   16.5 Access to information responsibilities under the Local Government Act 2000
   16.6 Receipt of applications for Justices Licences under the Licensing Acts
   16.7 Deposit of Documents for public inspection
   16.8 Births Marriages and Deaths Registration Services
   16.9 Receipt of Notices concerning the formation of political groups and Notices from members of joining established political groups

16. The Head of Legal Services will be the Deputy Returning Officer for local authority elections.
17. The Head of Legal Services will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

Corporate Internal Audit Manager

18. The Corporate Internal Audit Manager will ensure that effective procedures are in place to promptly investigate any suspected or actual fraud or irregularity.

19. The Corporate Internal Audit Manager will ensure that internal auditors comply with the Auditing Practice board’s guideline “Guidance for Internal Auditors” as interpreted by CIPFA’s “Code of Practice for Internal Audit in Local Government in the United Kingdom”.

20. The Corporate Internal Audit Manager will ensure that there is effective liaison between external and internal auditors.

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

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

Conduct

22. Officers will comply with the Officers’ Code of Conduct and the Protocol on Officer/Member Relations set out in part E of this Constitution.

Employment

23. The recruitment, selection and dismissal of officers will comply with Employment Procedure Rules set out in part D of this Constitution.

Head of Development Services

24. The Head of Development Services will be responsible for the determination of all planning matters not falling within the remit of the Planning Committee.

Corporate Lead Human Resources

25. The Corporate Lead Human Resources will be responsible for the retention of the statutory list of politically restricted posts under the Local Government and Housing Act 1989 and the making of any subsequent modification to the list.

26. The Corporate Lead Human Resources will be responsible for the Proper Officer functions referred to in the Employment Procedure Rules in Part D of this Constitution and relating to the appointment and dismissal of chief officers and deputy chief officers.
27. The Corporate Lead Human Resources will be responsible for ensuring that the Council fulfils its commitment as an employer in respect of the Ministry of Defence Armed Forces Employer Recognition Scheme.

ANNEX 1

INTERNAL AUDIT TERMS OF REFERENCE

1 Purpose of the Terms of Reference

1.1 This document seeks to formalise existing practice and arrangements governing the work of Internal Audit within South Tyneside Council. The Terms of Reference set out below confirm:

- the objectives of Internal Audit;
- the position of Internal Audit within South Tyneside Council;
- the scope of Internal Audit activity; and
- Internal Audit’s authority and right of access to all records.

1.2 The Terms of Reference comply fully with the Council’s Constitution, and the provisions on Internal Audit contained therein.

2 Communication of the Terms of Reference

2.1 The objectives of Internal Audit must be shared with the Council, and stated in clear terms. The Terms of Reference reflect the need to have a strong and respected Internal Audit service. It is therefore important that these Terms of Reference are communicated to the whole Council and its partners, in order to achieve a common understanding of the role of Internal Audit.

2.2 The Terms of Reference will therefore be distributed to the Council’s Corporate Groups and its partners. The audit charter (reflecting these Terms of Reference) will also be revised for issue to Council’s Corporate Groups and its partners. The audit charter will make clear what is required of both Internal Audit and service representatives to ensure successful completion of each audit assignment.

3 Role and Objectives of Internal Audit

3.1 Internal Audit is an independent appraisal function established to objectively examine, evaluate and report on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. As such, Internal Audit contributes to the Council’s overall governance framework.

3.2 The internal control system comprises the whole network of systems established within the Council to ensure that its objectives are achieved in the most efficient and effective manner.
3.3 Internal Audit assists management in delivering the objectives of the Council by assessing exposure to risk and recommending, where appropriate, practical improvements to the control environment.

4 General Responsibilities of Management and of Internal Audit

4.1 Management

4.1.1 The Council’s chief officers – those at Head of Service level and above – are responsible for ensuring that appropriate and adequate internal controls exist, independently of any Internal Audit activity. Chief Officers must establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness; and for achieving their financial performance targets.

4.1.2 When an Internal Audit report is issued, it is for management to decide whether to accept and implement audit findings and recommendations, subject to adherence to Council policy and Financial Regulations. Any decision to reject a formal recommendation must be justified in writing, on the schedule of recommendations issued by Internal Audit at the end of each audit assignment. It is the Corporate Internal Audit Manager’s duty to consider taking matters to a higher level of management, or to the Audit Committee, if it is felt that a risk should not (or need not) be borne.

4.2 Internal Audit

4.2.1 Internal Audit is responsible for complying with these Terms of Reference, and conducting its work in accordance with appropriate professional standards. This includes the Code of Practice for Internal Audit in Local Government in the UK (Chartered Institute of Public Finance and Accountancy, 2006).

4.2.2 Internal Audit shall have no responsibilities over the operations which it audits other than the furnishing of recommendations to relevant management, and advice to management on risks and controls.

5 Independence

5.1 Internal Audit must be, and must be seen to be, independent. To ensure this, Internal Audit will operate within a framework which allows:

- unrestricted access to senior management;
- reporting in its own name; and
- segregation from line operations.

5.2 Every effort will be made to preserve objectivity by ensuring that, wherever possible, Internal Audit staff does not undertake any executive or non-audit duties.
5.3 Internal Audit must have adequate scope, authority and objectivity, as set out in the Terms of Reference, to assure independence.

6 Status of Internal Audit

6.1 The Finance Director is designated by the Council under section 151 of the Local Government Act 1972 as the officer responsible for making proper arrangements for the administration of the Council’s financial affairs.

6.2 The Accounts and Audit Regulations 2003, as amended, require that the Council “shall maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control”. Internal Audit reports to, and is operationally accountable to, the Corporate Director Business and Resources.

7 Authority of Internal Audit

7.1 The Council’s Constitution places a responsibility on the Corporate Director Business and Resources to ensure that Internal Audit has the authority to:

- access all Council’s premises at any reasonable time;
- access all records, documents, correspondence and control systems;
- receive any information and explanation considered necessary concerning any matter under consideration;
- require any employee of the Council to account for cash, stores or any other Council asset under his or her control; and
- directly access the Chief Executive and the Audit Committee and / or appropriate committees.

7.2 In turn, the Constitution places a responsibility on all chief officers to ensure that Internal Audit is given access at all reasonable times to such premises, personnel, documents and assets that Internal Audit considers necessary for the purposes of its work. Chief Officers are also charged under the Council’s Financial Procedures Rules and Financial Standards with ensuring that Internal Audit is provided with any information and explanations that it may seek in the course of its work.

7.3 Requests for information required by Internal Audit for the purposes of its work should be met within the following timescales:

a. Where the ownership and custody of data are known, this data should be made available to Internal Audit within 5 working days; or

b. In exceptional circumstances, where a Corporate Group does not consider that information can be provided within 5 working days, a revised time period will be negotiated by the relevant officer with the Corporate Internal Audit Manager. In any event, it is not envisaged that requested
information should be passed to Internal Audit any later than 10 working days after the initial request.

7.4 If the timescales set out in 7.3 are not achieved, the following escalation procedure will be applied:

a. The relevant Corporate Director (or, in their absence, the relevant Head of Service) will be contacted, advised of the information outstanding, and asked to progress the information request within a further 5 working days;

b. If the information has not been forwarded to Internal Audit within 5 working days of the date of this request, the matter will be brought to the attention of the Corporate Director Business and Resources who will then raise this at the first opportunity with the Corporate Director concerned;

c. If the information has not been provided within five working days of the date when the Corporate Director Business and Resources contacts the Corporate Director concerned, the Corporate Internal Audit Manager will bring this to the attention of the Chief Executive for resolution.

7.5 The Constitution provides that Internal Audit shall have access to all officers, buildings, information, explanations and documentation required to discharge the audit role in respect of:

- organisations to whom the Council has given grants;
- organisations with whom the Council contracts; and
- partner organisations in any scheme for which the Council has responsibility as lead or accountable body.

7.6 Chief Officers must ensure that such rights of access are written into the appropriate agreements with these organisations.

8 Scope of Internal Audit Work

8.1 The work of Internal Audit embraces the whole internal control system of the Council, including all of its activities, funded from any source.

8.2 Internal Audit’s remit includes:

- assessing if operations are being carried out as planned, and if objectives / goals are being achieved;
- assessing the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by either the management of the Council or externally;
- assessing the completeness, reliability and integrity of information, both financial and operational;
- assessing the extent to which the Council’s assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud, corruption, waste, extravagance, abuse, ineffective management and poor value for money; and
• assessing the economy, efficiency and effectiveness with which resources are deployed.

8.3 The Constitution places a duty on chief officers to ensure that, where existing financial systems are proposed to be changed or new systems established, the agreement of the Corporate Director Business and Resources and Internal Audit is obtained before implementing any changes.

8.4 The Counter Fraud Strategy & Fraud Response Plan require that Internal Audit is informed in the event that a fraudulent activity or financial irregularity is suspected. Internal Audit will co-ordinate the investigation of alleged financial irregularity in accordance with the Counter Fraud Strategy and Fraud Response Plan, including liaison with the Police.

8.5 Internal Audit is also called upon to perform certain non-audit or ‘consultancy’ duties, for example preparation of the Counter Fraud Strategy. Such work is clearly identified in the Strategic Audit Plan.

9 Planning and Reporting

9.1 Internal Audit prepares an annual Internal Audit plan, setting out the scope of work to be undertaken each year. This annual Internal Audit plan is supplemented by a strategic audit plan, which in total covers three years, allowing a longer term strategic focus for Internal Audit work. These plans are prepared in consultation with management, and agreed with the Corporate Director Business and Resources.

9.2 Internal Audit must however be independent in its planning and operation. In producing the annual and strategic internal audit plans, the Corporate Internal Audit Manager will have an unrestricted range of coverage of the Council’s operations. The Corporate Internal Audit Manager will have freedom to determine the priorities of Internal Audit, in consultation with the Corporate Director Business and Resources and the other chief officers of the Council.

9.3 In determining the resourcing of Internal Audit, the staffing of the Internal Audit Team will be kept under annual review. As a minimum resourcing will ensure that the team is able to comply with the requirements of the Code of Practice for Internal Audit in Local Government in the UK, for the audits of all key financial systems (defined in conjunction with the external auditor) to be performed in-year, and for all high-priority audits (determined by Internal Audit’s risk assessment) to be undertaken during the year.

9.4 In accordance with the planned work programme set out in the Strategic Audit Plan, and subject to any special or ad-hoc work requested during the period, Internal Audit performs planned work, reports to the relevant Corporate Director and service management on the outcome of this work and findings, and makes recommendations on action to be taken. In addition, Internal Audit reports to the Corporate Director Business and Resources, summarising work undertaken and progress against the annual and strategic internal audit plans.
9.5 Where appropriate, Internal Audit may also consider it necessary to impart findings to other officers, such as the Section 151 Officer or Chief Executive. Accordingly the Corporate Internal Audit Manager will have direct access to, and freedom to report to, all senior management and elected members, including those charged with governance.

9.6 The Council’s management is expected to implement all accepted recommendations within an agreed timescale, determined by management and agreed with Internal Audit at the end of the audit assignment. Each audit will be followed up to assess the extent to which this has happened. Summary information will be reported to the Audit Committee on a periodic basis, outlining the number of recommendations made per directorate, the number of recommendations agreed, and the number of recommendations reported to have been implemented at the time of review.

9.7 On an annual basis the Corporate Internal Audit Manager is required to consider the results of Internal Audit work performed during the year and to prepare an annual audit opinion. This opinion will be presented to and considered by the Council’s Audit Committee as part of their consideration of the effectiveness of the Council’s internal control environment.

10 Relationship with External Audit

10.1 Internal Audit will co-ordinate its work with the Council’s External Auditor for the benefit of the Council.

10.2 A protocol, establishing a framework for co-operation between Internal and External Audit, will therefore be updated on an annual basis. This protocol will set out the potential for co-operation, clarify where, when and how the External Auditor plans to rely on the work of Internal Audit, and confirm liaison arrangements.
List of Authorised Officers
LIST OF AUTHORISED OFFICERS

SCHEDULE A  List of Employees authorised to exercise delegated functions on behalf of Corporate Directors

NOTE:  The employees listed below are nominated to take appropriate decisions on behalf of the Chief Executive or their respective Corporate Directors as authorised by them in connection with the functions referred to in the Council’s Delegation Scheme.
<table>
<thead>
<tr>
<th>Business and Resources</th>
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</thead>
<tbody>
<tr>
<td><strong>Heads of Service and Corporate Leads</strong></td>
</tr>
<tr>
<td>Operations Director</td>
</tr>
<tr>
<td>Finance Director</td>
</tr>
<tr>
<td>Head of Legal Services</td>
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<tr>
<td>Head of Pensions</td>
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<tr>
<td>Corporate Lead Area Management</td>
</tr>
<tr>
<td>Corporate Lead Culture and Leisure Services</td>
</tr>
<tr>
<td>Corporate Lead Human Resources</td>
</tr>
<tr>
<td>Corporate Lead Strategy and Performance</td>
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</tbody>
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<table>
<thead>
<tr>
<th><strong>Senior Officers</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Area Management</td>
</tr>
<tr>
<td>Area Environmental Services Manager</td>
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<tr>
<td>Bereavement Service Manager</td>
</tr>
<tr>
<td>Community Facilities Development Manager</td>
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<tr>
<td>Fleet Operations Manager</td>
</tr>
<tr>
<td>Waste and Recycling Collections Manager</td>
</tr>
<tr>
<td>Cultural Services</td>
</tr>
<tr>
<td>Arts and Museums Manager</td>
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<tr>
<td>Cultural Development Manager</td>
</tr>
<tr>
<td>Libraries Manager</td>
</tr>
<tr>
<td>Sports Development Manager</td>
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<tr>
<td>Finance</td>
</tr>
<tr>
<td>Corporate Internal Audit Manager</td>
</tr>
<tr>
<td>Finance Manager (x3)</td>
</tr>
<tr>
<td>Partnership Office Manager – D Patterson</td>
</tr>
<tr>
<td>Procurement Client Manager – P Lawton</td>
</tr>
<tr>
<td>Strategic Finance Manager</td>
</tr>
<tr>
<td>Human Resources</td>
</tr>
<tr>
<td>Occupational Health and Safety Manager</td>
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<tr>
<td>Strategic HR Manager</td>
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<tr>
<td>Legal Services</td>
</tr>
<tr>
<td>Deputy Monitoring Officer</td>
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<tr>
<td>Specialist Advisor</td>
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<tr>
<td>Principal Solicitor Litigation and Social Care</td>
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<tr>
<td>Principal Solicitor Development, Property and Procurement Team</td>
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<tr>
<td>Principal Solicitor Pension Team</td>
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<tr>
<td>Principal Legal Executive (x2)</td>
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</tbody>
</table>
## Senior Officers

**Pensions**  
- Communications Team Manager  
- Investment Manager  
- Operations Team Manager  
- Principal Investment Manager  
- Principal Pensions Manager  
- Technical Support Manager

**Support Services**  
- Business Support Manager  
- Performance and Information Manager  
- Strategic Development Manager  
- Strategy and Democracy Manager  
- Future Programmes Manager

## Children, Adults and Health

### Heads of Service
- Director of Public Health  
- Head of Adult Social Care  
- Head of Children and Families Social Care  
- Head of Education, Learning and Skills  
- Head of Strategic Commissioning

### Senior Officers

**Adult Social Care**
- Service Manager - Adults and Integrated Care  
  x2  
- Service Manager - Early Help  
- Service Manager - Direct Services

**Children and Families Social Care**
- Adoption Manager  
- Service Manager – Supporting and Strengthening Families  
- Service Manager – Contact and Referral and OOHs  
- Service Manager – Looked After Children  
- Service Manager - Placement Services
<table>
<thead>
<tr>
<th>Senior Officers</th>
<th>Education, Learning and Skills</th>
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<tbody>
<tr>
<td></td>
<td>Strategic Lead Early Help and Special Educational Needs</td>
</tr>
<tr>
<td></td>
<td>Early Help and Youth Justice Manager</td>
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<tr>
<td></td>
<td>Service Manager – Services for Young People x 2</td>
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<tr>
<td></td>
<td>Manager Children’s Centres and Childcare</td>
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<td></td>
<td>Principal Educational Psychologist</td>
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<td></td>
<td>Catering Services Manager</td>
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<td></td>
<td>Virtual Head Teacher and Ethnic Minority Services Manager</td>
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<td></td>
<td>Pupil Services Manager</td>
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<td>ICT in Schools Manager</td>
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<td></td>
<td><strong>Public Health</strong></td>
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<td></td>
<td>Public Health Strategic Manager</td>
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<td></td>
<td>Change 4 Life Programme Lead</td>
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<td></td>
<td>Consultant in Public Health</td>
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<td></td>
<td><strong>Strategic Commissioning</strong></td>
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<tr>
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<td>Strategic Commissioning Manager</td>
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<td>Strategic Commissioning Lead</td>
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<td></td>
<td>Short Breaks Manager</td>
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<td>Mental Capacity Act/Deprivation of Liberty Manager</td>
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<td></td>
<td>Safeguarding/LADO Manager</td>
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<td>Development Manager and Principal Social Worker</td>
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<tr>
<th>Heads of Service</th>
<th>Economic Regeneration</th>
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<tbody>
<tr>
<td>Head of Asset Management</td>
<td>Head of Asset Management</td>
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<tr>
<td>Head of Regeneration</td>
<td>Head of Asset Management</td>
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<tr>
<td>Head of Development Services</td>
<td>Head of Asset Management</td>
</tr>
<tr>
<td>Head of Marketing &amp; Communications</td>
<td>Head of Asset Management</td>
</tr>
<tr>
<td>Corporate Lead Business Employment &amp; Skills</td>
<td>Head of Asset Management</td>
</tr>
<tr>
<td>Corporate Lead Strategic Development</td>
<td>Head of Asset Management</td>
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<tr>
<td>Senior Officers</td>
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<tr>
<td><strong>Asset Management</strong></td>
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<tr>
<td>Asset Management &amp; Design Manager</td>
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<td>Buildings Team Leader</td>
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<td>Parking &amp; Utilities Services Manager</td>
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<tr>
<td>Highways Engineering Manager</td>
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<tr>
<td>Compliance Team Leader</td>
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<td>Construction Projects &amp; Services Team Leader</td>
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<tr>
<td>Valuation Team Leader</td>
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<tr>
<td>Corporate Facilities Manager</td>
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<tr>
<td>Strategic Business Manager</td>
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<tr>
<td>Road Safety Manager</td>
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<tr>
<td>Construction Manager</td>
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<tr>
<td>Highways &amp; Infrastructure Manager</td>
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<tr>
<td><strong>Business Employment &amp; Skills</strong></td>
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<tr>
<td>Business Employment &amp; Skills Manager</td>
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<tr>
<td><strong>Regeneration</strong></td>
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<tr>
<td>Senior Regeneration Area Manager</td>
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<td>Regeneration Manager</td>
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<tr>
<td><strong>Development Services</strong></td>
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<tr>
<td>Senior Development Services Managers x2</td>
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<tr>
<td>Operations Manager – Building Control</td>
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<td>Operations Manager – Development Management</td>
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<td>Operations Manager – Environmental Health</td>
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<td>Operations Manager – Environmental Protection</td>
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<td>Operations Manager – Housing Strategy</td>
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<td>Operations Manager – Licensing and Trading Standards</td>
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<td>Operations Manager – Resilience</td>
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<tr>
<td>Operations Manager – Spatial Planning</td>
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<tr>
<td>Operations Manager – Transport Strategy</td>
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</tbody>
</table>
SCHEDULE B  List of Employees authorised by their Corporate Directors to appoint to appropriate posts under their control

NOTE: The employees listed below have been authorised to deal with appointments at the discretion of the appropriate Corporate Director.
## Business and Resources

- Highway Technical Officer (x2)
- Contracts Manager (Building Cleaning)
- Design Co-ordination Officer
- Engineers (Highway Design) (x2)
- Engineers (Structures) (x6)
- Engineers (Transport Services) (x4)
- Highway Operations Officer
- Infrastructure Support Officer
- Lighting Operations Officer
- Lighting Technical Officer
- Livability Designer
- Livability Engineer
- Markets Superintendent
- Road Safety Officer
- Waste Minimalisation and Recycling Officer
- Adult and Community Learning Officer
- Customer Safety Manager – CCTV
- Customer Safety Support and Security Manager
- Principal Information Services Project Development Officer
- Project and Service Manager – Community Alarms
- A V Librarian
- Activities Officer
- Arts and Museums Development Officer
- Assistant Librarians
- Assistant Manager
- Branches Supervisor
- Children's Librarian
- Community Development Co-ordinator
- Community Development Librarians
- Development and Planning Co-ordinator
- Engagement Officer
- Events and Operations Manager
- Facilities Officer (x2)
- Facilities Officer (Senior)
- Community Centre Managers
- Information and Education Co-ordinator
- Information Librarians
- Lending Librarian
- Local Studies Librarian
- Parks Development Officer
- Play Officer
- Resources and E-Services Co-ordinator
- Senior Sports Development Officer
- Sports Development Officer
- Staffing Officer Catering Manager
- Support Services Librarian
- Tourism Officer
- Young Persons Services Co-ordinator
<table>
<thead>
<tr>
<th>Role</th>
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<tbody>
<tr>
<td>Adult and Youth Training Manager</td>
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<tr>
<td>Adult Education Officer</td>
</tr>
<tr>
<td>Area Managers (Catering)</td>
</tr>
<tr>
<td>Children’s Education Support Manager (PLACE)</td>
</tr>
<tr>
<td>Family Learning Officer</td>
</tr>
<tr>
<td>Finance Officers</td>
</tr>
<tr>
<td>Independent Living Support Service Manager</td>
</tr>
<tr>
<td>Joint Planning &amp; Partnership Development Officer</td>
</tr>
<tr>
<td>Office Manager</td>
</tr>
<tr>
<td>Operational Manager YJS</td>
</tr>
<tr>
<td>Service Lead Social Work Reform</td>
</tr>
<tr>
<td>Team Manager SSF</td>
</tr>
<tr>
<td>Team Manager Integrated Looked After Children</td>
</tr>
<tr>
<td>Early Response Team Manager</td>
</tr>
<tr>
<td>Out of School Learning Officer</td>
</tr>
<tr>
<td>Payroll Supervisor</td>
</tr>
<tr>
<td>Resources and E Co-ordinator</td>
</tr>
<tr>
<td>Student Support Officer</td>
</tr>
<tr>
<td>Team Manager, Children with Disabilities</td>
</tr>
<tr>
<td>Centre Manager – South Tyneside Assessment and Resource Centre</td>
</tr>
<tr>
<td>Day Care Manager</td>
</tr>
<tr>
<td>Disability Resource Team Manager</td>
</tr>
<tr>
<td>HART Manager</td>
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<tr>
<td>Team Leader – Initial Contact Team</td>
</tr>
<tr>
<td>Employment Scheme Co-ordinator</td>
</tr>
<tr>
<td>Extra Care Sheltered Housing Managers</td>
</tr>
<tr>
<td>Home Care Managers</td>
</tr>
<tr>
<td>Integrated Learning Disabilities Team Manager</td>
</tr>
<tr>
<td>Joint Planning &amp; Partnership Development Officer Adults</td>
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<tr>
<td>Learning Disabilities Co-ordinator</td>
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<tr>
<td>Officer in Charge Learning Disabilities</td>
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<tr>
<td>Older Persons Team Manager – East</td>
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<td>Older Persons Team Manager – West</td>
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<tr>
<td>Team Manager Mental Health Drug and Alcohol</td>
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<tr>
<td>Team manager Hospital Discharge Team</td>
</tr>
<tr>
<td>Residential Manager</td>
</tr>
<tr>
<td>Review Team Manager</td>
</tr>
<tr>
<td>Team Manager Children &amp; Adults with Disabilities</td>
</tr>
<tr>
<td>Team Manager Community Equipment and Disability Housing Team</td>
</tr>
<tr>
<td>Governors Support and Admissions Manager</td>
</tr>
<tr>
<td>School Improvement Officer</td>
</tr>
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</table>
PART D

Rules of Procedure
# RULES OF PROCEDURE

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Council Procedure Rules

SECTION 1
COUNCIL PROCEDURE RULES

Procedure Rules which relate to Full Council

1. ANNUAL MEETING OF THE COUNCIL

1.1. **Timing and Business**

The Annual Meeting shall take place at such time as the Council shall determine.

The annual meeting will:

1.1.1. elect a person to preside if the Mayor of Council is not present;
1.1.2. elect the Mayor of Council;
1.1.3. elect the Deputy Mayor of Council;
1.1.4. approve the minutes of the last meeting;
1.1.5. receive any announcements from the Mayor and/or head of the paid service;
1.1.6. elect the Leader;
1.1.7. appoint at least one Overview and Scrutiny Committee, a Standards 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;
1.1.8. approve a programme of ordinary meetings of the Council for the year; and
1.1.9. consider any other business set out in the notice convening the meeting.

1.2. **Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council meeting will:

1.2.1. decide which Committees to establish for the municipal year;
1.2.2. decide the size and terms of reference for those Committees;
1.2.3. decide the allocation of seats to political groups in accordance with the political balance rules;
1.2.4. receive nominations of Councillors to serve on each Committee and outside body; and
1.2.5. appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council.

2. ORDINARY MEETINGS

2.1. The order of business at every meeting (apart from the annual meeting) will be as follows:

2.1.1. choosing a member of the Council to chair the meeting if the Mayor and Deputy Mayor are absent;

2.1.2. any business which must, by law, be dealt with before any other business.

2.1.3. apologies for absence;

2.1.4. minutes of the previous meeting;

2.1.5. any business which the Council must deal with by law;

2.1.6. the Mayor's announcements or communications;

2.1.7. any business left over from the last Council meeting;

2.1.8. reports and recommendations of the Cabinet and Committees which report directly to Council grouped in chronological order;

2.1.9. reports and recommendations of the relevant Proper Officer, and any other business which needs to be transacted by Council.

2.1.10. questions asked under Rule 8. The questions must be in the order set out in Rule 8.16;

2.1.11. petitions submitted under Rule 9;

2.1.12. Notices of Motion in the order received;

2.2. At ordinary meetings, we will only deal with business that is set out on the summons, unless the Mayor decides that a matter is urgent. If the Mayor decides that a matter is urgent, he or she will announce at the beginning of the meeting after apologies have been announced that an extra item is to be placed before Council and will explain why the matter is so urgent. The reasons will be recorded in the minutes of the meeting.

2.3. We will always deal with business included in items 2.1.1, 2.1.2 and 2.1.3 of this Rule first, but the rest of the order of business set out above may be changed:

2.3.1. by the Mayor with the Council's permission; or
2.3.2. by resolution passed on a motion moved and seconded. The motion will be moved and put without discussion, and does not have to be in writing.

2.4. Nothing in these Procedure Rules will stop us from saying prayers before the meeting or standing in silence as a mark of respect.

3. **EXTRAORDINARY MEETINGS**

3.1. **Calling extraordinary meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

3.1.1. the Council by resolution;

3.1.2. the Mayor at any time;

3.1.3. in the absence of the Mayor or if the Mayor is unable to act for any reason the Deputy Mayor at any time;

3.1.4. the Monitoring Officer at any time;

3.1.5. five members of the Council can ask the Mayor to call an extraordinary meeting of the Council at any time. If the Mayor refuses to call a meeting or does not call one within seven days of receiving the request then any five members of the Council can call the extraordinary meeting by leaving their request with the Chief Executive.

4. **APPOINTMENT OF THE MAYOR THE DEPUTY MAYOR AND THE LEADER**

4.1. The Mayor will be appointed as the first item of business at the Annual Meeting. The Deputy Mayor will be appointed at the Annual Meeting immediately following the Mayor. Appointments under this Rule and Rule 4.2 will be by simple majority of the members present.

4.2. If both the Mayor and the Deputy Mayor are absent from a meeting the councillors present must choose one of themselves to chair the meeting.

4.3. The person chairing the meeting can use the Mayor's powers and carry out his or her duties.

4.4. If the Deputy Mayor takes any action under any legal provisions or Rules of Procedure, the Mayor must record why he or she is unable or unwilling to take action.
4.5. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairperson of Committees and Sub-Committees.

4.6. The Leader will be elected at the Annual Meeting of the Council by a simple majority of the members present. The Leader’s term of office will come to an end on the day of the Annual Meeting following his/her normal retirement day as a Councillor or if at any earlier point he/she ceases to be a Councillor.

4.7. The Leader may be removed from office by the passing of a motion of no confidence. The motion may be passed at any Council meeting by a simple majority of the members present. Notice of the proposed motion of no confidence must be given in accordance with Rule 10.

4.8. If a resolution of no confidence is passed and the Leader removed, a new Leader will be elected at that meeting, or at a subsequent meeting.

5. **NOTICE OF AND SUMMONS TO MEETINGS**

5.1. The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. If practicable at least five clear days before a meeting, the Chief Executive will send a summons signed by him or her to every member of the council 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.

6. **QUORUM**

6.1. The quorum for all meetings other than Cabinet meetings will be one quarter members entitled to attend;

6.2. If, during any meeting, the Mayor counts the number of members and declares that there is not a quorum present, the meeting will be postponed. Any member can tell the Mayor that there is not a quorum present;

6.3. If a meeting is postponed, the Mayor will decide when we will deal with any business which remains outstanding from the meeting. If the Mayor does not set a date, we will deal with it at our next ordinary meeting.

7. **DURATION OF MEETING AND THE GUILLOTINE**

7.1. **Duration of the meeting**

In the case of ordinary meetings of the Council where three hours have elapsed after the commencement of the meeting, and in the case of
extraordinary meetings where two hours have so elapsed, the Mayor must, at the conclusion of the debate on the item of business under consideration, call for the vote. The vote will be taken in the usual way without further discussion.

7.2. **Motions and recommendations not dealt with**

If there are other motions and recommendations on the agenda that remain to be dealt with at the end of the three hour period (or two hour period in the case of an extraordinary meeting) they will be deemed to be formally moved and seconded. No speeches will be allowed on these items and the vote will be taken in the usual way.

7.3. **Recorded vote**

If a recorded vote is called for during this process it will be taken immediately.

7.4. **Motions which may be moved**

During the process set out in Rules 7.1 - 7.3 above the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report. Such motions must be moved and seconded and the vote will then be taken in the usual way without further discussion. A mover of a motion under this provision will have the right to explain the purpose of the motion in a speech of up to 2 minutes. No debate will be allowed.

7.5. **Suspension of the Guillotine**

Where the Council believes that a specific extension of time is warranted this may be agreed by a majority vote to suspend this Rule. However no motion to suspend this Rule to extend the meeting should be permitted after this Rule has taken effect.

7.6. **Close of the Meeting**

When all motions and recommendations have been dealt with the Mayor will declare the meeting closed.

8. **QUESTIONS WITH AND WITHOUT NOTICE**

8.1. **General**

8.1.1 **Questions from Members of the Council**

Members of the Council may ask questions of Members of the Cabinet, the Leader of the Council and the Chairpersons of Scrutiny Committees if they give appropriate notice under Rule 8.3, and provided that the Mayor is satisfied that the
question concerns a matter that the Member has tried and
failed to resolve by other available means.

8.1.2 Questions from Members of the Public
Members of the public may submit written questions to
ordinary meetings of the Council by giving appropriate notice
under Rule 8.3. The questions will be printed on the Council
Agenda, and will receive a written answer within 7 days of
the Council meeting. If the Mayor is satisfied that a question
raises a matter which requires a more urgent response from
the Council, he or she may require a verbal answer to be
given at the Council meeting.

8.1.3 Referral of Questions
Where the Mayor believes it is appropriate, he or she may
refer questions that relate to matters specific to a particular
Ward or Community Area Forum area, to the appropriate
Community Area Forum Chairperson. The Mayor may also
refer questions that relate to operational matters to the
appropriate Corporate Director who will provide a written
answer to the questioner.

8.2. Order of questions
Questions will be asked in the order notice of them was received,
except that the Mayor may group together similar questions.

8.3. Notice of questions
8.3.1. A question will only be accepted if notice has been given by
delivering it in writing or by facsimile transmission or by
electronic mail to the Chief Executive no later than midday 8
working days before the day of the meeting (not including the
day of the meeting). Each question must give the name and
address of the questioner and the Chief Executive will arrange
for the relevant councillor to respond to the question.

8.3.2. If the Mayor decides that a matter is urgent he or she can ask a
Cabinet Member or the Leader of the Council a question without
giving notice under Rule 8.3.1 provided a copy of the question is
delivered to the Chief Executive no later than 11.00 am on the
day of the meeting.

8.4. Number of questions
No person or organisation may submit more than one question to any
one meeting of the Council.

8.5. Scope of questions
If the Chief Executive feels that a question under this paragraph:
8.5.1. is not about a matter for which the local authority has a responsibility or which affects the Borough;

8.5.2. is illegal, improper, irregular, frivolous, offensive or not in our interest;

8.5.3. is substantially the same as a question which has been put at a meeting of the Council in the past six months; or

8.5.4. requires the disclosure of confidential or exempt information.

- he or she will advise the Mayor who will then decide whether to allow the question to be put. If the Mayor decides not to allow a question his or her reasons will be recorded in the minutes of the meeting and will not be open to debate. If the Mayor decides to allow the question the Chief Executive will be able to record in the minutes that he or she advised that the question should not have been put.

8.6. Record of questions

The Chief Executive can edit any question to make it correct and reasonably brief. The person asking the question will be consulted about any alteration. The Head of Legal Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

8.7. Asking the question at the meeting

The Mayor will invite each Member of the Council who has submitted a question to put the question to the relevant Councillor. If a Member who has submitted a written question is unable to be present, he or she may ask the Mayor to put the question on his or her behalf. The Mayor may ask the question on the questioner’s behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. The Mayor will refer to the questions from members of the public that are printed on the Agenda for the meeting and, except where he or she has decided to use their discretion under Rule 8.1.2, will confirm that written answers will be provided to the questioners within 7 days of the meeting. If the Mayor has decided that a verbal answer should be given, he or she will read out the relevant question and will invite the appropriate Member to respond.

8.8. Supplementary question

A Member of the Council who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must
arise directly out of the original question or the reply and be directed to clarifying the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 8.5 above.

8.9. **Answers**

An answer can take any of the following forms:

8.9.1. a direct oral answer;

8.9.2. a reference to one of our publications if it answers the question;

8.9.3. if it would not be practicable or appropriate to answer a question orally, the member will supply a written answer to the questioner and group secretaries within 7 days.

The person asked the question may refuse to answer but must give his/her reasons for doing so.

8.10. **Reference of question to the Cabinet or a Committee**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

8.11. **Questions by Members on reports of the Cabinet and committees**

A member of the Council may ask the Leader of the Council or the Chairperson of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council. The Leader or the Chairperson must answer each question immediately. The Leader may ask any member of the Cabinet to answer on his/her behalf where appropriate. The Mayor can rule out questions for being repetitive, stating his or her reasons for doing so. The Mayor may also prevent what he/she believes to be an unreasonably long preamble to a question or supplementary question and require the question to be put immediately.

8.12. **Questions of Police, Integrated Transport and Fire Authority Representatives**

A member of the Council can ask any designated representative of the Police, Integrated Transport or Fire and Rescue Authorities any question about how the authority which they represent carries out any of its functions. He or she must give the Chief Executive a written notice setting out the question no later than 12 noon eight working days before the meeting (not including the day of the meeting). If the Mayor decides that the matter is urgent, the member can ask the police and/or
fire representatives a question without such notice; in such cases the question must be delivered in writing to the Chief Executive no later than 11.00 am on the day of the meeting.

8.13. **Ruling Questions Out of Order**

If the Mayor feels that a question under this Rule is out of order, illegal, irregular, improper, frivolous or offensive or not in our interest, he/she can declare the question out of order and tell the relevant member or representative not to answer it. If the Mayor decides to do this he/she will give reasons which shall be recorded in the minutes of the meeting and will not be open to debate.

8.14. **Time allowed for questions on notice**

At each meeting Members’ questions under Rule 8.12 must not take longer than 15 minutes. Members of the Council may ask questions under Rule 8.1.1 for up to a total of 20 minutes. Where the Mayor has decided under Rule 8.1.2 that a verbal response should be given to one or more questions from member(s) of the public, the answer(s) may take no longer than a total of 20 minutes. Any questions that have not been fully answered at the end of the periods specified in this rule will be answered in writing within 7 days of the meeting.

8.15. **Minuting Questions and Answers**

A summary of the key points of questions asked and replies given under this Rule will be produced after each Council meeting as an annex to the minutes.

8.16. **Order of Questions**

We will deal with questions in the following order:

8.16.1. questions by elected members to representatives of the Police, Integrated Transport and Fire Authorities under Rule 8.12;

8.16.2. questions by elected members under Rule 8.1.1;

8.16.3. questions submitted by members of the public under Rule 8.1.2.

9. **PETITIONS**

9.1. In this Rule, a "petition" means a written or electronic document requesting that the Council take the action referred to in the petition and signed by a minimum of 10 persons resident or working in the Borough.

9.2. Councillors and residents may submit petitions. The Chief Executive will determine the validity of all petitions in accordance with this Rule.
Save as provided in Rule 9.11, all valid petitions will be initially referred to the Council.

9.3. All petitions must be received by the Chief Executive no later than midday eight working days before a meeting (not including the day of the meeting) of the Council.

9.4. Every petition must be polite and must be relevant to a matter over which the Council has powers or duties, or which affects South Tyneside.

9.5. Councillors may present their petitions at a meeting of the Council.

9.6. When a Councillor presents a petition to Council, he or she must say what it is about, and give the number of signatories, without commenting further.

9.7. If a resident has submitted a valid petition, and it complies with this Rule 9, it will be placed on the Agenda for the next meeting of Council.

9.8. When a petition has been submitted by a resident or presented by a Councillor, the Mayor will move that it is referred to the appropriate body or referred for debate at a subsequent meeting of the Council. If this motion is seconded and agreed, the petition will stand so referred without being further discussed.

9.9. When considering a petition, the appropriate body may allow someone who has signed the petition to speak in support of it. The appropriate body will record the action it has taken on a petition no later than at the second ordinary meeting after the meeting when the petition was presented.

9.10. In this Rule, appropriate body means the Cabinet or the relevant Senior Officer in the case of an executive function or the relevant Committee or Sub-Committee or Community Area Forum or Senior Officer in the case of a non-executive function.

9.11. Petitions submitted in respect of planning applications will be dealt with as representations within the Planning Protocol in Part E Section 5 of this Constitution.

10. MOTIONS ON NOTICE

10.1. Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by five members, must be delivered to the Chief Executive's office no later than midday 8 working days before the meeting (not including the day of the meeting). The notice may also be given by facsimile transmission or electronic mail. The Chief Executive will date the motion, number it in the order in which it is received and enter it in a book which every member can
inspect. Where a member wishes to give notice of motion by way of electronic mail the notice need not be signed.

10.2. **Motion set out in agenda**

In the summons for every meeting, the Chief Executive will set out all motions which we have received notice for in the order we received them in, unless when the councillor gave the notice, they said, in writing, that they plan to move it at some later meeting, or they have since withdrawn it in writing.

10.3. **Scope**

Every motion must be relevant to some matter over which we have powers or duties or which affects the Borough of South Tyneside.

If a motion set out in the summons is not moved (either by the councillor who gave notice or by another councillor on their behalf), we will treat it as though it has been withdrawn and it will not be moved without fresh notice, unless the Council gives permission for it to be deferred to a future meeting.

Every motion considered under this Rule must be formally proposed and seconded.

If notice is given of any original motion which, the Chief Executive feels is out of order, illegal, irregular or improper or would have the effect of the Council exercising an executive function within current Budget & Policy Framework, he or she will advise the Mayor who will decide whether to accept the motion and place it on the agenda. If the Mayor decides not to accept the motion, the Chief Executive will tell the councillor who gave the notice.

11. **MOTIONS AND AMENDMENTS WHICH CAN BE MOVED WITHOUT NOTICE**

The following motions may be moved without notice:

11.1. to appoint a chairperson of the meeting at which the motion is moved;

11.2. in relation to the accuracy of the minutes;

11.3. to change the order of business in the agenda;

11.4. to refer something to an appropriate body or individual;

11.5. to appoint a Committee or member of a Committee arising from an item on the summons for the meeting;

11.6. to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
11.7. to withdraw a motion;
11.8. (subject to rule 12.6.6) to amend a motion;
11.9. extending time limits for speeches;
11.10. to proceed to the next business;
11.11. that the question be now put;
11.12. to adjourn a debate;
11.13. to adjourn a meeting;
11.14. that the meeting continue beyond 3 hours in duration (2 hours in the case of extraordinary meetings)
11.15. to suspend a particular Procedure Rule;
11.16. to exclude the public and press in accordance with the Access to Information Procedure Rules;
11.17. to not hear further a member named under Rule 33.3 or to exclude him or her from the meeting under Rule 33.4; and
11.18. to give the consent of the Council where its consent is required by this Constitution.

12. RULES OF DEBATE FOR COUNCIL MEETINGS

12.1. **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

12.2. **Right to require motion in writing**

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.

12.3. **Seconder’s speech**

When seconding a motion or amendment, a member may reserve their speech until later in the debate as long as the debate has not been closed under Rule 12.11.

12.4. **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. A speech by the mover of a motion will not be longer than five minutes. Any other speech will not
be longer than three minutes. The Mayor can give permission for a speaker to speak for an extra period. The councillor submitting the Council’s Annual Revenue Budget for approval will be entitled to speak for up to a maximum of twenty minutes. The main speaker of the minority group will be entitled to speak for a period up to ten minutes in reply.

12.5. **When a councillor may speak again**

A councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

12.5.1. to speak once on an amendment moved by another member;
12.5.2. to move a further amendment if the motion has been amended since he/she last spoke;
12.5.3. if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
12.5.4. in exercise of a right of reply;
12.5.5. on a point of order or giving information;
12.5.6. by way of personal explanation;
12.5.7. to ask the appropriate councillor a specific question. The councillor asked the question can choose whether to give a direct answer to the question without affecting his/her normal right of reply.

12.6. **Amendments to motions**

12.6.1. An amendment to a motion must be relevant to the motion and will either be:

12.6.1.1. to refer the matter to an appropriate body or individual for consideration or reconsideration;
12.6.1.2. to leave out words;
12.6.1.3. to leave out words and insert or add others; or
12.6.1.4. to insert or add words.

- as long as the effect of the amendment is not to negate or cancel the motion if this could be otherwise achieved by voting against the motion. The protocol annexed to these Rules gives members guidance on proposing amendments.
12.6.2. 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.

12.6.3. If an amendment is not carried, other amendments to the original motion may be moved.

12.6.4. 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.

12.6.5. 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.

12.6.6. No amendments to a motion or recommendation that relates to the Budget or Policy Framework may be moved unless written notice has been given by the member(s) proposing the amendment and has been delivered to the Chief Executive's Office not later than 4.00pm on the second working day before the date of the meeting; not including the day of the meeting.

12.6.6.1. A copy of the notice will be circulated to all Members as soon as practicable after receipt.

12.6.6.2. If the amendment is carried, this Rule does not apply to any further amendment(s).

12.6.6.3. If the Mayor is satisfied that for reasons of urgency or for other good reason it is not practicable for notice to be given in accordance with this Rule, he/she may waive the requirement.

12.7. **Alteration of motion**

12.7.1. 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.

12.7.2. 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.

12.7.3. Only alterations which could be made as an amendment may be made.

12.8. **Withdrawal of motion**
A councillor may withdraw a motion which he/she has moved 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.

12.9. **Right of reply**

12.9.1. 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;

12.9.2. 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;

12.9.3. the mover of the amendment has no right of reply to the debate on his or her amendment;

12.9.4. any member who is replying under this Rule or Rule 12.11 (Closure Motions) must only answer previous speakers. They must not introduce any new matters into debate;

12.9.5. when the right to reply has been taken we will put the motion or amendment to the vote.

12.10. **Motions which may be moved during debate**

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

12.10.1. to withdraw a motion;

12.10.2. to amend a motion;

12.10.3. to proceed to the next business;

12.10.4. that the question be now put;

12.10.5. to adjourn a debate;

12.10.6. to adjourn a meeting;

12.10.7. that the meeting continue beyond 3 hours in duration;

12.10.8. to exclude the public and press in accordance with the Access to Information Procedure Rules;

12.10.9. to not hear further a member named under Rule 33.3 or to exclude him or her from the meeting under Rule 33.4; and

12.10.10. that a specific Rule be suspended.
12.11. **Closure motions**

12.11.1. A councillor may move, without comment, the following motions at the end of a speech of another councillor:

12.11.1.1. to proceed to the next business;
12.11.1.2. that the question be now put;
12.11.1.3. to adjourn a debate; or
12.11.1.4. to adjourn a meeting.

12.11.2. 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.

12.11.3. 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.

12.11.4. 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.

12.12. **Point of Order**

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 Procedure Rules or the law. The councillor must indicate the Rule 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.

12.13. **Point of information**

When giving a point of information a councillor must briefly give information to correct an alleged inaccuracy in a speech about the matter.

12.14. **Personal explanation**

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 member 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.
12.15. **Mayor’s Ruling**

The Mayor’s ruling on a point of order, point of information or personal explanation will not be open to discussion.

13. **STATE OF SOUTH TYNESIDE**

13.1. **Calling of debate**

The Leader may call a state of South Tyneside debate annually on a date and in a form to be agreed with the Mayor.

13.2. **Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of South Tyneside debate.

13.3. **Chaining of debate**

The debate will be chaired by the Mayor.

13.4. **Results of debate**

The results of the debate will be:

- 13.4.1. disseminated as widely as possible within the community and to agencies and organisations in the area; and
- 13.4.2. considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

14. **PREVIOUS DECISIONS AND MOTIONS**

14.1. **Motion to rescind a previous decision**

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 is signed by at least 12 members. When we have dealt with this motion or amendment no member can propose a motion or amendment to cancel it for at least six months.

14.2. **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 councillors. Once this motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.
15. MINUTES

15.1. **Signing the minutes**

The Mayor will sign the minutes of the proceedings 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.

15.2. **No requirement to sign minutes of previous meeting at extraordinary meeting**

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

15.3. **Form of minutes**

Minutes will contain all motions and amendments in the order the Mayor put them.

16. RECEPTION OF REPORTS OF THE CABINET AND COMMITTEES

16.1. When a report of the Cabinet, a Committee or Sub-Committee reporting directly to the Council is called for consideration, the procedure is as follows.

16.1.1. The Leader/Chairperson or Vice-Chairperson will present and move a motion. If they are not at the meeting, another member of the Cabinet or the relevant Committee will do this.

16.1.2. The mover of the report will move ‘that the report of the Cabinet/Committee held on.......... be received and adopted by the Council’.

16.1.3. No seconder is needed for moving that a report or a recommendation is received.

16.1.4. Before moving that the report is received, the moving councillor can say that they do not move the report or any recommendation it contains because they disagree with it. If this happens, another member of the committee can move the report or recommendation.

16.1.5. After moving that the report is received, the moving councillor can get our permission to do the following:
16.1.5.1. Withdraw any paragraph containing a recommendation. If this happens, we will deal with the recommendation as an item of business at our next ordinary meeting, in accordance with Rule 27.4.2. If the matter is urgent, a special meeting of the Council will be called.

16.1.5.2. Provide more information about any item in the report. If the extra information relates to financial matters, it must be given in a written report.

16.2. Once the Leader/Chairperson/Vice-Chairperson or other councillor has moved that the report is received, the Mayor will call each page of the report in turn, and any member can do the following.

16.2.1. Ask any question on a paragraph of the report in line with Rule 8.

16.2.2. Say that they oppose the motion by proposing a motion that the Cabinet or Committee should consider the matter again. The motion will be dealt with in line with the ordinary rules of debate in Rule 12.

16.2.3. When we are considering a recommendation, move an amendment to that recommendation in line with the ordinary rules of debate in Rule 12.

16.2.4. When we are considering a recommendation, move that the Committee should consider the matter again. This motion will overrule any amendment under Rule 16.2.3 above.

16.3. A councillor who has moved or seconded a motion under Rule 16.2.4 above which has been lost will be allowed to move or second an amendment on the recommendation as long as they have not already spoken on that item.

16.4. Where an amendment is moved that the Cabinet or Committee should consider the matter again, the rules of debate under Rule 12 will be suspended and the following procedure will apply:

16.4.1. the mover may speak for up to 5 minutes;

16.4.2. one speech not more than 5 minutes long can be made in reply;

16.4.3. the seconder may speak for up to 3 minutes;

16.4.4. a second reply not more than 3 minutes long can be made.

16.4.5. No other debate will be allowed and no other amendment will be in order.
16.4.6. The protocol annexed to these Rules gives members guidance on proposing amendments.

16.5. The time allowed for discussion of reports of the Cabinet shall be limited to one hour from the time the report is moved unless the Council agrees to extend this period. Once this period has elapsed debate on the report shall cease immediately and the Mayor shall call for the vote on any outstanding motions or recommendations which must be moved and seconded and the vote will be taken in the usual way. A mover of a motion under this provision will have the right to explain the purpose of the motion in a speech of up to 2 minutes. No further debate will be allowed.

16.6. The time allowed for discussion of reports of the Scrutiny Committees collectively shall be limited to one hour from the time the first report is moved unless the Council agrees to extend this period. Once this period has elapsed debate on the report shall cease immediately and the Mayor shall call for the vote on any outstanding motions or recommendations relating to reports of all Scrutiny Committees which must be moved and seconded and the vote will be taken in the usual way. A mover of a motion under this provision will have the right to explain the purpose of the motion in a speech of up to 2 minutes. No debate will be allowed.

Procedure Rules which relate to Committees only

17. APPLICATION

Rules 18 to 28 apply to Committees of the Council exercising non-executive and local choice functions and do not apply to the Cabinet or Committees of the Cabinet.

18. APPOINTING COMMITTEES AND SUB-COMMITTEES

18.1. At the Annual Meeting of the Council we will appoint all Committees we have to appoint by law or under Rule 22. At any time, we can appoint any other Committees we need to carry out our work, but:

18.1.1. we will not appoint any member of a Committee to hold office later than our next annual meeting; and

18.1.2. we can, at any time, dissolve a Committee or alter its membership.

18.2. Every Committee we appoint can appoint Sub-Committees.

18.3. The Council cannot appoint Committees other than the Cabinet to discharge executive functions under the Local Government Act 2000.

19. MEMBERSHIP OF COMMITTEES AND SUBCOMMITTEES
19.1. Committees will be set up in line with sections 15, 16 and 17 of the Local Government and Housing Act 1989. The Council will decide how many members a Committee can have, and who they will be provided that no member of the Cabinet will be allowed to sit on an Overview and Scrutiny Committee.

19.2. Any member of a Committee or Sub-Committee can resign his or her seat by sending a written notice to the Chief Executive. The Chief Executive will give the notice to the Council to determine a replacement, or the Chief Executive will appoint a replacement under Rule 19.3 below. The resignation will take effect when the Chief Executive receives the notice.

19.3. If there is a vacancy for a member of a Committee or Sub-Committee because a councillor has resigned, died or has otherwise ceased to be a councillor, the Chief Executive will appoint a councillor to fill the vacancy if the relevant political group asks him or her to, in line with the Local Government and Housing Act 1989 and the Regulations made under the Act. If the relevant political group does not ask him or her to do this within three weeks, a member will be appointed by the Council.

20. CHAIRPERSON AND VICE-CHAIRPERSON OF COMMITTEES

20.1. The Council will appoint a Chairperson and a Vice-Chairperson for each Committee.

20.2. No councillor will, at any time, be:

Chairperson of more than one Committee (with the exception of the Chairperson of the Overview and Scrutiny Co-ordinating and Call-in Committee);

A member of the Cabinet and a Scrutiny Committee

20.3. When the Chairperson of a Committee is at a meeting he or she has the right to lead the meeting. If the Chairperson is not at a meeting the Vice-Chairperson has the right to chair the meeting. However, at any meeting the Chairperson or Vice-Chairperson can invite the Committee to appoint a temporary Chairperson.

20.4. If neither the Chairperson nor the Vice-Chairperson of a Committee is at a meeting, the members at the meeting will choose a member to lead the meeting.

20.5. If the Chairperson or Vice-Chairperson arrives at a meeting from which he or she is absent after the time for which the meeting has been summoned, he or she has the right to lead the meeting after any item that is already being discussed has been dealt with. (This includes the vote and declaring the result).

20.6. The person who is leading a meeting can use any of the Chairperson ‘s powers or duties.
21. ATTENDANCE AT COMMITTEES OR SUB-COMMITTEES

21.1. A councillor who has moved a motion at a Council meeting which has been referred to any Committee or Sub-Committee will have notice of the meeting when the motion will be considered. If he or she goes to the meeting, he or she will have the opportunity to introduce the motion.

21.2. A Committee or Sub-Committee can invite a member of the Council who is not a member of the Committee to go to one of their meetings and speak on any matter. The councillor will not be allowed to vote.

21.3. Councillors representing wards which are affected by a report containing exempt information under Schedule 12A of the Local Government Act 1972 relate to can attend the meeting at which that report is considered, unless the Chief Executive feels that the report must remain confidential, and it is not necessary for councillors (other than members of the Committee or Sub-Committee) to be at the meeting in order to carry out their duties as a Councillor.

22. COMMITTEES AND SUB-COMMITTEES POWERS AND DUTIES, AND DELEGATION TO COMMITTEES AND SUB-COMMITTEES

22.1. Each Committee appointed will carry out on behalf of the Council the duties given to it. These duties are called the Committee’s Terms of Reference.

22.2. From time to time, we may vary a Committee’s Terms of Reference. The Head of Legal Services is responsible for maintaining and updating the terms of reference of all our Committees.

22.3. Wherever we delegate a power or duty to a Committee, it will depend on the following.

22.3.1. Any restriction set by these Procedure Rules.

22.3.2. Any general or special instructions we give the Committee. If we ask the Committee to consider and report on any matter relating to the power or duty, we can suspend the delegation until we have received the report and concluded action on it.

22.3.3. Any legal restrictions particularly those contained in the Local Government Act 2000.

22.4. All Committees can delegate any of their powers and duties to Sub-Committees appointed under Rule 18. This Procedure Rule and any other conditions the Committee sets will apply to the Sub-Committee.

23. WORKING PARTIES

Every Committee we appoint can appoint working parties. The Committee will decide how many councillors and officers the working parties will have. A
working party will not have any powers, but will make recommendations and reports to the Committee that appointed it.

24. **DELEGATION TO OFFICERS**

24.1. All Committees and Sub-Committees can delegate any of their powers and duties to one or more of our officers. Any restrictions under this Constitution and any conditions the Committee or Sub-Committee considers appropriate will apply.

24.2. The Head of Legal Services will keep a list in line with Section 100G of the Local Government Act 1972, setting out all the powers and duties which have been delegated to officers.

25. **MINUTES**

No motion or discussion will be allowed about a Committee’s or Sub-Committee’s minutes, except about their accuracy. Any questions about the accuracy of minutes will be decided by a majority of the members of the Committee.

26. **QUORUM OF COMMITTEES**

26.1. Decisions cannot be taken at a meeting of any Committee or Sub-Committee unless at least one quarter of the members are present, but if the meeting is inquorate, those councillors present may choose to consider any item of business and make a recommendation.

26.2. If, during any meeting, the Chairperson counts the number of members and declares that there is not a quorum present, the meeting will be postponed. The Chairperson will decide when the Committee will deal with any business which should have been included in the meeting. If the Chairperson does not set a date, the Committee will deal with it at their next ordinary meeting.

27. **AGENDA PAPERS FOR COMMITTEES AND SUBCOMMITTEES**

27.1. Apart from section 100B(3) of the Local Government Act 1972 (meetings called at short notice), the Chief Executive will summon Committees and Sub-Committees and will send each member an agenda paper at least five working days before the meeting (not including the day of the meeting). The meeting will still be valid even if a member is not given an agenda.

27.2. The Chief Executive can put on the agenda paper of any Committee or Sub-Committee meetings notice of all business which he or she feels needs the attention of the Committee or Sub-Committee.

27.3. Any member of a Committee or Sub-Committee can submit an item of business to be included on the agenda of that Committee or Sub-Committee. The item will be included as long as the member gives
written notice to the Chief Executive by noon seven working days before the meeting (not including the day of the meeting) and the item is relevant to the Terms of Reference of the Committee or Sub-Committee.

27.4. The Chief Executive will include the following on a Committee’s agenda.

27.4.1. Any business we have referred to a Committee or Sub-Committee.

27.4.2. Any business forming a recommendation which we withdrew under Rule 16.1.5.1.

27.5. At each meeting, Committees and Sub-Committees will only deal with business that is set out on the agenda paper unless the Chairperson of the meeting decides that a matter is urgent. If this happens, the Chairperson will announce at the beginning of the meeting after apologies have been announced that an extra matter will be placed before the Committee, and will explain why the matter is so urgent. His or her reasons will be recorded in the minutes of the meeting.

28. RULES OF DEBATE AND LENGTH OF MEETINGS

28.1. The following Rules apply to all Committee and Sub-Committee meetings.

28.1.1. Rule 11 Motions and amendments

28.1.2. Rule 12 Rules of Debate

28.2. In these Procedure Rules, any references to the "Mayor" will be read as references to the “Chairperson”.

28.3. Unless the meeting agrees otherwise, where 3 hours have elapsed since the commencement of any meeting, and the business has not been concluded, the meeting will end in accordance with Rule 28.4 below.

28.4. The Chairperson must interrupt the meeting and call for the vote immediately on the item under discussion. Any member speaking must stop immediately. The vote will be taken in the usual way without further discussion.

28.5. No motion to suspend this Procedure Rule or to extend the meeting shall be permitted after this Rule has taken effect.

Procedure Rules which apply to Council, Public Meetings of the Cabinet and All Committees and Sub-Committees

For the purposes of Procedure Rules 29 - 43 references to Mayor will be read where appropriate as Leader/Chairperson
29. VOTING

29.1. Majority

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

29.2. Mayor’s casting vote

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

29.3. Method of Voting

Unless a recorded vote is demanded, the Mayor will take the vote by the use of the electronic voting system or a show of hands, or if there is no dissent, by the affirmation of the meeting.

29.4. Taking the vote

29.4.1. Only members who are not disqualified from voting and who are at the meeting when the Mayor puts forward the proposition can vote.

29.4.2. Once a vote has been taken, the Mayor will arrange for the votes to be counted, and will then declare the result. His/her declaration of the result cannot be challenged.

29.5. Recorded vote (Council meeting only)

On the request of at least six of the councillors at a meeting we will take the vote by recording electronically councillors’ names and how each councillor voted.

29.6. Right to require individual vote to be recorded

Where any councillor requests it immediately after the vote is taken, his or her vote will be so recorded in the minutes to show whether he or she voted for or against the motion or abstained from voting.

29.7 Voting at Budget Decision Meetings

29.7.1 Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
29.7.2 In this Rule 29.7 —
(a) “budget decision” means a meeting of the Council at which it:
   (i) makes 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; or
   (ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;
(b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

30. VOTING ON APPOINTMENTS

30.1. Every candidate nominated to represent us in any way or for any position we must fill, will be nominated at one of our meetings or at a Committee or Sub-Committee or under the power of the Chief Executive contained in Procedure Rule 19.3 above.

30.2. If there are not more people nominated than there are vacancies for a position we must fill, or for an appointment we must make, the Mayor will put the appointments of the nominated candidates together as a motion which will not be amended.

30.3. If there are more people nominated than there are vacancies, there will be a vote. Each person who is entitled to vote can vote for as many candidates as there are vacancies to be filled. If there is not a majority in favour of the person with the most votes (for the vacancy or vacancies as the case may be), the person with the least number of votes will be taken off the list of nominees. There will then be a fresh vote, and so on, until there is a majority for the person or people to be appointed.

31. RECORD OF ATTENDANCE

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

32. EXCLUSION OF PUBLIC
Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part D of this Constitution, or under rule 34 below.

33. MEMBERS’ CONDUCT

33.1. Standing to speak

When a councillor speaks at full Council they must stand 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 member is speaking unless they wish to make a point of order or a point of personal explanation.

33.2. Mayor standing

When the Mayor stands during a debate at full Council, any councillor speaking at the time must stop and sit down. The meeting must be silent.

33.3. Conduct of councillors

33.3.1. A councillor who speaks at any meeting will not accuse anyone of improper motives or use offensive expressions;

33.3.2. At any meeting, if the Mayor feels that any councillor misconducts themselves by:

33.3.2.1. persistently disregarding the ruling of the Mayor;

33.3.2.2. behaving irregularly, improperly or offensively;

33.3.2.3. purposely obstructing our business; or

33.3.2.4. repeating themselves or using offensive language in their speech;

- the Mayor, or any other councillor can move “that the councillor named be not further heard”. If the motion is seconded, it will be put and determined without discussion. The motion “that the councillor named be not further heard”, will only apply to the item that is being discussed at that time.

33.4. If the councillor continues their misconduct after a motion under the previous Rule has been carried, the Mayor will:

33.4.1. move “that the councillor do leave for the remainder of the meeting” and if the motion is seconded, it will be put without discussion; or

33.4.2. postpone the meeting for an appropriate period.
33.5. If there is a general disturbance which the Mayor feels makes it impossible to deal with the business, as well as any other powers he or she has, the Mayor can postpone the meeting.

33.6. A Councillor must withdraw from the meeting room during consideration of any item of business in which they have a Disclosable Pecuniary Interest, except where permitted to remain as a result of a dispensation.

34. DISTURBANCE BY MEMBERS OF THE PUBLIC

34.1. If members of the public interrupt the proceedings at any meeting, the Mayor may warn all the members of the public or just the people concerned what will happen if they cause any more interruptions. If the public cause any more interruptions, the Mayor may order that the people concerned leave the meeting, or he or she may order that the part of the chamber open to the public is cleared.

34.2. In any meeting, no member of the public can display any banner, placard, poster or other similar item supporting, opposing or advertising any matter. If they do, the Mayor will ask them to remove it from the meeting room. The Mayor’s opinion about whether any item breaks this Rule will be final.

35. PHOTOGRAPHY AND AUDIO/VISUAL RECORDING OF MEETINGS

35.1. No-one is allowed to take photographs of or record using any audio and/or visual equipment the proceedings in meetings unless we (or the Cabinet, Committee or Sub-Committee as appropriate) give permission in the meeting.

35.2. The use of camera and audio equipment within Civic Buildings at other appropriate times may be permitted by the Chief Executive.

36. AUTHORITY TO SIGN AND SEAL DOCUMENTS

36.1. The Chief Executive, Corporate Directors or the Head of Legal Services or officers authorised by them can sign on our behalf:

36.1.1. any contract (without our seal) which we want to enter into; and

36.1.2. any document which those officers consider is proper and necessary to give effect to a resolution;

- as long as nothing in this paragraph prevents any other person from being specifically authorised otherwise to sign a document.

36.2. Documents recording a transaction valued below £5,000,000 can be signed by a single officer. Documents for transactions above this amount must be signed by two officers.
36.3. A resolution of the Council or the Cabinet or a Committee or Sub-
Committee with delegated powers or a decision by an officer with
delegated powers shall be construed as sufficient authority for affixing
the Common Seal of the Council to any document required to give
effect to that resolution or decision.

36.4. Any document to which the Common Seal of the Council needs to be
affixed must also be signed by:

36.4.1 the Mayor or the Deputy Mayor or the Leader of the Council or a
Member of the Cabinet; and

36.4.2 the Head of Legal Services or such other officer as may be
nominated for the purpose by the Head of Legal Services;

who shall sign the document where indicated after the Common Seal
has been applied.

37. GENERAL AUTHORITY OF HEAD OF LEGAL SERVICES

37.1. If we have to issue any document in legal proceedings, the Head of
Legal Services will sign it for us, unless we have authorised someone
else to do this. (See Paragraph 27 of the Scheme of Delegations in
Part C of this Constitution)

37.2. The Head of Legal Services has the authority to lay Information and
Complaints for us or any of our officers who are authorised to bring
proceedings, unless we have authorised someone else to do this.

37.3. The Head of Legal Services has the authority to defend all legal
proceedings brought against us and to take any steps he or she
considers necessary to do this.

38. MONITORING OFFICER

38.1. Each Chief Officer will immediately tell the Monitoring Officer of any
proposal, decision or omission connected to their department which
may lead to a report under Section 5 of the Local Government and
Housing Act 1989.

38.2. If the Chief Executive is absent, the Monitoring Officer will act to decide
procedural matters within the relevant Procedure Rules.

39. SUSPENDING RULES OF PROCEDURE

39.1. For the purposes of this paragraph `Rules of Procedure` means these
Procedure Rules, the Council’s Procurement Procedure Rules, the
Access to Information Procedure Rules, Budget and Policy Framework
Rules, Cabinet Procedure Rules, Scrutiny Procedure Rules,

39.2. Suspension
All of these Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council or relevant Committee or Sub-Committee are present. Suspension can only be for the duration of the meeting.

40. VARYING AND CANCELLING RULES OF PROCEDURE

When an addition or variation to, or cancellation of these Rules of Procedure is proposed and seconded, the motion will be postponed without discussion to the next ordinary meeting of the Council.

41. INTERPRETATION OF RULES OF PROCEDURE

The Mayor’s ruling on how to apply these Procedure Rules will not be challenged at any meeting. His or her interpretation will be fully recorded in the minutes.

42. RULES OF PROCEDURE TO BE GIVEN TO MEMBERS

The Chief Executive will give each councillor a printed copy of Rules of Procedure and any legal provisions that regulate our proceedings and business and will notify councillors if there is a change in any of the Rules.

43. POLITICAL GROUPS

43.1. Councillors who may, from time to time, be selected as Leaders by members of political groups will be known as “The Leader of the (name of group) Group”. The councillors will give the Chief Executive written notice of their appointment for him or her to report at our Annual Meeting, or at any other time when a new selection is made.

43.2. If a political group has given notice under Regulation 8(4) of the Local Government (Committees and Political Groups) Regulations 1990 that a councillor is authorised to act in place of the Leader of the Group, the councillor will be entitled to act for the relevant leader if the leader is absent or incapable or unwilling to act. The councillor will give the Chief Executive notice that they are authorised to act, and will then receive any documents which the leader would have been entitled to.

PROTOCOL – AMENDMENTS TO MOTIONS/REPORTS

1. Members who intend to propose an amendment to a motion/report before full Council are urged to seek guidance from the Chief Executive or the Head of Legal Services on the terms of the proposed amendment so that advice can be given as to the appropriate format of the proposal.

2. Such discussions will be on a confidential basis if the member so requests.
3. Members are requested to write down the proposal and have copies available for the Mayor and Chief Executive at the meeting. It is also suggested that members should read out their proposal before speaking on the matter at the meeting.

4. This protocol will not prejudice the Mayor’s role at the meeting.

5. Failure to follow this protocol does not constitute a breach of the Council Procedure Rules.
Access to Information Procedure Rules

SECTION 2
ACCESS TO INFORMATION RULES

1. **Scope**
   
   These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Except where otherwise stated, these Rules apply to all meetings of the Council, the Cabinet and their committees and sub-committees.

2. **Rights to attend meetings**
   
   The Council’s policy is that as far as reasonably possible, meetings should be open to the public. Members of the public may attend all meetings subject only to the exceptions in these Rules.

3. **Notices of meeting**
   
   We will normally give at least five clear working days notice of any meeting by posting details of the meeting at South Shields Town Hall, and, if the meeting is not to be held at South Shields Town Hall, at the proposed venue. Details will also be posted in other appropriate places including the Council’s website. Where meetings have to be called at shorter notice, details will be similarly posted as soon as the meeting is called.

4. **Access to agenda and reports before meetings**
   
   We will make copies of the agenda, and all reports that do not contain confidential or exempt information (as defined in Rule 9), available for inspection at South Shields Town Hall, and on the Council’s website, at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Head of Legal Services shall make each such report available to the public as soon as the report is completed and sent to Councillors.

5. **Supply of copies**
   
   We will supply copies of:

   5.1. any agenda and reports which are open to public inspection;

   5.2. any further statements or particulars necessary to indicate the nature of the items in the agenda; and

   5.3. if the Head of Legal Services thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.
6. **Access to minutes etc after the meeting**

   We will make available for inspection copies of the following for six years after a meeting:

   6.1. the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or Confidential Information;

   6.2. 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;

   6.3. the agenda for the meeting; and

   6.4. reports relating to items when the meeting was open to the public.

7. **Background papers**

   7.1. **List of background papers**

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

       7.1.1. disclose any facts or matters on which the report or an important part of the report is based; and

       7.1.2. which have been relied on to a material extent in preparing the report, but this does not include published works or those which disclose exempt or Confidential Information (as defined in Rule 9) and in respect of Cabinet reports, the advice of a political adviser.

   7.2. **Public inspection of background papers**

       We will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. The list of background papers appended to each report will give details of where the documents may be inspected.

8. **Summary of public’s rights**

   A written summary of the public’s rights to attend meetings and to inspect and copy documents will be kept, and will be available to the public at South Shields Town Hall.

9. **Exclusion of access by the public to meetings**

   9.1. **Confidential Information – requirement to exclude public**
The public will 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.

9.2. Meaning of Confidential Information

Confidential Information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

9.3. Exempt information – discretion to exclude public

9.3.1. 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.

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

9.4. Meaning of exempt information

9.4.1 Schedule 12A to the Local Government Act 1972 defines the categories of information which may be treated as exempt information. Those categories are set out in Table 1 below.

9.4.2 Categories 1 – 7 may apply to reports to the Council and the Cabinet, and their committees and sub-committees.

9.4.3 When the Standards Committee, or any sub committee of the Standards Committee, is considering a matter referred to it under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act 2003, Categories 7A to C may also apply.

9.4.4 Information in Categories 1 – 7 in the Table below can only be treated as exempt if, and only for 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. This test does not apply to information in Categories 7A to C.

9.4.5 Information falling within any of the categories is not exempt if it relates to proposed development for which the Council can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
9.4.6 When a Scrutiny Committee is considering matters relating to the health service in South Tyneside, special rules apply. These are set out in Table 2 below.

<table>
<thead>
<tr>
<th>Category</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Information relating to any individual.</td>
<td>Exemption of the information must be in the public interest (see Paragraph 9.4.4 above).</td>
</tr>
<tr>
<td>2. Information which is likely to reveal the identity of an individual.</td>
<td>Exemption of the information must be in the public interest (see Paragraph 9.4.4 above).</td>
</tr>
</tbody>
</table>
| 3. Information relating to the financial or business affairs of any particular person, including the Council. | Exemption of the information must be in the public interest (see Paragraph 9.4.4 above). The information must not be required to be registered under:  
  a) the Companies Act 1985;  
  b) the Friendly Societies Act 1974;  
  c) the Friendly Societies Act 1992;  
  d) the Industrial and Provident Societies Acts 1965 to 1978;  
  e) the Building Societies Act 1986; or  
  f) the Charities Act 1993. |
<p>| 4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or officer-holders under, the Council. | Exemption of the information must be in the public interest (see Paragraph 9.4.4 above). |
| 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. | Exemption of the information must be in the public interest (see Paragraph 9.4.4 above). |
| 6. Information which reveals that the Council proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment. | Exemption of the information must be in the public interest (see Paragraph 9.4.4 above). |
| 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. | Exemption of the information must be in the public interest (see Paragraph 9.4.4 above). |
| 7A. Information which is subject to any obligation of confidentiality |  |
| 7B. Information which relates in any way to matters concerning national security. |  |
| 7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act. |  |</p>
<table>
<thead>
<tr>
<th>Category</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a relevant body.</td>
<td>Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.</td>
</tr>
<tr>
<td>2. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of a relevant body.</td>
<td>Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.</td>
</tr>
<tr>
<td>3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body.</td>
<td>Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.</td>
</tr>
<tr>
<td>4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body.</td>
<td>Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.</td>
</tr>
</tbody>
</table>
| Paragraph | Description | Information falling within paragraph 5 is exempt information if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons.

5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods and services. |

| Paragraph | Description | Information falling within paragraph 6 is exempt information if and so long as disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning the property or goods or services. |

6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services. |

| Paragraph | Description | Information falling within paragraph 8 is exempt information if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph. |

7. The identity of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services. |

| Paragraph | Description | Information falling within paragraph 8 is exempt information if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph. |

8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between a relevant body or a Minister of the Crown and employees of, or office-holders under, a relevant body. |

| Paragraph | Description | Information falling within paragraph 9 is exempt information if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph. |

9. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with— (a) any legal proceedings by or against a relevant body; or (b) the determination of any matter affecting a relevant body; (whether, in either case, proceedings
have been commenced or are in contemplation).

10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Primary Care Trust or Health Authority.

Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.

11. Information relating to a particular person who—
(a) is or was formerly providing primary medical services or primary dental services under a contract under section 28K or 28Q of the 1977 Act;
(b) is or was formerly included in, or is an applicant for inclusion in, a list under section 28X of the 1977 Act.

Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.

13. Information relating to any particular employee, former employee, or applicant to become an employee, of a person referred to in paragraph 10, or 11.

Information relating to a person of a description specified in any of paragraphs 1 to 4 and 10 to 13 is not exempt information by virtue of that paragraph unless it relates to an individual of that description in the capacity indicated by the description.

14. Information relating to the physical or mental health of a particular individual.

NOTE
In Table 2 —
“disposal”, in relation to property, includes the granting of an interest in or right over it;
“employee” means a person employed under a contract of service;

“labour relations matter” means—
(a) any of the matters specified in paragraphs (a) to (g) of section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (c 52) (matters which may be the subject of a collective agreement), or
(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under a relevant body as they apply in relation to employees of a relevant body;

“office-holder”, in relation to a relevant body, means the holder of any paid office appointments to which are or may be made or confirmed by the body or by any person who holds any such office or is an employee of the body.

10. **Exclusion of access by the public to reports**

10.1 The Head of Legal Services may, if they think fit, exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 9, the public is likely to be excluded from the meeting.

10.2 Such reports will be marked “Not for publication”. In all cases, an exempt report will state the category under which it is exempt and will state why the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The minutes of the meeting will also record these details.

11. **Application of rules to Cabinet Briefing Meetings**

Rules 1 - 10 do not apply to meetings whose sole purpose is for officers to brief Cabinet Members.

12. **Additional Procedures before taking Key Decisions**

Subject to 14 (general exception) and 15 (special urgency), a Key Decision may not be taken unless:

12.1 a notice (called here a Key Decision Plan) has been published in connection with the matter in question;

12.2 at least five clear days have elapsed since the publication of the Key Decision Plan; and

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 (notices of meeting).
13. The Key Decision Plan

13.1 Period of Key Decision Plan

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

13.2 Contents of Key Decision Plan

13.2.1 The Key Decision Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, or officers in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

13.2.1.1 the matter in respect of which a decision is to be made;

13.2.1.2 where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;

13.2.1.3 the date on which, or the period within which, the decision will be taken;

13.2.1.4 the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

13.2.1.5 the means by which any such consultation is proposed to be undertaken;

13.2.1.6 the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

13.2.1.7 a list of the documents submitted to the decision taker for consideration in relation to the matter.

13.2.2 The Key Decision Plan will be published at least 14 days before the start of the period covered and will be published on the Council’s website. The designated officer will publish once a year a notice in at least one newspaper circulating in the area, stating:
13.2.2.1 that key decisions are to be taken on behalf of the Council;

13.2.2.2 that a Key Decision Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

13.2.2.3 that the Plan will contain details of the key decisions to be made for the four month period following its publication;

13.2.2.4 that each Plan will be available for inspection at reasonable hours free of charge at the Council’s offices;

13.2.2.5 that each Plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the Plan;

13.2.2.6 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Key Decision Plan is available;

13.2.2.7 that other documents may be submitted to decision takers;

13.2.2.8 the procedure for requesting details of documents (if any) as they become available; and

13.2.2.9 the dates on each month in the following year on which each Key Decision Plan will be published and available to the public at the Council’s offices.

13.2.3 Exempt information need not be included in a Key Decision Plan and Confidential Information cannot be included.

14 General exception

14.1 If a matter which is likely to be a key decision has not been included in the Key Decision Plan, then subject to Rule 15 (special urgency), the decision may still be taken if:

14.1.1 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 Key Decision Plan and until the start of the first month to which the next Key Decision Plan relates;

14.1.2 the designated officer has informed the chairperson of a relevant Scrutiny Committee, by notice, of the matter to which the decision is to be made;
14.1.3 the designated officer has made copies of that notice available to the public at the offices of the Council; and

14.1.4 at least five clear days have elapsed since the designated officer complied with 14.1.1 and 14.1.2.

14.2 Where such a decision is taken by the Cabinet collectively, it must be taken in public, unless it involves the consideration of exempt information, in which case the public may be excluded. Where such a decision is taken by an Officer then it will not be taken in public.

15 Special urgency

If, by virtue of the date by which a decision must be taken, Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairperson of the body making the decision, obtains the agreement of the chairperson of a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chairperson of a relevant Scrutiny Committee, or if the chairperson of each relevant Scrutiny Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

16 Report to Council

16.1 When a Scrutiny Committee can require a report

16.1.1 If a Scrutiny Committee thinks that a key decision has been taken which was not:

- included in the Key Decision Plan; or
- the subject of the general exception procedure; or
- the subject of an agreement with a relevant Scrutiny Committee Chairperson, or the Mayor/Deputy Mayor of the Council under Rule 15

- 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 designated officer, who shall require such a report on behalf of the Committee when so requested by the chairperson or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

16.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within ten working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting.
after that. 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.

16.3 **Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17 **Record of decisions**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Chief Executive or his/her representative, or in default the designated officer, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18 **Scrutiny Committee’s access to documents**

18.1 **Rights to copies**

Subject to Rule 18.2 below, a Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

18.1.1 any business transacted at a meeting of the Cabinet; or
18.1.2 any key decision taken by an Officer.

18.2 **Limit on rights**

A Scrutiny Committee will not be entitled to:

18.2.1 any document that is in draft form (although the Cabinet may accede to such a request);
18.2.2 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
18.2.3 the advice of a political adviser.
Budget and Policy Framework
Procedure Rules
BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Executive decisions

The Council will be responsible for the adoption of its Budget and Policy Framework. Once a Budget or a Policy Framework is in place, it will be the responsibility of the Executive, that is, the Leader or, in the case of functions delegated by the Leader, the Cabinet, Cabinet Committee or member(s) or officers to whom an executive decision has been delegated, to implement it.

1.1. The Executive decision maker will publicise at the Council’s offices, on its website, and in the local press a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairpersons of Scrutiny Committees will also be notified. The consultation period shall in each instance be dependent on the nature or complexity of the plan strategy or budget in question but should not be less than 4 weeks.

1.2. At the end of that period, the Executive decision maker will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Committee wishes to respond to the Executive decision maker in that consultation process then it may do so. As the Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Executive decision maker will take any response from a Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive decision maker’s response.

1.3. Once the Executive decision maker has approved the firm proposals, the designated officer will refer them at the earliest opportunity to the Council for decision.

1.4. In reaching a decision, the Council may adopt the Executive decision maker’s proposals, amend them, refer them back to the Executive decision maker for further consideration, or in principle, substitute its own proposals in their place.

1.5. If it accepts the recommendation of the Executive decision maker without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

1.6. The decision will be publicised in accordance with Article 3 of this Constitution and a copy shall be given to the Leader.
1.7. Where the Executive decision maker has submitted a draft Plan or Strategy 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 in Rule 1.8 below.

1.8. Before the Council -

1.8.1. amends the draft plan or strategy;

1.8.2. approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his 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

1.8.3. adopts (with or without modification) the plan or strategy,

- it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the draft plan or strategy submitted to it to be reconsidered, in the light of those objections.

1.9. Where the Council gives instructions in accordance with Rule 1.8, 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 within which the Leader may:

1.9.1. submit a revision of the draft plan or strategy as amended (the “revised draft plan or strategy”), with the Executive decision maker’s reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or

1.9.2. inform the Council of any disagreement that the Executive decision maker has with any of the Council’s objections and the Executive decision maker’s reasons for any such disagreement.

1.10. When the period specified by the authority, referred to in Rule 1.9 has expired, the Council must, when:

1.10.1. amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

1.10.2. approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his 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

1.10.3. 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 Executive decision maker’s reasons for those amendments, any disagreement that the Executive decision maker has with any of the Council’s objections and the Executive decision maker’s reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

1.11. Subject to Rule 1.10, where, before 8th February in any financial year, the Executive decision maker submits to the Council for its consideration in relation to the following financial year: -

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 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

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

1.11.3. estimates of such a calculation; or

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 these estimates or amounts the Council has any objections to them, it must take the action set out in Rule 1.8.

1.12. Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 1.11.1, 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 the Executive decision maker’s estimates or amounts and must give to him/her instructions requiring the Executive decision maker to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority’s requirements.

1.13. Where the Council gives instructions in accordance with Rule 1.12, 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 within which the Leader may: -

1.13.1. submit a revision of the estimates or amounts as amended by the Executive decision maker (“revised estimates or amounts”), which have been reconsidered in accordance with the Council’s requirements, with the Executive decision maker’s reasons for any amendments made to the estimates or amounts, to the Council for the Council’s consideration; or
1.13.2. inform the Council of any disagreement that the Executive decision maker has with any of the Council’s objections and the Executive decision maker’s reasons for any such disagreement.

1.14. When the period specified by the Council, referred to Rule 1.13, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 1.13, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account: -

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

1.14.2. the Executive decision maker’s reasons for those amendments;

1.14.3. any disagreement that the Executive decision maker has with any of the Council’s objections; and

1.14.4. the Executive decision maker’s reasons for that disagreement,

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

1.15. The above Rules shall not apply in relation to -

1.15.1. calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

1.15.2. 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.

1.16. In approving the Budget and Policy Framework, the Council will also specify the extent of budget transfer within the Budget and degree of in-year adjustments to the Policy Framework which may be undertaken by an Executive decision maker, in accordance with these Rules and the Financial Procedure Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

1.17. The Executive decision makers will in addition to the above provisions consult the Scrutiny Committees regularly in the process of preparing the draft budget and draft plans and strategies and, where appropriate, stakeholders.

2. Decisions outside the Budget or Policy Framework

2.1. Subject to the provisions of Rule 4 (budget transfer) and Rule 3 below Executive decision makers may only take decisions which are in line
with the Budget 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 or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 3 below.

2.2. If an Executive decision maker wants to make such a decision, they shall take advice from the Chief Executive and/or Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of any of those officers is that the decision would not be in line with the existing Budget and/or 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 (urgent decisions outside the Budget and Policy Framework) shall apply.

3. **Urgent decisions outside the Budget or Policy Framework**

3.1. An Executive decision maker may take a decision which is contrary to the Council’s Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

3.1.1. if it is not practical to convene a quorate meeting of the full Council;

3.1.2. if the chairperson of a relevant Select Committee agrees that the decision is a matter of urgency; and

3.1.3. the matter has first been discussed with the Chief Executive and the Chief Finance Officer.

3.2. The reasons why it is not practical to convene a quorate meeting of full Council and the chairperson of the relevant Select Committee’s consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairperson of a relevant Select Committee the consent of the Mayor, and in the absence of both, the Deputy Mayor, will be sufficient.

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

4. **Budget Transfer**

The Financial Procedure Rules set out the arrangements for authorising budget transfers between budget heads. Budget transfers of expenditure permitted under the Financial Procedure Rules shall be deemed to be expenditure within the Council’s Budget.

5. **In-year changes to Policy Framework**
The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by Executive decision makers must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except as set out in Rules 2, 3 and 4 above.

6. **Call-in of decisions outside the Budget or Policy Framework**

6.1. Where the Overview and Scrutiny Co-ordinating and Call-In Committee is of the opinion that an Executive decision maker’s decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council’s Budget, then they shall seek advice from the Chief Executive, the Chief Finance Officer and the Monitoring Officer.

6.2. In respect of functions which are the responsibility of the Leader or Cabinet, the report of the Chief Finance Officer and the Monitoring Officer shall be to the Leader or Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Leader, or a meeting of the Cabinet must decide what action to take in respect of the report and to prepare a report to Council in the event that the Chief Finance Officer or the Monitoring Officer conclude that the decision was a departure, and to the relevant Select Committee if the Chief Finance Officer and the Monitoring Officer conclude that the decision was not a departure.

6.3. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Chief Finance Officer and the Monitoring Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Select 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 21 days of the request by the Select Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Finance Officer and the Monitoring Officer. The Council may either:

   6.3.1. endorse a decision or proposal of the Executive decision maker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

   6.3.2. amend the Council’s Financial Procedure Rules 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 be minuted and circulated to all Councillors in the normal way; or
6.3.3. require the Executive decision maker to reconsider the matter in accordance with the advice of either the Chief Finance Officer or the Monitoring Officer where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it.
Executive Procedure Rules

SECTION 4
EXECUTIVE PROCEDURE RULES

1. Who may make Executive decisions?

1.1 The Leader of the Council has decided that the Cabinet will comprise nine members of the Council, including himself/herself and the Deputy Leader, all of whom will be appointed by the Leader. Each Cabinet Member will be allocated one of the portfolios set out in Rule 2 below. The Leader of the Council has decided, subject to the Scheme of Delegations to Officers in Part C of this Constitution, that all executive functions will be discharged by decisions taken at meetings of the Cabinet as a whole. If any executive functions are not included in the Scheme of Delegations then the Leader will discharge them personally or delegate them.

1.2 Although the Leader has delegated executive decision making as described in Rule 1.1 above, he/she retains legal authority to make any executive decision.

1.3 The Leader may appoint or dismiss Cabinet members at any time, subject to the provisions of these Rules, and provided that at no time is the membership of Cabinet including the Leader less than 3 or more than 10.

1.4 A Cabinet Member may (with the consent of the Leader) appoint a substitute for the purposes of being consulted by Corporate Directors under the Scheme of Delegations and generally in order to cover his/her portfolio in the event that the Cabinet Member is absent or unable to act for whatever reason. All substitutes shall be drawn from amongst the other Members of the Cabinet.

2. Other Cabinet Councillors

2.1 Only Councillors may be appointed to the Cabinet and all appointments will be made by the Leader. There may be no co-optees and no deputies or substitutes (save as provided by Rule 1.4) for Cabinet Members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of a Scrutiny Committee.

2.2 The other Cabinet Councillors, including the Deputy Leader, shall hold office until the end of the Leader’s term of office, or if sooner, until any of the following events occurs:

2.1.1 they resign from office; or

2.1.2 they are suspended from being a Councillor (although they may resume office at the end of the period of suspension); or

2.1.3 they are no longer Councillors; or
2.1.4 they are removed from office, either individually or collectively, by the Leader.

3 Proceedings of the Cabinet

The Cabinet will meet every four weeks on a day and at a time to be determined by the Leader. Proceedings of the Cabinet shall take place in accordance with these Rules.

4 Portfolios

4.1 The 9 members of the Cabinet shall have the following portfolios which may only be altered by the Leader:

4.1.1 Leader of the Council
4.1.2 Deputy Leader of the Council
4.1.3 Area Management and Community Safety
4.1.4 Children, Young People and Families
4.1.5 Housing and Transport
4.1.6 Independence and Wellbeing
4.1.7 Regeneration and Economy
4.1.8 Resources and Innovation
4.1.9 Voluntary Sector, Partnerships and Co-operatives

4.2 Further details of these portfolios are set out in Rules 8 and 9 below.

5 Terms of Reference

5.1 To carry out all the Council's functions which are not the responsibility of the full Council whether by law or under this Constitution. In exercising these functions the Cabinet must do so within the Budget and Policy Framework set by the Council and all decisions of the Cabinet will be subject to the call-in arrangements set out in the Constitution and these Procedure Rules.

5.2 To propose the Budget and Policy Framework to the Council (including the Housing Revenue Account).

5.3 To lead the Community Planning process and the drive for Best Value, lead the preparation of the Council's policies and Budget, take in year decisions on resources and priorities, and be the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs.
5.4 To respond to any recommendations and reports from Council Committees and Forums etc.

6 Further Delegation of Executive Functions

6.1 The Scheme of Delegation of executive functions to any Committee of the Cabinet or to an officer (including delegation of some functions to officers to be exercised in consultation with the appropriate Cabinet Member) is set out in Part C.

6.2 The Cabinet may appoint a Committee of the Cabinet to carry out or to support the Cabinet in the carrying out of Cabinet functions. Any decision of a Cabinet Committee is a decision of the Cabinet for the purpose of the ‘call-in’ procedure.

7 Status of Meeting

Every Cabinet meeting will be open to the public except when exempt or confidential matters are being discussed as set out in Part D Section 2 of this Constitution.

8 CABINET PORTFOLIOS

8.1 All Cabinet Members shall have responsibility to:

8.1.1 Develop, review, propose and implement the Budget and Policy Framework determined by the Council and to deliver the outcomes for the community set out in The South Tyneside Plan;

8.1.2 Develop, review and implement other strategies and policies guiding the Council’s work;

8.1.3 In accordance with The South Tyneside Plan, the Policy Framework and the Budget, ensure the Council achieves its agreed objectives and improves performance in all services in line with the key lines of enquiry of the Comprehensive Area Assessment;

8.1.4 Monitor the achievement of the objectives set out in The South Tyneside Plan relating to their individual portfolios;

8.1.5 Take decisions and action on the delivery of services and the discharge of functions within the agreed policies and the budget;

8.1.6 Within the Cabinet All Cabinet Members shall have the following responsibilities:

8.1.6.1 Cabinet Members have a collective responsibility for all decisions made;

8.1.6.2 Cabinet Members shall at all times act in accordance with the law, the Policy Framework and Budget of the Council, the Council’s Constitution and the National Code of Conduct;
8.1.6.3 The Cabinet will act as the political executive and with the Leader will exercise political leadership of the Council;

8.1.6.4 As part of their local leadership role, individual Cabinet members will each take a lead role and responsibility for portfolios as set out in this Rule and allocated by the Leader, while supporting other Cabinet members in the exercise of their lead roles and on cross-cutting issues;

8.1.6.5 Cabinet Members will participate in small groups of Cabinet Members and Task Groups, established as necessary to consider particular issues;

8.1.6.6 Cabinet Members shall attend Cabinet and other appropriate meetings and shall contribute actively, positively and constructively to debate, discussion and the Cabinet’s work;

8.1.6.7 Cabinet Members shall hold meetings and work with non-executive councillors through their respective lead member link groups;

8.1.6.8 Cabinet Members shall lead and participate in Cabinet presentations to non-executive members;

8.1.6.9 Cabinet Members shall establish and maintain effective working relationships with all other Councillors, the Chief Executive, Corporate Directors and other Council employees, and ensure that good industrial relations are promoted and maintained;

8.1.6.10 Cabinet Members shall lead the development of those issues for which they have principal responsibility and shall act as the Council’s spokesperson on those issues;

8.1.6.11 Cabinet Members shall attend, answer questions and explain action at the Scrutiny Committees and Community Area Forums as requested;

8.1.6.12 Cabinet Members shall, as necessary, give presentations/explanations at meetings of the full Council and participate in debates;

8.1.6.13 Members shall be proactive about equality issues and positively promote equality initiatives, promoting and sharing good practice across the Council;

8.1.6.14 Cabinet members shall work with and attend the Local Strategic Partnership Priority Theme Group relevant to their portfolio.

8.2 All Cabinet Members shall have the following further responsibilities:-

8.2.1 Representation: -
8.2.1.1 Cabinet Members shall represent the Council and promote the interests of the Borough on outside bodies, particularly in relation to those issues for which they have a principal responsibility;

8.2.1.2 Cabinet Members shall represent the Council to the Government, the media, the community and other stakeholder groups;

8.2.1.3 Cabinet Members shall represent the Council, the Borough and the community on the wider stage.

8.2.2 Community Involvement/Participation

8.2.2.1 Cabinet Members shall encourage the participation of the public and stakeholders in the decision making processes of the Council and explain how and why decisions have been made;

8.2.2.2 Cabinet Members shall consult Ward Members about policy developments or service initiatives which have specific relevance to their area;

8.2.2.3 The Cabinet shall be the clear focus for negotiations with potential partners and others, such as the Government, regional and national bodies, and businesses considering investing in South Tyneside;

8.2.2.4 Cabinet Members shall maintain effective relationships generally with stakeholders and outside bodies and agencies, and particularly with those involved in the issues for which they have a principal responsibility.

8.2.3 Knowledge and Skills

8.2.3.1 Cabinet Members shall keep themselves informed about the business of the Council generally, developments in those issues for which they have a principal responsibility particularly, and the issues being considered by Scrutiny Committees and Community Area Forums.

8.2.4 Equality and Diversity

8.2.4.1 Lead members are responsible for putting equality and diversity at the heart of the Council’s business and in the delivery of their portfolios – making sure that everyone in our community has equal access to the positive outcomes we aspire to across all of our priorities and that we celebrate and benefit from the rich and diverse culture of South Tyneside.

8.2.4.2 The responsibility includes consultation and participation, ensuring that the whole community is able to be involved in decision-making at an appropriate level.
8.2.4.3  All Lead members shall take responsibility for securing better outcomes for all of South Tyneside’s communities including:

8.2.4.3.1  Equal access to services and facilities for everyone

8.2.4.3.2  Improving levels of community participation and engagement in decision-making

8.2.4.3.3  Involvement and consultation with Communities of Common Interest

8.2.4.3.4  Contributing to improved performance against all national equality objectives.

9  **Lead Members** for individual portfolios shall take responsibility for the following:

9.1  **The Leader** shall:

9.1.1  Exercise political leadership of the Council;

9.1.2  Maintain effective relationships with MPs and MEPs;

9.1.3  Maintain effective relationships with the Council’s key partners;

9.1.4  Oversee the policies, budget and organisation of the Council;

9.1.5  Lead the Council’s work in relation to international, national and regional matters;

9.1.6  Oversee communications.

9.2  **The Deputy Leader** shall be responsible for the following areas:

9.2.1  Deputising for the Leader in his/her absence;

9.2.2  Culture, heritage and leisure;

9.2.3  Democratic Renewal;

9.2.4  Equality and Diversity;

9.2.5  Policy and Performance.

9.3  **Area Management and Community Safety**

9.3.1  This portfolio has responsibility for reducing crime and anti social behaviour in our neighbourhoods and for ensuring the sustainable environmental maintenance of our Borough.

9.3.2  The Lead Member will take responsibility for:
9.3.3 Environmental sustainability;
9.3.4 Waste collection and disposal
9.3.5 Grounds Maintenance
9.3.6 Crime and Anti Social Behaviour prevention;
9.3.7 Community Engagement;
9.3.8 Working with the Community and Voluntary Sectors.

9.4 **Children, Young People and Families**

9.4.1 This portfolio is a statutory requirement and includes all issues covered by the Every Child Matters Agenda including safeguarding and social care for children and young people, health issues, achievement and inclusion.

9.4.2 The Lead member shall also be responsible for the following:

9.4.2.1 Education and Training;
9.4.2.2 Services for Families;
9.4.2.3 Services for Young People.

9.5 **Independence and Wellbeing**

9.5.1 This portfolio covers the Council’s expanded health functions following the transfer of PCT responsibilities and also includes issues covered by the Older Peoples and Care Services agendas.

9.5.2 The Lead member is responsible for the following areas.

9.5.3 Adult Safeguarding and Social Care;
9.5.4 Drug and Alcohol Services;
9.5.5 Lifelong Disability Services;
9.5.6 Mental Health Services.

9.6 **Housing and Transport**

9.6.1 This portfolio has responsibility for strategic and operational Housing and transport matters within the Borough including:

9.6.2 Social Housing and Supported Accommodation;
9.6.3 Residential Services and Building Control;
9.6.4 Public Transport, roads and footpaths.

9.7 Regeneration and Economy

9.7.1 This portfolio is responsible for encouraging businesses to grow. This encompasses the following areas

9.7.2 Regeneration and Economic Growth:

9.7.3 Spatial Planning;

9.7.4 Marketing and Tourism;

9.7.5 Licensing and Trading Standards.

9.8 Resources and Innovation

9.8.1 This portfolio covers making the best possible use of all the resources we have to deliver the Council’s priorities. The portfolio includes achieving value for money and procurement.

9.8.2 The Lead member shall take responsibility for the following areas:

9.8.3 Finance;

9.8.4 Commissioning and Procurement;

9.8.5 Human Resources;

9.8.6 Assets.

9.9 Voluntary Sector and Partnerships

9.9.1 This portfolio covers responsibility for ensuring South Tyneside’s Council for Voluntary Service is operating effectively to support, develop and promote valuable local voluntary action across the borough and is delivering its aims and objectives in line with Council priorities. The Lead member will be responsible for the following matters:

9.9.2 Facilitating dialogue and coordination with voluntary sector organisations;

9.9.3 Providing support, advice and coordination to enable and maximize successful external funding bids;

9.9.4 Overseeing the bidding process, dispersal and monitoring of council-provided community funding;

9.9.5 Identifying further opportunities for partnership and coordination;

9.9.6 Networking and consultation with voluntary sector leaders.
10 The Council’s Scheme of Delegation and Executive functions

The Council’s Scheme of Delegation in respect of executive functions will be subject to agreement by the Leader and may only be amended by the Leader. It will contain the details required in Article 6 and set out in Part C of this Constitution.

11 Conflicts of Interest

If the exercise of a Cabinet function has been delegated to a committee of the Cabinet, or an officer and a conflict of interest arises, then the function will be exercised at a meeting of the Cabinet as a whole.

12 Cabinet meetings – when and where?

Unless prevented by emergency or other unavoidable cause, the Cabinet will meet monthly at times to be agreed by the Leader. The Cabinet shall meet at the Council’s main offices or another location to be agreed by the Leader.

13 Cabinet Meetings

Subject to the rules regarding exempt information, all Cabinet meetings will be held in public. This requirement does not include meetings, whose sole purpose is for Officers to brief Cabinet Members.

14 Quorum

The quorum for a meeting of the Cabinet shall be three.

15 How are decisions to be taken by the Cabinet?

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 Procedure Rules in Part D of this Constitution.

16 How are Cabinet meetings conducted?

16.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader or in his/her absence a person appointed to do so by those present shall preside.

16.2 Who may attend?

The public are entitled to attend all Cabinet meetings subject to the rules regarding exempt information. Chairpersons of Select Committees and Chairpersons of Community Area Forums will be invited to attend meetings of the Cabinet to present their reports.

16.3 What business?
At each meeting of the Cabinet the following business will be conducted:

16.3.1 consideration of the minutes of the last meeting;
16.3.2 declarations of interest, if any;
16.3.3 any matters referred to the Cabinet whether by a Scrutiny Committee, the Council, a Community Area Forum or other Committee;
16.3.4 consideration of reports from Scrutiny Committees; and
16.3.5 matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules set out in Part D of this Constitution.

17 Consultation

All reports to the Cabinet from any Cabinet Member or 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 as appropriate to the nature of the matter under consideration.

18 Who can put items on the Cabinet agenda?

18.1 Any Cabinet Member may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Chief Executive will comply.

18.2 The Chief Executive and the Monitoring Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.

18.3 The Chief Finance Officer and/or the Monitoring Officer may include an item for consideration on the agenda of a Cabinet meeting and may require such a meeting to be called in pursuance of their statutory duties. In other circumstances, where any two of Chief Executive, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. 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 special meeting be convened at which the matter will be considered.
Scrutiny Procedure Rules

SECTION 5
SCRUTINY PROCEDURE RULES

1. What will be the number and arrangements for Scrutiny Committees?

1.1. The Council will have an Overview and Scrutiny Co-ordinating and Call-in Committee and 2 Scrutiny Committees. These Committees will be appointed at the Annual Meeting or as is considered appropriate from time to time. Such Committees may appoint Sub-Committees. In addition, the Committees will include church and parent governor representatives as voting co-opted members (on education matters only) and three non-voting members (on social services matters only). Each Scrutiny Committee will discharge the functions conferred by section 21 of the 2000 Act and in accordance with the scrutiny provisions of the Local Government and Public Involvement in Health Act 2007 and Police and Justice Act 2006.

1.2. Each Scrutiny Committee will be subject to the political balance rules in the Local Government and Housing Act 1989. Scrutiny Committees will meet in public, subject to the provisions in the Local Government Act 1972 where confidential or exempt information may be disclosed.

2. Who may sit on Scrutiny Committees?

All Councillors except Cabinet Members may be members of a Scrutiny Committee. However, no councillors may be involved in scrutinising a decision in which he/she has been directly involved.

3. Education representatives

3.1. The People Select Committee shall include in its membership the following voting representatives:

3.1.1. 1 Church of England diocese representative;

3.1.2. 1 Roman Catholic diocese representative; and

3.1.3. 2 parent governor representatives.

3.2. Such Co-optees should not vote on any topics or topics which do not have a clear link to education in accordance with paragraph 19 of DFEE Circular 13/99

4. Meetings of the Scrutiny Committees

There shall be a meeting of the Overview and Scrutiny Co-ordinating and Call-In Committee scheduled after each Cabinet meeting on an appropriate day to deal with any called in matters. Additional meetings may be called from time to time as and when appropriate and regular meetings will take place in connection with the Committees Co-ordinating responsibilities. A Scrutiny Committee meeting may be called by the chairperson of the Scrutiny Committee, by any five members of the Committee or by the Chief Executive.
if he/she considers it necessary or appropriate, or in accordance with the Council Diary.

5. **Quorum**

The quorum for a Scrutiny Committee shall be a quarter of the members of the Committee.

6. **Who chairs Scrutiny Committee meetings?**

Chairpersons and Vice Chairpersons of Scrutiny Committees will be appointed at the Annual Meeting of the Council. If circumstances arise which require the appointment of a replacement Chairperson or Vice Chairperson, the appointment will again be agreed by Council.

7. **Work programme**

The Scrutiny Committees will be responsible for setting their own work programme (having due regard to Council resources) and in doing so they shall take into account wishes of councillors on that Committee who are not members of the largest political group on the Council. The work programme should include requests from the Council and the Cabinet for advice.

8. **Agenda items**

8.1. Any member of a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

8.2. The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee within two months of receiving it.

8.3. Any referrals received as a result of a Councillor Call for Action (CCfA) will be acknowledged at the next Overview & Scrutiny Co-ordinating and Call-in Committee. Any Member of the Council can make a referral, provided it is a ‘local government matter’ and that it falls within the Committee’s remit. The Committee can ask the Member Calling for Action to make representation in respect of the referral, outlining the reasons for the referral and any actions already undertaken towards resolution. The Overview & Scrutiny Co-ordinating and Call-in Committee will advise the referrer as to the next steps (possibly referring to a Scrutiny Committee) and will ensure that the matter is brought to its appropriate conclusion and that a full response is
delivered to the Member making the referral, including any reports or recommendations the Committee produces in relation to the matter.

8.4. Any Member who is not a member of the Overview & Scrutiny Co-ordinating and Call-in Committee (acting as the Council’s Crime and Disorder Scrutiny Committee) can make referrals of any local crime and disorder matter to the Committee. Referrals in respect of crime and disorder matters will be acknowledged at the next meeting of the Overview & Scrutiny Co-ordinating and Call-in Committee (acting as the Council’s Crime and Disorder Scrutiny Committee). Appropriate next steps will be agreed, which could include further meetings (including with partners) to resolve the matter. The referring Member will be kept informed of progress and conclusion of the matter. A definition of local crime and disorder matters is provided in the Local Government and Health Act 2007 and Police and Justice Act 2006.

8.5. Referrals made to the Overview & Scrutiny Co-ordinating and Call-in Committee by the Local Involvement Network (LINK) will be acknowledged at the next meeting of the Overview & Scrutiny Co-ordinating and Call-in Committee. Appropriate next steps will be agreed, which could include further meetings (including with partners) or referral to a Scrutiny Committee. The LINK will be kept informed of progress and conclusion of the matter. In addition, the LINK is required to submit an Annual Report to the Overview & Scrutiny Co-ordinating and Call-in Committee.

9. Policy review and development


9.2. In relation to the development of the Council’s approach to other matters not forming part of its Policy and Budget Framework, Scrutiny Committees or Sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their Terms of Reference.

9.3. Scrutiny Committees may establish Sub-Committees, Task Groups and Scrutiny Commissions to inquire into and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Scrutiny Committee
10.1. Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework) or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework). In these situations, the Chairperson or other member of the Scrutiny Committee nominated by him/her, will present the report to the Cabinet/Council as appropriate.

10.2. The Council or Cabinet shall consider the report of the Scrutiny Committee within one month (or otherwise as soon as practicable) of it being submitted to the Chief Executive.

11. Making sure that scrutiny reports are considered by the Cabinet

11.1. The agenda for Cabinet meetings shall include an item entitled ‘Issues arising from scrutiny’. The reports of Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet’s deliberations on a substantive item on the agenda) within one month of the Scrutiny Committee completing its report/recommendations.

11.2. Scrutiny Committees will in any event have access to the Cabinet’s Key Decision Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Scrutiny 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.

12. Rights of Scrutiny Committee members to documents

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

12.2. Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committees as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

13.1. Any Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. This power does not relate solely to scrutiny of decisions taken and can be used to ask a Cabinet Member, for example, about forthcoming issues, provided due notice is given. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Chief Executive, a Corporate Director
and/or any senior officer to attend before it to explain in relation to matters within their remit:

13.1.1. any particular decision or series of decisions;

13.1.2. the extent to which the actions taken implement Council policy; and/or

13.1.3. their performance,

- and it is the duty of those persons to attend if so required.

13.2. Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chairperson of that Committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing 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 and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

14. Attendance by others

14.1. A Scrutiny Committee may invite people other than those people referred to in Rule 13.1 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

14.2. Scrutiny Committees may invite appropriate persons to attend their meetings on a regular basis in an advisory capacity.

14.3. In accordance with the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006, Scrutiny Committees will have the authority to require information from relevant partner authorities as defined in the Acts. When a Scrutiny Committee makes report or recommendations that relates to local partnerships/local improvement targets, the Scrutiny Committee must give notice in writing to the relevant partner organisation that they are required to have regard to the report or recommendations when exercising their functions. This duty excludes Health Service bodies, the Police Authority and Chief Officer of Police.

15. Call-in

Call-in should only be used in exceptional circumstances. These are where members of the appropriate Scrutiny Committee have evidence which suggest that the Cabinet did not take the decision in accordance with the principles in this Constitution.
15.1. When a decision is made by the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The record will be sent to all councillors.

15.2. The minutes will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless any five members of the Council (representing at least two political groups) or any three members together with the Chairperson of the relevant Scrutiny Committee object to it and call it in.

15.3. The Chief Executive shall call in a decision for scrutiny if so requested by any such members of the Council (including co-opted members provided the Proposal relates to their area of responsibility) and shall then notify the decision taker of the call-in. The members “calling-in” must give written notice to the Chief Executive no later than 12 noon on the fifth working day after publication of the Minutes. The notice must refer to the whole decision, not part, and once given cannot be withdrawn.

15.4. Any decision which is called in by the Chief Executive under 15.3 above shall be referred to the Overview and Scrutiny Co-ordinating and Call-in Committee whose role shall be as set out in Article 8.2 of the Constitution.

15.5. When calling-in a decision the members “calling-in” shall indicate whether they want the matter to go to:

15.5.1. the Overview and Scrutiny Co-ordinating and Call-in Committee; or

15.5.2. an appropriate Scrutiny Committee, in which case a reason should be given. The Overview and Scrutiny Co-ordinating and Call-in Committee will adjudicate on such a request.

15.6. The call-in procedure shall not operate:

15.6.1. in respect of urgent matters. (An “urgent matter” is one constituting an emergency threatening the lives or wellbeing of some or all of the inhabitants of the Borough or any legal, commercial or other matter in which delay may adversely affect the Council’s interests or the rights or interests of others and the Chief Executive shall be the final arbiter on whether a matter is an “urgent matter”);

Note
- If the urgent matter involves a key decision which is not in the Key Decision Plan then Rule 15 of the Access to Information Procedure Rules also applies.

- If the urgent matter is not in accordance with the Budget or Policy Framework, then Rule 3 of the Budget and Policy Framework Procedure Rules also applies.

15.6.2. in respect of matters which have previously been the subject of call-in;

15.6.3. if it would result in an unlawful delay in the making of the Budget;

15.7. Call-in arrangements at the Overview and Scrutiny Co-ordinating and Call-in Committee or appropriate Scrutiny Committee (the relevant Committee) -

15.7.1. The Chief Executive will place a called-in matter on the agenda of the next meeting of the Overview and Scrutiny Co-ordinating and Call-in Committee or the appropriate Scrutiny Committee.

15.7.2. The relevant Committee will then consider the Cabinet’s or officer’s proposal on the matter.

15.7.3. The relevant Cabinet Member whose portfolio covers the area concerned shall attend the meeting to answer questions, if required.

15.8. The relevant Committee may refer the decision which has been “called-in” back to the Cabinet for reconsideration. If the Committee considers a decision is contrary to the Policy Framework or contrary to, or not wholly in accordance with the Budget, it may refer the called-in decision to the Council.

15.9. Where the matter is referred back to the Cabinet, the Cabinet shall reconsider the matter within 14 days normally at its next planned meeting. If a decision is referred back to the Cabinet, the Cabinet may then amend the decision, or not, before implementing it. If the matter is within the Policy Framework and the Budget then the Cabinet shall have the last word, otherwise the matter will be decided by Council. Where the matter is referred to Council, it shall be considered at the next meeting of the Council.

15.10. If the relevant Committee decides not to object to the decision which has been called-in, then it takes effect immediately after than decision. If the relevant Committee refers the decision back to the Cabinet or to the Council for reconsideration, the decision takes effect on publication of the reconsideration of the decision and is not subject to further call-in.
15.11. In appropriate cases, including cases involving proposals to change the Policy Framework, the relevant Committee may refer the matter to the Council to review and scrutinise the decision. Where the matter is referred to Council, the Council may not determine Cabinet functions that are delegated to the Cabinet if these are within the Policy Framework and the Budget, and must first give the Cabinet the opportunity to comment on any proposed changes to the Policy Framework and Budget.

15.12. The same procedures also apply to the call-in of key decisions by officers.

15.13. The relevant Committee has the power to require the Cabinet to submit a report to Council on any matter which is not treated as a key decision, which the Committee considers should have been treated as a key decision.

15.14. The Party Whip shall not operate in relation to the scrutiny role except in the circumstances stated in Rule 15.15 below.

15.15. When considering any matter in respect of which members of a Scrutiny Committee are subject to a Party Whip, those members must declare the existence of the Whip and the nature of it before the commencement of the Committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

16. Procedure at Scrutiny Committee meetings

16.1. Scrutiny Committees and Sub-Committees shall consider the following business:

16.1.1. minutes of the last meeting;
16.1.2. declarations of interest;
16.1.3. consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
16.1.4. responses of the Cabinet to reports of the Scrutiny Committees; and
16.1.5. the business otherwise set out on the agenda for the meeting.

16.2. Where the Scrutiny 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:
16.2.1. 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;

16.2.2. that those assisting the Committee by giving evidence be
treated with respect and courtesy; and

16.2.3. that the investigation be conducted so as to maximise the
efficiency of the investigation or analysis.

16.3. Following any investigation or review, the Committee/Sub-Committee
shall prepare a report for submission to the Cabinet and/or Council as
appropriate and shall make its report and findings public.

17. Matters within the remit of more than one Scrutiny Committee

17.1 Where a Scrutiny Committee conducts a review or scrutinises a matter
which also falls (whether in whole or in part) within the remit of another
Scrutiny Committee, then the Committee conducting the review shall
invite the Chairperson of the other Committee (or his/her nominee) to
attend its meetings when the matter is being reviewed.

17.2 In the case of any dispute between Scrutiny Committees, the Overview
and Scrutiny Co-ordinating and Call-in Committee shall resolve the
matter in accordance with its role under Article 8.2 of this Constitution.
PROCUREMENT PROCEDURE RULES

The administration of the Council’s procurement activities have been transferred to BT South Tyneside, our strategic partner. All procurements, regardless of value, must be referred to the Corporate Procurement Service, which is responsible for all procurements on behalf of the Council, under the Council’s supervision and control and subject to Council’s overall agreement. Advice and assistance on the application of the Procurement Procedure Rules (Rules) is available from the Corporate Procurement Service.

INTRODUCTION

1. These Rules set out how the Council chooses organisations to perform the works and supply the goods and services the Council needs to carry out its duties.

2. These Rules have been designed to address the many different requirements to which the Council is subject including:

   - Value for money – the Council is under a duty to secure value for money in all of its transactions;
   - Legislation – a wide variety of UK and European Union statutes and regulations apply to procurement; and
   - Fraud and corruption – the Council is bound by the provisions of the Bribery Act 2010; procurement must be visible and tightly controlled to avoid any suggestion of corruption.
   - Priorities – procurement must reflect our priorities.

3. The Rules are divided into six sections:

   - Section A deals with general matters applying to procurement;
   - Section B deals with the procurement of Supplies and Services Contracts;
   - Section C deals with the procurement of Works Contracts;
   - Section D deals with receipt and Opening of Tenders under £100,000 in value;
   - Section E deals with receipt and Opening of Tenders over £100,000 in value;
   - Section F deals with the exceptions to these Rules.

4. The term “Instructing Officer” has been used in these Rules to denote the officer in overall charge of the Council activity to which the procurement
relates. This term should be read to include all officers authorised to exercise the powers of the Chief Executive or the relevant Corporate Director either generally under the Scheme of Delegations in this Constitution or under an individual authorisation issued in accordance with the Scheme of Delegations.

5. Advice and assistance on the application of these Rules is available from the Corporate Procurement Service.

6. Definitions of the terms used in these Rules can be found in Appendix A.

SECTION A – GENERAL MATTERS RELATING TO ALL PROCUREMENT

A1. Procurement Process to be followed

A1.1 Unless a specific exception appears in this Constitution, all supplies, services and works must be procured in the following manner:

<table>
<thead>
<tr>
<th>CONTRACT</th>
<th>PROCUREMENT PROCEDURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supplies and Services</td>
<td>In accordance with Section B</td>
</tr>
<tr>
<td>Works</td>
<td>In accordance with Section C</td>
</tr>
</tbody>
</table>

A1.2 The Instructing Officer must check, with the Corporate Procurement Service whether a Corporate Contract or a consortia contract, such as a NEPO (North East Procurement Organisation) or Buying Solutions contract, exists which covers the supplies, works or services that are required. If there is an appropriate Corporate or Consortia contract, and if after consulting the Corporate Procurement Service the Instructing Officer deems it to be in the Council’s best interests to use that contract, then that contract must be used in preference to carrying out a further procurement process in accordance with these Rules.

A1.3 With respect to Standing Lists and Framework Agreements, when selecting organisations to be invited to submit Quotations or Tenders the Instructing Officer must check with the Corporate Procurement Service whether the Council maintains a Standing List of organisations able to supply the works required, or has a Framework Agreement with organisations for the supplies and services required. If there is an appropriate Standing List or Framework Agreement, it must be used.

A2. Budget for the Procurement

A2.1 Before commencing any procurement activity, the Instructing Officer must estimate the value of the contract and the costs of the procurement.

A2.2 The procurement cost is the total estimated cost of all elements including the contract value, professional fees, officer time in carrying out the
procurement, advertising costs, statutory charges etc. Procurement costs are normally exclusive of VAT.

A2.3 The contract value is the value of the contract or order throughout its term, including any optional extensions. The procurement must not be broken down artificially into smaller units to avoid any of the provisions in these Rules or the European tendering regime. Contract values are normally exclusive of VAT.

A2.4 The estimated contract value shall determine the number of companies invited to submit a Quotation or Tender as detailed within Sections B and C.

A2.5 The Instructing Officer must ensure that they will have sufficient budget available:

A2.5.1 To meet the total estimated cost of the procurement process including the cost of officer time and any advisors costs; and

A2.5.2 To meet the contract value or order before the contract is entered into or order placed.

A3. Authority to Commence Procurement

A3.1 Before commencing any procurement activity the Instructing Officer must ensure that they have all necessary authorities to commence the procurement process.

A3.2 No procurement activity may be undertaken until the Corporate Procurement Service has been consulted.

A4. Corporate Contract Register and the Duty to Advertise

A4.1 The Corporate Procurement Service will maintain and manage a register of all contracts and orders for works, supplies or services which are to be delivered over a period of time.

A4.2 Where appropriate the Corporate Procurement Service will arrange for procurement exercises, to be advertised on the Council’s Internet site and other sources of media including local press, journals and the Official Journal of the European Union.

A5. Terms and Conditions

A5.1 Before commencing any procurement activity, the Instructing Officer must assess the risks involved in the procurement by consulting with the Corporate Procurement Service. Taking into account the advice of the Corporate Procurement Service, the Instructing Officer will decide whether it is appropriate to carry out the procurement using the Council’s standard terms and conditions for purchase of supplies and/or services or whether a bespoke written contract should be prepared.
A5.2 For procurement of, supplies and/or services of an estimated contract value in excess of £100,000, the procurement must be effected using a written contract. The contract must include such, specifications, conditions of contract and other documents as advised by the Corporate Procurement Service and Legal Services.

A5.3 Procurement of works must be undertaken using appropriate recognised national or international standard forms of contract, and shall be operated in accordance with the formal guidance notes published with those standard forms.

A5.4 If the Instructing Officer, taking into account the advice of the Corporate Procurement Service, considers that the Council’s standard terms and conditions or the works contract terms and conditions is not appropriate, or if they require any further guidance in the matter, they must refer the matter to the Head of Legal Services who will assist in the preparation of an appropriate contract or set of terms and conditions.

A5.5 The procurement documentation must include a copy of the terms and conditions of contract to which the procurement is to be subject. Where works contracts following an industry standard document, including where appropriate special conditions, are to be used, a reference to the industry standard contract to apply shall suffice. The Instructing Officer must confirm to organisations that Quotations or Tenders are to be submitted in accordance with those terms and conditions of contract.

A6. Council Priorities

A6.1 Before commencing any procurement activity, the Instructing Officer together with the Corporate Procurement Service must consider the applicability of all current Council priorities and must include such appropriate references and requirements in the procurement documentation. Such initiatives are likely to include;

- Sustainability;
- Equality & diversity;
- Community benefits;
- Supply chains;
- Value for money;
- Fair trade;
- Partnering and other service delivery models;
- Concordat with small and medium enterprises;
Compact with the Voluntary Sector; and
Carbon Management Plan.

A6.2 Wherever possible, procurement activity shall be carried out electronically, using the Council’s e-procurement, e-tendering and e-auction processes. The Corporate Procurement Service will manage these processes. Guidance notes are available on the Council Procurement pages of the intranet.

A7. Procurement Procedures

A7.1 In addition to the procedures set out in sections B to E, whenever procuring supplies, services or works, the following steps, where appropriate, must be undertaken:

- Identify a need and challenge the requirement
- Stakeholder consultation
- Option appraisal
- Prequalification and Tender/Quotation procedures
- Receipt and opening of Tenders
- Assessment and evaluation of Tenders
- Producing an evaluation report
- Acceptance of Tenders and subsequent award and communication with unsuccessful tenderers
- Interim and final payments
- Contract monitoring and supplier performance management
- Setting up Framework Agreements
- Establishing and managing Standing Lists

A7.2 The Corporate Procurement Service will advise the Instructing Officer on how any procurement exercise should be carried out, and in particular, as to whether the EU Public Procurement regime applies to the procurement.

A7.3 The Instructing Officer, having taken advice from the Corporate Procurement Service, must where satisfied that it is in the Council’s best interests to do so, agree that the Corporate Procurement Service publishes an appropriate OJEU notice.
A8. Inviting Tenders

A8.1 Wherever possible Tenders should be invited electronically.

A8.2 Tenderers must be advised that, when electronic Tenders are invited, they must be received by the closing date and time for receipt in the electronic mailbox address supplied with the Invitation to Tender.

A8.3 Where appropriate tenderers must be advised that written Tenders must be received in the packaging supplied with the Invitation to Tender, or, if none is so supplied, in plain packaging, bearing the address to which they must be returned, the closing date and time for receipt at the relevant Council Office. They shall not bear any writing or other markings from which the tenderer can be identified.

A9. Late, Improper & Variant Tenders

A9.1 No Tender may be considered or accepted if it is received other than at the specified location or after the time and date specified in the invitation to tender, unless authorised by the Head of Legal Services acting in their absolute discretion.

A9.2 If at the deadline for receipt not all Tenders anticipated have been received at the specified location, a period of up to 24 hours may be left before opening Tenders to enable the anticipated Tenders to be received. If the expiration of the 24 hour period falls on a non-working day, the Tenders shall be opened on the next working day.

A9.3 Any Tenders which are unacceptable, either because they were submitted late or because they were improperly packaged, must be opened only to ascertain the name of the tenderer to enable the documents to be returned. No details of such Tenders may be disclosed.

A9.4 Variant Tenders may only be considered where their submission is expressly permitted by the Invitation to Tender documents.

A10. Errors in Tenders

A10.1 The Instructing Officer cannot offer any tenderer the opportunity to rectify an error in their Tender submission unless authorised to do so by the Head of Legal Services acting in their absolute discretion to achieve what they consider to be the best outcome for the Council.

A10.2 Where the Tender in question has a value after any adjustments in excess of £500,000 the method of dealing with any error must be detailed in the report to Cabinet recommending the award of the contract. Where the value of the Tender is less than £500,000 the method of dealing with any error must be reported to and agreed by the Instructing Officer before the contract is awarded.
A11. **Acceptance of a Quotation or Tender and Placing of Orders**

A11.1 The Tender or Quotation that represents either the lowest price or the most economically advantageous Quotation or Tender to the Council, shall be identified and accepted in writing.

A11.2 A resultant purchase request must be raised and duly authorised by the Instructing Officer prior to the issue of the purchase order by the Corporate Procurement Service. This purchase order shall refer to the Quotation or Tender as applicable.

A11.3 Where the Instructing Officer delegates authority to accept a Tender or Quotation, the delegated decision must be authorised using the appropriate form. In addition to the requirement that a copy of the delegated decision form is sent to the Head of Legal Services, a copy must also be sent to the Corporate Procurement Service. The Corporate Procurement Service will maintain a central register of such decisions.

A12. **Award of Contracts**

A12.1 Contracts up to £500,000 in value may be awarded by the Instructing Officer. Contracts in excess of that value must be awarded by the Cabinet, except in cases of urgency, where the decision may be made by the Chief Executive or the relevant Corporate Director.

A12.2 The decision to award a contract of a value in excess of £500,000 will be a key decision. A key decision can only be made in accordance with the Cabinet Procedure Rules and the Access to Information Rules contained in this Constitution. A key decision must normally be published in the Council’s Key Decision Plan.

A13. **Monitoring of Procurement**

A13.1 The Procurement Steering Group shall oversee the Council’s procurement activity. The Procurement Steering Group will monitor and evaluate procurement performance through relevant targets. These will include cashable and non-cashable efficiency gains. Cashable efficiency gains are those, such as pricing savings, which generate cash that can be used by the Council to address corporate priorities. Non-cashable efficiency gains are those such as quality and productivity improvements.

A13.2 The members of the Operations Board shall receive reports from the Council’s Procurement Steering Group on the activities of the Corporate Procurement Service on a regular basis.

A14. **Collaborative Procurement**

A14.1 As a member of NEPO, the Council will look to use collaborative contracts where it is deemed by the Council to be beneficial.
A14.2 The Council supports NEPO and will support appropriate regional procurement activity when it is deemed by the Council to be beneficial.

A14.3 Taking into account the advice of the Corporate Procurement Service, the Council will support collaborative procurement exercises with other Councils and public sector organisations, when it is deemed by the Council to be beneficial.

A14.4 If the Council is acting as the lead authority in relation to any collaborative procurement exercise, the procedure set out in Section B or Section C (as appropriate) must be followed.

A14.5 If another Council or public sector organisation is acting as the lead authority in relation to any collaborative procurement exercise, the procurement will follow the procedure set out in the Procurement Procedure Rules or equivalent of that Council or organisation. The procedure must comply with Section A of these Rules as far as possible.

A15. **External Funding & Grant Conditions**

A15.1 In circumstances where monies in excess of £100,000 are granted to the Council in its capacity as the accountable authority acting on behalf of another organisation, the Instructing Officer must ensure:

A15.1.1 That any contract or set of conditions attached to the grant of the monies is approved by the Head of Legal Services before they are signed; and

A15.1.2 That an agreement is entered into before any such monies are released by the Council between the Council and the organisation on behalf of which it is acting as accountable authority, which mirrors any contract or grant conditions to which the Council will be subject in respect of the same monies.

A16. **Contracts without a monetary value or which do not relate to a procurement exercise**

A16.1 The Instructing Officer must not enter into any binding obligation in respect of a contract without a monetary value, or which does not relate to a procurement exercise carried out in accordance with these Rules, without consulting with the Corporate Procurement Service and the Head of Legal Services.
SECTION B – PROCUREMENT OF SUPPLIES AND SERVICES

The table below sets out the minimum requirements for the procurement of Supplies and Services:

<table>
<thead>
<tr>
<th>Procurement value</th>
<th>Procurement procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £3,000</td>
<td>Minimum of one written Quotation from South Tyneside Supply list*</td>
</tr>
<tr>
<td>Between £3,001 and £10,000</td>
<td>Minimum of one written Quotation from South Tyneside Supply list* and two written Quotation from Tyne &amp; Wear suppliers*</td>
</tr>
<tr>
<td>Between £10,001 and £75,000</td>
<td>Minimum of two written Quotation from South Tyneside Supply list* and two written Quotation from other suppliers*</td>
</tr>
<tr>
<td>Between £75,001 and £140,000</td>
<td>Advertise (including OJEU where appropriate) and invite a minimum four written Tenders</td>
</tr>
<tr>
<td>Over £140,001</td>
<td>OJEU advert and procedures</td>
</tr>
</tbody>
</table>

B1. Procurement of Supplies and Services

B1.1 The Instructing Officer must invite Quotations or Tenders in accordance with the procedure set out in the table above.

B2. Procurement Procedure for Supplies and Services up to £3,000

B2.1 A minimum of one written Quotation from the Supply South Tyneside list must be received.* The Instructing Officer must award the contract or place the order with a contractor who has submitted a written Quotation.

B3. Procurement Procedure for Supplies and Services between £3,001 and £10,000

B3.1 A minimum of one written Quotation from South Tyneside Supply list and two written Quotations from Tyne & Wear suppliers.* The Instructing Officer must award the contract or place the order with a contractor who has submitted a written Quotation.

B4. Procurement Procedure for Supplies and Services between £10,001 and £75,000

B4.1 A minimum of two written Quotations from South Tyneside Supply list and two written Quotations from other suppliers.* The Instructing Officer must award the contract or place the order with a contractor who has submitted a written Quotation.

B5. Procurement Procedure for Supplies and Services between £75,001 and £140,000
B5.1 Advertise (including OJEU where appropriate) and invite a minimum four written Tenders. The Instructing Officer must award the contract or place the order with a contractor who has submitted a written Tender.

B6. Procurement Procedure for Supplies and Services over £140,001

B6.1 Advertise and follow full applicable OJEU process

*This is where possible and appropriate taking into consideration availability and suitability of contractors and any legal obligations placed upon the Council.
SECTION C – PROCUREMENT OF WORKS

The table below sets out the minimum requirements for the procurement of Works.

<table>
<thead>
<tr>
<th>Procurement value</th>
<th>Procurement procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £150,000</td>
<td>Minimum of three Quotations /Tenders from South Tyneside supply list *</td>
</tr>
<tr>
<td>Between £150,001 and £500,000</td>
<td>Minimum of four Tenders from the Tyne &amp; Wear Construction list, to include 2 South Tyneside firms*</td>
</tr>
<tr>
<td>Between £500,001 and £3,500,000</td>
<td>Advertise (including OJEU where appropriate) and invite a minimum four written Tenders</td>
</tr>
<tr>
<td>Over £3,500,001</td>
<td>OJEU advert and procedures</td>
</tr>
</tbody>
</table>

C1. Procurement of Works

C1.1 The Instructing Officer must invite Quotations or Tenders in accordance with the procedure set out in the table above.

C2. Procurement Procedure for Works up to £150,000

C2.1 A minimum of three Quotations /Tenders from South Tyneside supply list.*

C3. Procurement Procedure for Works between £150,001 and £500,000

C3.1 A minimum of four Tenders from the Tyne & Wear Construction list, to include 2 South Tyneside firms.*

C4. Procurement Procedure for Works between £500,001 and £3,500,000

C4.1 Advertise (including OJEU where appropriate) and invite a minimum four written Tenders.

C5. Procurement Procedure for Works over £3,500,001

C5.1 Advertise and follow full applicable OJEU process.

*This is where possible and appropriate taking into consideration availability and suitability of contractors and any legal obligations placed upon the Council.

SECTION D - RECEIPT AND OPENING OF TENDERS UNDER £100,000 IN VALUE

D1. Procedure

D1.1 Electronic Tenders will be used for carrying out the procurement process. Electronic Tenders must be returned to a designated secure electronic...
address and must be opened by the Head of Legal Services after the
deadline for the receipt of Tenders at one sitting

D1.2 Where it is not possible to undertake an electronic Tender, any written
Tenders under £100,000 in value must be returned to the Corporate
Procurement Service, and must stay in the possession of the Corporate
Procurement Service until the nominated opening time.

D1.3 Written Tenders for contracts must be opened at one sitting by the Corporate
Procurement Service and one witness from the list set out below:-

- The relevant Cabinet Member concerned or another member of the
  Cabinet or any other member of the Council.
- The Instructing Officer or an officer nominated by them
- The Corporate Director for Business and Resources or his/her
  internal audit representative if he/she so requires.

D1.4 The Corporate Procurement Service must record the names of the persons
who submitted Tenders and the amounts of the Tenders. The Corporate
Procurement Service must keep the original record and check the accuracy
of the Tenders and the Instructing Officer will evaluate them in accordance
with the procedure specified within the Tender documentation.

D2. Signing of Contracts/Orders

D2.1 If a contract is to be entered into the Instructing Officer may sign contracts
up to £100,000 in value. The Head of Legal Services may seal any contract
where he/she considers it to be appropriate.

D2.2 If an order is to be placed, the Instructing Officer must:

D2.2.1 Ensure that the Council’s terms and conditions are attached to or printed on
the reverse of any order to be placed; and

D2.2.2 Follow the procedure set out in A11.2

D3. Variations

D3.1 Any variations in respect of the volume of supplies, services or works to be
provided under an order placed or contract agreed must be recorded in
writing.

D3.2 Any variation which would increase the original price by more than £5,000 or
10% of the contract value, whichever is the higher, must be reported to and
approved by the Chief Executive or the Corporate Director with the
responsibility for the function to which the contract relates. The Instructing
Officer must ensure that the budget is available to meet the cost of the
variation.
SECTION E - RECEIPT AND OPENING OF TENDERS OVER £100,000 IN VALUE

E1. Procedure

E1.1 Wherever practicable, Electronic Tenders will be used for carrying out the procurement process. Electronic Tenders must be returned to a designated secure electronic address and must be opened by the Head of Legal Services after the deadline for the receipt of Tenders at one sitting.

E1.2. Where it is not possible to undertake an electronic Tender, any written Tenders must be returned to the Head of Legal services, and must stay in the possession of the Head of Legal Services until the nominated opening time.

E1.3. Written Tenders for contracts must be opened at one sitting by the Head of Legal Services and one witness from the list set out below:-

- The relevant Cabinet Member concerned or another member of the Cabinet or any other member of the Council.
- The Instructing Officer or an officer nominated by them.
- The Corporate Director for Business and Resources or his/her internal audit representative if he/she so requires.

E1.4. The Head of Legal Services must record the names of the persons who submitted Tenders and the amounts of the Tenders. The Head of Legal Services must keep the original record. The Corporate Procurement Service shall check the accuracy of the Tenders and the Instructing Officer will evaluate them in accordance with the procedure specified within the Tender documentation.

E2. Signing and Execution of Contracts

E2.1. All contracts and agreements above a value of £100,000 must be signed by the Head of Legal Services and the Mayor or their nominated representatives. The Head of Legal Services may seal any contract where he/she considers it to be appropriate.

E3. Variations

E3.1. Any variations in respect of the volume of supplies, services or works to be provided under an order placed or contract agreed must be recorded in writing.

E3.2. Any variation which would increase the original price by more than £15,000 or 10% of the contract value, whichever is the lesser, must be reported to and approved by the Chief Executive or the Corporate Director with the
responsibility for the function to which the contract relates. The Instructing Officer must ensure that the budget is available to meet the cost of the variation.

SECTION F – EXCEPTIONS TO THE PROCUREMENT PROCEDURE RULES

F1. Important Note

F1.1. WHERE ANY OF THE EXCEPTIONS SET OUT IN THIS SECTION F ARE EXERCISED, THE INSTRUCTING OFFICER MUST FULLY DOCUMENT AND RECORD THE REASONS FOR DOING SO.

F1.2. IF THE USE OF THE EXCEPTION REQUIRES THE APPROVAL OF CABINET OR COUNCIL, THIS MUST BE OBTAINED BEFORE THE EXCEPTION IS EXERCISED. ALL OTHER EXCEPTIONS ARE REQUIRED TO BE RECORDED AS DELEGATED DECISIONS BEFORE THEY ARE EXERCISED.

F1.3. THE EXCEPTIONS IN THIS SECTION DO NOT APPLY TO CONTRACTS THAT ARE GOVERNED BY THE EU PUBLIC PROCUREMENT REGIME. THE COUNCIL CANNOT DISAPPLY THE REQUIREMENTS OF THE EU PUBLIC PROCUREMENT REGIME.

F1.4. SCHOOLS SHOULD NOTE THAT THEY ARE BOUND BY THE EU PUBLIC PROCUREMENT REGIME. COMMUNITY ASSOCIATIONS ARE ALSO LIKELY TO BE BOUND BY THE EU PUBLIC PROCUREMENT REGIME. SCHOOLS AND COMMUNITY ASSOCIATIONS ARE ADVISED TO CONSULT THE HEAD OF LEGAL SERVICES REGARDING THE APPLICABILITY AND REQUIREMENTS OF THE REGIME.

F2. Specific Exceptions

F2.1. These Rules do not apply to the following types of contracts:

- Contracts of Employment (see Part D - Procedure Rules —Section 7-Employment Procedure Rules);
- Contracts for acquiring land; and
- Contracts let by schools or community associations for any supplies, works or services (although the Council encourages schools and community associations to follow these Rules as they represent good practice).

F3. General Exceptions

F3.1. Subject to F1 above, the Chief Executive or the relevant Corporate Director can direct that these Rules will not apply to any contract up to £500,000 in value, where they consider it to be in the Council’s best interests to do so.
F3.2. Subject to F1 above, the Council or the Cabinet can direct that these Rules will not apply to a contract that exceeds £500,000 in value, where they consider it to be in the Council’s best interests to do so.

F3.3. Subject to F1 above, the Council or the Cabinet can direct that these Rules will not apply to an extension to a contract over £500,000 in value, where they consider it to be in the Council’s best interests to do so.

F4. **Procurement activity up to £100,000 in value**

F4.1. For procurements up to £100,000 in value, in exceptional circumstances such as emergencies, or where there is only one supplier of the supplies, services or works required, or specialist areas or where disproportionate costs would be incurred in a competitive tendering exercise, the Chief Executive or the relevant Corporate Director may authorise that only one written Quotation is obtained.

F4.2. If it is not practical to do so, these Rules need not be followed by the Corporate Director Children, Adults and Families when procuring individual care packages of a total contract value of less than £100,000.

F5. **Procurement activity over £100,000 in value**

F5.1. Subject to F.1, the Instructing Officer in consultation with the Corporate Procurement Service and the Head of Legal Services may order works, supplies or services of a value over £100,000 without reference to these Rules in the following exceptional circumstances:

F5.1.1 Where the works, supplies or services can only be provided by one person or firm and there could be no genuine competition and the value of the supplies, works or services does not exceed £500,000;

F5.1.2 Where the supply of works, supplies or services constitute extension of an existing contract and the total value of the original contract and the extra works, supplies or services does not exceed £500,000.

F6. **Tyne & Wear Pension Fund**

F6.1. Contracts let on behalf of the Tyne and Wear Pension Fund must comply with these Rules unless, in the opinion of the Corporate Director Business and Resources, it is not appropriate to do so.

F6.2. References in these Rules to the Cabinet must be read as references to the Pensions Committee for Tyne and Wear Pension Fund contracts.

F6.3. All Pension Fund contracts worth more than £500,000 must be let by the Pensions Committee. Those below that value may be let by the Corporate Director Business and Resources. Subject to F.1, these Rules do not apply to any contracts for the acquisition and disposal of investments for the Tyne and Wear Pension Fund.
APPENDIX A – DEFINITIONS

In these Rules the following words and expressions have the following meanings:

A. “Competitive Tendering” means the seeking of more than two Tenders.

B. “Contract” means an agreement reached between the Council and the Organisation upon the acceptance of the Tender by the Council subject to the Tender Documents.

C. “Corporate Contract” means a contract that has already been entered into by the Council and that can be utilised on a ‘call off’ basis.

D. “Corporate Contract Register” means a register maintained by the Corporate Procurement Service which records all procurement notified to them over a period of time.

E. “Council” means South Tyneside Council and includes reference to the Cabinet, or person acting in accordance with delegated authority on behalf of the Council.

F. ‘Framework agreement’ is where the Council enters into an agreement with one or more external providers who will be its preferred suppliers for a particular service or range of services.

G. “Most economically advantageous” means optimum combination of price and quality to meet the Council priorities.

H. “Procurement” is the process of acquiring the necessary services, construction works and supplies required to deliver front line services to the community. It includes all activities from identification of a requirement through to the end of the useful life of the asset or service contract.

I. “Quotation” means a written offer, submitted by an organisation which has the capability in all respects to fully perform the requirements, to contract supplies, services or works at a specified cost or rate. This includes E-auctions.

J. “Service” means engagement of an organisation to provide a service.

K. “Service delivery models” means the appraisal options identified in the Business Case or Category Charter.

L. ‘Standing list’ means a list of organisations who have undergone a vetting process and meet the Council’s specific criteria.

M. “Supplies” means the articles, materials, or any other items described in the Tender Documents and supplied or to be supplier by the Contractor in accordance with the Contract.
N. “Tender” means a formal written offer to contract supplies, services or works at a specified cost or rate. Tenders are opened after a specific deadline has passed and in one sitting.
Employment Procedure Rules

SECTION 7
EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

1.1. Declarations

1.1.1. The Council will adopt a policy requiring a candidate for any appointment to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council graded at a minimum above SCP 28 or equivalent; or of the partner of such persons.

1.1.2. No candidate so related to a Councillor or any such officer will be appointed without the consent of the Head of Organisational Development and People.

1.2. Seeking support for appointment.

1.2.1. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or any employee of the Council for that appointment with the Council. The content of this Rule and Rule 1.1 above will be included in any recruitment information.

1.2.2. No Councillor or employee of the Council will seek support for any person for any appointment with the Council. This rule shall not preclude any member or employee of the Council from giving a written testimonial of any candidate’s ability, experience or character for consideration in conjunction with an individual application, but having given such a testimonial, that member or employee shall take no part in the short listing or interview process.

2. Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers

Where the Council proposes to appoint a Head of Paid Service, Chief Officer or Deputy Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

2.1. draw up a statement specifying:

2.1.1. the duties of the post concerned; and

2.1.2. any qualifications or qualities to be sought in the person to be appointed;

2.2. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
2.3. make arrangements for a copy of the statement mentioned in paragraph 2.1 to be sent to any person on request.

3. Officers below Deputy Chief Officer level

Subject to Rules 3.1 and 5 below, the function of appointment and dismissal of, and taking disciplinary action against, an employee of the Council must be discharged, on behalf of the Council, by the Chief Executive, a Corporate Director or by an officer nominated by him/her.

3.1. Rule 3 above shall not apply to the appointment or dismissal of, or disciplinary action against:

3.1.1. the officer designated as the Head of the Council’s Paid Service;

3.1.2. a statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 ("the 1989 Act");

3.1.3. a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;

3.1.4. a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act; or

3.1.5. an assistant for a political group appointed in pursuance of section 9 of the 1989 Act.

4. Appointment, Dismissal of Chief Officers and Deputy Chief Officers

Appointments

4.1. Where the Human Resources Committee or any relevant Sub-Committee is discharging, on behalf of the Council, the function of the appointment or dismissal of an officer designated as the Head of the Council’s Paid Service, the full Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

4.2. Where the Human Resources Committee or a relevant Sub-Committee is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in Rules 3.1.1 to 3.1.4 above, at least one member of the Cabinet must be a member of that Committee or Sub-Committee.

4.3. An offer of an appointment as an officer referred to in Rules 3.1.1 to 3.1.4 above must not be made until:

4.3.1. the Human Resources Committee or relevant Sub-Committee has notified the proper officer of the name of the person to whom it wishes to make the offer and any other
particulars which the Committee or Sub-Committee considers are relevant to the appointment;

4.3.2. the proper officer has notified every member of the Cabinet of:-

4.3.2.1. the name of the person to whom the Human Resources Committee or relevant Sub-Committee wishes to make the offer (or in the case of the appointment of the Head of Paid Service, subject to approval of the Council);

4.3.2.2. any other particulars relevant to the appointment which the Committee or Sub-Committee has notified to the proper officer; and

4.3.2.3. the period within which any objection to the making of the offer is to be made to the proper officer by the Leader on behalf of the Cabinet; and

4.3.3. either -

4.3.3.1. the Leader has, within the period specified in the notice under Rule 4.3.2.3 above, notified the Human Resources Committee or relevant Sub-Committee that neither he nor any other member of the Cabinet has any objection to the making of the offer;

4.3.3.2. the proper officer has notified the Human Resources Committee or relevant Sub-Committee that no objection was received by him within that period from the Leader; or

4.3.3.3. the Human Resources Committee or relevant Sub-Committee (or in the case of the appointment of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader within that period is not material or well-founded.

4.4. Notice of the dismissal as a result of disciplinary action, of an officer referred to in Rules 3.1.1 to 3.1.4 above must not be given until –

Dismissals

4.4.1. the Human Resources Committee or relevant Sub-Committee has notified the proper officer of the name of the person who it wishes to dismiss (in the case of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, subject to the approval of the Council) and any other
particulars which it considers are relevant to the dismissal;

4.4.2. the proper officer has notified every member of the Cabinet of:

- 4.4.2.1. the name of the person who the Committee or relevant Sub-Committee wishes to dismiss;

- 4.4.2.2. any other relevant particulars relevant to the dismissal which the Committee or Sub-Committee has notified to the proper officer; and

- 4.4.2.3. 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; and

4.4.3. Either -

- 4.4.3.1. the Leader has, within the period specified in the notice under Rule 4.4.2.3 above, notified the Human Resources Committee or relevant Sub-Committee that neither he nor any other member of the Cabinet has any objection to the dismissal;

- 4.4.3.2. the proper officer has notified the Human Resources Committee or relevant Sub-Committee that no objection was received by him within that period from the Leader; or

- 4.4.3.3. the Human Resources Committee or relevant Sub-Committee (or in the case of the proposed dismissal of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader within that period is not material or well founded.

5. Appeals

Nothing in Rule 3 above shall prevent a Member from serving on a Committee or Sub-Committee established by the Council to consider an appeal by:

- 5.1. a person against any decision relating to the appointment of that person as an employee of the Council; or

- 5.2. an employee of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that employee.
6. **Disciplinary action - Head of Paid Service, Monitoring Officer and Chief Finance Officer**

6.1 The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended by the Human Resources Committee or relevant Sub-Committee whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. The investigation will be carried out by a suitable external legally qualified person appointed by the Disciplinary Panel.

6.2 No further period of suspension may be imposed in respect of any of those officers except in accordance with the approval of the Disciplinary Panel, which shall be constituted in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and shall consist of the Authority’s Independent Persons.

6.3 Where the Human Resources Committee or Sub Committee is dealing with disciplinary action against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Independent Persons appointed to the Disciplinary Panel shall be invited to attend and observe the Committee’s proceedings.

7 **Dismissal of Head of Paid Service, Monitoring Officer or Chief Finance Officer**

7.1 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer shall only be dismissed by a resolution of Council, and Council must approve that dismissal before notice of dismissal is given to that person.

7.2 Where the Human Resources Committee or relevant Sub Committee has recommended that Head of Paid Service, the Monitoring Officer or the Chief Finance Officer be dismissed, the views of the Disciplinary Panel must be sought on the proposed dismissal. Before the taking of a vote at the relevant meeting of the Council 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 Disciplinary Panel; and

(b) the conclusions of the investigation into the proposed dismissal; and
(c) any representations from the officer whose dismissal is under consideration.
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FINANCIAL PROCEDURE RULES

1. Introduction to Financial Procedures

What are financial procedures?

1.1. Financial procedures provide the framework for managing the Council’s financial affairs. Financial Procedures are supported by more detailed Financial Management Standards listed in Appendix A.

1.2. Financial Procedures and Financial Management Standards apply to every member and officer of the Council and anyone acting on its behalf.

1.3. All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

The Role of the full Council

1.4. The full Council is responsible for approving the Policy Framework and Budget within which the Cabinet operates. The budget setting process includes the approval of Prudential Indicators as required by the CIPFA Prudential Code for Capital Finance in Local Authorities. It is also responsible for approving and monitoring compliance with the Council’s overall framework of accountability and control. The role of the Council is set out in this Constitution.

The Role of the Cabinet

1.5. The Cabinet is responsible for proposing the Policy Framework and Budget to the full Council, and for discharging Cabinet functions in accordance with the Policy Framework and Budget. The role of the Cabinet is set out in this Constitution.

The Role of the Chief Finance Officer

1.6. The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden.

1.7. The statutory duties arise from:

   1.7.1. Section 151 of the Local Government Act 1972
   1.7.2. The Local Government Finance Act 1988
   1.7.3. The Local Government and Housing Act 1989
1.7.5. The Local Government Act 2003

1.8. The Chief Finance Officer is responsible for:

1.8.1. the proper administration of the Council’s financial affairs

1.8.2. maintaining a continuous review of the financial procedures and submitting any additions or changes necessary to the full Council for approval

1.8.3. reporting, where appropriate, breaches of the financial procedures to the Council and / or Cabinet members

1.8.4. annually reviewing and updating, and monitoring compliance with, financial management standards

1.8.5. providing training for members and officers on Financial Procedures and Financial Management Standards.

1.8.6. advising on the corporate financial position and on the key financial controls necessary to secure sound financial management

1.8.7. providing financial information

1.8.8. selecting accounting policies and determining the accounting procedures and records for the Council.

1.8.9. preparing and monitoring the revenue budget and capital programme

1.8.10. treasury management.

1.8.11. ensuring that the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities

1.8.12. ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.

1.8.13. ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term

1.9. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council, Cabinet and external auditor if the Council or one of its officers:

1.9.1. has made, or is about to make, a decision which involves incurring unlawful expenditure
1.9.2. has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
1.9.3. is about to make an unlawful entry in the Council’s accounts.

1.10. Section 114 of the 1988 Act also requires:

1.10.1. the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
1.10.2. the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

The role of Corporate Directors

1.11. Corporate Directors are responsible for ensuring that all staff in their Corporate Groups are aware of the existence and content of the Council’s Financial Procedures and Financial Management Standards and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their Corporate Groups.

1.12. Corporate Directors are responsible for ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.

1.13. It is the responsibility of Corporate Directors to consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council’s finances materially, before any commitments are incurred.

2. Budget preparation

2.1. The Cabinet, in consultation with the Chief Finance Officer, is responsible for issuing annual guidelines to members and Corporate Directors on:

2.1.1. preparing a detailed revenue budget for the following year;
2.1.2. preparing revenue spending plans for years 2 to 5;
2.1.3. preparing a five year capital programme;
2.1.4. the timetable for preparing and agreeing the Council’s revenue and capital budget.

2.2. The guidelines will take account of:

2.2.1. Council priorities
2.2.2. spending pressures

2.2.3. what future funding is available

2.2.4. what level of reserves are available

2.2.5. the affordability, sustainability and prudence of capital investment plans

2.2.6. legal requirements, best value and other relevant government / internal guidelines

2.2.7. cross-cutting issues (where relevant).

2.3. Corporate Directors are responsible for ensuring that budget estimates are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

3. **Budget approval**

3.1. The full Council is responsible for agreeing the Council’s Policy Framework and Budget (including Prudential Indicators), which will be proposed by the Cabinet.

3.2. The Council’s revenue and capital budget will be proposed by the Cabinet (on the advice of the Chief Finance Officer) and will be approved by the full Council. The budget should identify allocations to named service budget holders, proposed council tax levels and how the budget will be funded.

3.3. The full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

4. **Budget Transfers**

4.1. During the year Cabinet and Corporate Directors may need to transfer budgets from one service area to another to reflect changed service needs or priorities in order to deliver the Budget Policy Framework.

4.2. A Corporate Director may transfer a budget under his or her control for amounts up to £250,000 on any one budget head to another during the financial year, subject to the agreement of the Chief Finance Officer and following discussion with the appropriate lead member where the budget transfer exceeds £100,000. For this purpose budget head is defined as any budget line in Appendix 1A and Appendix 2A of the Medium Term Financial Plan approved by Council.

4.3. A named service budget holder may transfer a budget under his or her control for amounts up to £100,000 on any one budget head to another during the financial year. For this purpose, named service budget holder is defined as a budget holder named in Appendix 1A and Appendix 2A of the Medium Term Financial Plan approved by Council.
4.4. All budget transfers between the limits of £20,000 and £250,000, as set out in paragraphs 4.2 and 4.3, must be published in accordance with agreed corporate arrangements. The Chief Finance Officer must be notified of the transfer.

4.5. Budget transfers greater than £250,000 require the approval of the Cabinet, following a joint report by the Chief Finance Officer and the responsible Corporate Director. The joint report must explain the implications in the current and future financial year.

4.6. Budget transfers greater than £1,000,000 require the approval of the full Council and must be proposed by the Cabinet.

4.7. Council approval is required for any budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new service or the termination of an existing service.

4.8. A capital budget cannot be transferred to a revenue budget head.

4.9. No budget transfer relating to a specific financial year should be made after 31st March in that year without the agreement of the Chief Finance Officer.

4.10. It is the responsibility of the Corporate Directors to:

4.10.1. notify the Chief Finance Officer of any budget transfer agreed under delegated powers as set out in paragraphs 4.2 and 4.3;

4.10.2. give prior notice to budget holders of any budget transfer affecting their service area and provide an explanation of the reason for the budget transfer; and

4.10.3. ensure that the relevant delegated decision forms are completed.

5. Budget Monitoring and the Control of Income and Expenditure

5.1. The Chief Finance Officer is responsible for:

5.1.1. providing appropriate financial information to enable budgets to be monitored effectively

5.1.2. all payments of salaries and wages to all employees, including payments for overtime, and for payment of allowances to members

5.1.3. maintaining the Council’s tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate
5.1.4. advising Corporate Directors on all taxation issues that affect the Council

5.1.5. ensuring that all funding notified by external bodies is received and properly recorded in the Council’s accounts

5.1.6. agreeing arrangements for the collection of income due to the Council

5.1.7. agreeing the write-off of bad debts up to a value of £5,000 in each case and referring larger sums to the Cabinet.

5.1.8. reporting to the Cabinet and the Resources and Corporate Development Scrutiny Committee on the overall Council budget monitoring position on a quarterly basis.

5.2. The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies unless the responsible Corporate Director is authorised in this respect under the Scheme of Delegations in Part C of this Constitution.

5.3. It is the responsibility of Corporate Directors to ensure that a proper Scheme of Delegation has been established within their area and is operating effectively. The Scheme of Delegation should identify named budget holders and employees authorised to act on the Corporate Director's behalf in respect of payments, income collection and placing orders, together with the limits of their authority.

5.4. It is the responsibility of Corporate Directors to:

5.4.1. control income and expenditure within their area;

5.4.2. monitor performance, taking account of financial information provided by the Chief Finance Officer;

5.4.3. report on spending variances within their own areas;

5.4.4. take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems; and

5.4.5. except in relation to the Tyne and Wear Pension Fund, report to Cabinet in conjunction with the Chief Finance Officer the corrective action to be taken where a budget line allocation is forecast to be exceeded by 5% or £250,000, whichever is the greater.

6. Reporting Council spending at year end

6.1. The full Council is responsible for approving the annual un-audited statement of accounts.
6.2. The Chief Finance Officer is responsible for:

- 6.2.1. publishing a timetable for the closure of the Council’s accounts annually

- 6.2.2. ensuring that the Council’s annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC): The Accounts and Audit Regulations 2003 and any other relevant guidelines.

6.3. It is the responsibility of Corporate Directors to ensure that arrangements are put in place each year to deliver the Council’s closure timetable.

7. Use of Council Reserves

7.1. The Chief Finance Officer is responsible for advising the Cabinet and/or the full Council on prudent levels of reserves for the authority. This advice will be based upon an annual risk assessment of the prudent level of reserves the Council should maintain.

7.2. The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by full Council and Cabinet.

8. Systems and Procedures

8.1. Sound systems and procedures are essential to an effective framework of accountability and control.

8.2. The Chief Finance Officer is responsible for:

- 8.2.1. the operation of the Council’s accounting and financial systems

- 8.2.2. the form of accounts and the supporting financial records.

- 8.2.3. advising Corporate Directors on the establishment and operation of trading accounts and business units.

8.3. Any changes made by Corporate Directors to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer.

8.4. It is the responsibility of Corporate Directors to:

- 8.4.1. ensure the proper operation of financial processes in their own Corporate Groups and agree with the Chief Finance Officer any changes to these processes to meet their own specific service needs
8.4.2. ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.

8.4.3. ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation

8.4.4. ensure that staff are aware of their responsibilities under Freedom of Information and Data Protection legislation.

9. **Risk Management**

9.1. The Cabinet is responsible for approving the Council’s risk management policy statement and approach to reviewing the effectiveness of risk management.

9.2. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

9.3. The Head of Legal Services is responsible for preparing the Council’s risk management policy statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover for material risks where appropriate.

9.4. It is the responsibility of Corporate Directors to ensure there are regular reviews of risk within their areas of responsibility.

10. **Internal Control**

10.1. The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

10.2. It is the responsibility of Corporate Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

11. **Audit Requirements**

11.1. The Accounts and Audit Regulations 2003 require the Council to maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper internal audit practices.
11.2. The Chief Finance Officer, as determined by the Council, will ensure that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.

11.3. The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

11.4. The Council may, from time to time, be subject to audit, inspection or investigation by the external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

11.5. The Chief Finance Officer is responsible for reporting, where appropriate, the findings of these inspections and taking relevant action to implement inspection recommendations.

12. Preventing Fraud and Corruption

12.1. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

12.2. The Head of Legal Services is responsible for the development, maintenance and review of an anti-fraud and anti-corruption policy.

12.3. It is the responsibility of Corporate Directors to promote the anti-fraud and anti-corruption policy within their service areas and ensure that all suspected irregularities are reported to the Chief Internal Auditor.

13. Use of Council Assets

13.1. Corporate Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

14. Treasury Management

14.1 The Council has adopted the key recommendations of CIPFA’s Treasury Management in the Public Services: Code of Practice (the Code), as described in Section 4 of the Code

14.2 The Council will create and maintain, as the cornerstones for effective treasury management:

14.2.1 A Treasury Management Policy Statement, stating the policies, objectives and approach to the risk management of its Treasury Management activities

14.2.2 Suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those
policies and objectives and prescribing how it will manage and control those activities.

14.2.3 The content of the Policy Statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Treasury Management in the Public Services – Code of Practice and Cross Sectoral Guidance Notes, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code’s key principles.

14.3 Council will receive reports on its Treasury Management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

14.4 The Council delegates responsibility for the implementation and regular monitoring of its Treasury Management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation’s policy statement and TMPs and if he/she is a CIPFA member, CIPFA’s Standard of Professional Practice on Treasury Management.

14.5 The Council has nominated the Overview and Scrutiny Co-ordinating and Call-in Committee to be responsible for ensuring effective scrutiny of the Treasury Management strategy and policies.

15 Partnerships

15.1 The Cabinet is responsible for approving any delegation of its powers, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

15.2 The Council or the Cabinet can delegate its functions including those relating to partnerships to officers. These are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.

15.3 The Chief Executive or the appropriate Corporate Director or senior officer nominated by the Corporate Director may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.

15.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.
15.5 The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

15.6 Corporate Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

Appendix A

Financial Management Standards

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PART E

Codes and Protocols
# CODES AND PROTOCOLS

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<td>285</td>
</tr>
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Members Code of Conduct

SECTION 1
Code of Conduct for Members

South Tyneside Council ("the Council") has adopted the following Code ("the Code") which has effect from 1st July 2012 and sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

This means the Code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

You should note that postings you make when using social media (including for example Twitter, Facebook and Wordpress) are capable of constituting breaches of this Code of Conduct.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council but is not one of its elected members.

The Code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

General Conduct

1. You must treat others, including Council Officers, with respect and decency.

2. You must not bully any person and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this Code of Conduct.

3. 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. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.

5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.

6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and
which the Council has specifically declared should fall within the provisions of this Code of Conduct and which is listed in the annex to this Code.

7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council’s reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.

8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.

9. You must not disclose information which is given to you in confidence, or information 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 advice, provided that the third party agrees not to disclose the information to any other person; or
   (d) The disclosure is reasonable and in the public interest and made in good faith.

10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, ‘scrutiny’ means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

Registration of Interests

11. Subject to paragraph 12, you must register in the Council’s Register of Members Interests information about your personal interests. In this Code of Conduct ‘your personal interests’ means: any ‘Disclosable Pecuniary Interest’ (as defined by regulations made from time to time by the Secretary of State) 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 were civil partners;

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 appointment as a member of the Council; and
   • any change taking place in your personal interests.
12. 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.

Declaration of Interests

13. Where you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, 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 unless the interest is one which has been noted under paragraph 12, 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.

14. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered at that meeting, you may not (unless you have a relevant dispensation granted under section 33 of the Localism Act 2011) :
   (a) participate (or further participate) in any discussion of the matter at the meeting; or
   (b) participate in any vote (or further vote) taken on the matter at the meeting.

15. If a function of the Council can be discharged by you as a member acting alone and you are aware you have a Disclosable Pecuniary Interest in any matter to be dealt with by you in the course of discharging that function, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraph 14 or 15 is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this Code)

You must comply with any standing order adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.
Annex 1 to Code of Conduct

Nolan’s Seven Principles of Public Life

Selflessness
Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity
Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity
In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability
Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness
Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty
Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership
Holders of public office should promote and support these principles by leadership and example.
### Annex 2 to Code of Conduct

**Disclosable Pecuniary Interests**

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment, office, trade, profession or vocation</td>
<td>Any employment, office, trade, profession or vocation carried on for profit or gain by you and/or your partner.</td>
</tr>
<tr>
<td>Sponsorship</td>
<td>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 you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</td>
</tr>
<tr>
<td>Contracts</td>
<td>Any contract which is made between you and/or your partner (or a body in which you and/or your partner have a beneficial interest) and South Tyneside Council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</td>
</tr>
<tr>
<td>Land</td>
<td>Any beneficial interest in land which is within the Borough of South Tyneside held by you and/or your partner.</td>
</tr>
<tr>
<td>Licences</td>
<td>Any licence held by you and/or your partner (alone or jointly with others) to occupy land in the Borough of South Tyneside for a month or longer.</td>
</tr>
<tr>
<td>Corporate tenancies</td>
<td>Any tenancy where to your knowledge— (a) South Tyneside Council is the landlord; and (b) the tenant is a body in which the you and/or your partner have a</td>
</tr>
</tbody>
</table>

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beneficial interest.

Securities

Any beneficial interest held by you and/or your partner in securities of a body where—
(a) that body to your knowledge has a place of business or land in the Borough of South Tyneside; and
(b) either—

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

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you and/or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

“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;
“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) 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.
Annex 3 to Code of Conduct

Associated Protocols

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this Code of conduct pursuant to paragraph 6 of the Code:

Protocol for Member/Officer Relations – Constitution Part E Section 5
Protocol for dealing with complaints against Members of the Council
PROTOCOL FOR DEALING WITH ALLEGATIONS OF BREACHES
OF THE MEMBERS' CODE OF CONDUCT

PART A - INTRODUCTION

1. The purpose of this Protocol is to set out how the Council will deal with complaints of misconduct against Members, co-opted members of committees and sub-committees, and advisors to committees, sub-committees and forums.

2. The Council’s Monitoring Officer is responsible overseeing the operation of this Protocol. The Monitoring Officer can be contacted as follows:

   Mike Harding
   Head of Legal Services
   South Tyneside Council
   Town Hall and Civic Offices
   Westoe Road
   South Shields
   Tyne and Wear
   NE33 2RL
   Tel: 0191 424 7009
   Fax: 0191 456 0208
   E-mail mike.harding@southtyneside.gov.uk

3. The Council has adopted a Members’ Code of Conduct. This applies to Members and Co-opted Members of Committees who have voting rights.

4. The Council has also adopted additional local codes or protocols or set other standards of conduct (“local protocols”) that it expects of Members, co-opted members of committees and sub-committees (whether or not they have voting rights), and advisors to committees, sub-committees and forums. There are also other legislative and legal requirements that apply to such persons. This includes:

   - Planning Protocols
   - Protocol for Member/Officer Relations
   - Guidance to Advisors
   - This Protocol
   - Legislation relating to membership of Public Airport Companies, Transport Undertakings and Trade Union Members participating in Employee Relation Matters

   (Copies of these documents can be obtained from the Monitoring Officer)

5. The Council is responsible for dealing with written complaints that a Member or co-opted member has contravened the Members’ Code of Conduct. The Council has delegated this responsibility to the Standards Committee.
6. It is possible that contravention of the local protocols may also amount to a contravention of the Members’ Code of Conduct. In which case, a written complaint could be made to the Council.

7. The person responsible for operating this Protocol in any particular case may depart from the provisions of this Protocol for good reasons after consulting the Chair of the Standards Committee and the Monitoring Officer (if a different person).

PART B – MAKING A COMPLAINT

8. Complaints may be made by members of the public, other organisations, Members or officers of the Council. Complaints must specify details of the alleged breach of the Code and provide details of any evidence available to support the complaint. Complaints should be made in writing to the Monitoring Officer as soon as practicable.

9. If a complaint is made to a member directly, they should consult the Monitoring Officer. Similarly, if complaints are made to other officers, they should be passed to the Monitoring Officer as soon as possible.

10. All members and officers of the Council have a duty to co-operate with any requirement of the Monitoring Officer, or others persons in the conduct of an investigation.

PART C – PROCESSING A COMPLAINT

11. Whenever the Monitoring Officer receives a complaint he will first seek to resolve the matter without the need for formal investigation. The Monitoring Officer may consult the Chair of the Standards Committee and/or the Independent Person where appropriate in order to achieve an informal resolution. The Monitoring Officer will continue to seek an informal resolution of the matter throughout the processes described in this Protocol.

12. The Monitoring Officer will provide the subject member with the contact details of the Independent Person at the same time as he informs the subject member that a complaint has been received. The subject member is entitled to consult with the Independent Person at any stage of the processes set out in this Protocol.

13. The Monitoring Officer must make such informal inquiries and investigations as he thinks fit in order to assess how a complaint should be dealt with. In particular, the Monitoring Officer may provide full details of the complaint to the subject member in order that they may respond to the allegation without the need for a formal investigation. If a complaint cannot be informally resolved, the Monitoring Officer may take such of the following actions in respect of a complaint as he feels appropriate, taking account of the criteria set out in Annex B:-
a) Reject the complaint (following consultation with the Independent Person, where the Monitoring Officer feels it appropriate);
b) Investigate the complaint following, where s/he deems it appropriate, consultation with the Independent Person;
c) Refer the complaint to the Standards Committee for a decision on whether to investigate.

14. The procedure for the investigation of complaints by or on behalf of the Monitoring Officer is set out in Annex A. The procedure for the formal hearing of complaints by the Standards Committee, including the sanctions available should it be found that the Code of Conduct has been breached, is set out in Annex C. Procedures for the review of decisions are set out in Annex D. A protocol on publicity for complaints is set out at Annex E.

PART D – MONITORING THE OPERATION OF THIS PROTOCOL

15. The Monitoring Officer will submit a report at least every six months to the Standards Committee setting out on an anonymous basis details of matters dealt with under this Protocol
Annex A – Procedure for Investigations by the Monitoring Officer

1. **Interpretation**
   
   1.1. ‘Member” means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member’s representative.

   1.2. ‘Investigating Officer” means the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer, and his or her representative).

   1.3. “The Matter” is the subject matter of the Investigating Officer’s report.

   1.4. ‘The Standards Committee’ refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.

2. **Action Following Decision to Investigate Allegation**

   2.1. Appointment of Investigating Officer

   Where the Monitoring Officer or the Standards Committee, as the case may be, decides that an allegation should be investigated, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to conduct an investigation and produce a report thereon. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external Investigating Officer.

   The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

   2.2. Notification of Investigation

   The Monitoring Officer will notify in writing the Member, the complainant, the Chair of the Standards Committee and the Independent Person that an investigation is to be undertaken.

3. **Conduct of Investigation**

   3.1. Purpose of the Investigation

   The purpose of the Investigating Officer’s investigation is to enable him/her to prepare a report which would provide the Standards Committee with sufficient information to determine whether the Member has acted in breach of the Code of Conduct and, where there has been a breach of the Code of Conduct, whether any action should be taken in respect of the Member or in consequence of the breach, and what any such action should be.
3.2. Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable the Standards Committee to come to a considered decision on the allegation.

3.3. Additional Matters

Where a member has any unresolved complaints against them, for instance because they ceased to be a member before a complaint under the former procedure was dealt with, the Monitoring Officer may, following consultation with the Chair of the Standards Committee, instruct the Investigating Officer to investigate that complaint.

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct or local protocol by the Member other than the breach which he/she is currently investigating, the Investigating Officer shall report the matter to the Monitoring Officer who will provide the Member with details of the matter and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Monitoring Officer will then determine whether to investigate the additional matter.

4. The Draft Report

4.1. When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in Paragraph 3.1, or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft report setting out:

4.1.1. the details of the allegation;

4.1.2. the relevant provisions of the Code of Conduct and any relevant local Protocols

4.1.3. the Member’s response to the allegation;

4.1.4. the relevant information, advice and explanations which he/she has obtained in the course of the investigation;

4.1.5. details of any documents relevant to the matter;

4.1.6. details of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;

4.1.7. details of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;

4.1.8. a statement of his/her draft findings of fact;
4.1.9. his/her conclusion as to whether the Member has or has not failed to comply with the Code of Conduct for Members or a local protocol, and

4.1.10. any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority’s decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach.

4.2. The draft report should also state that the report does not necessarily represent the Investigating Officer’s final finding, and that the Investigating Officer will present a final report to the Standards Committee once he/she has considered any comments received on the draft report.

4.3. The Investigating Officer shall then send a copy of his/her draft report in confidence to the Member, the person making the allegation and the Monitoring Officer, and request that they send any comments thereon to him/her within 7 days or such longer period as may reasonably be agreed by the Investigating Officer.

5. The Final Report

5.1. After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his final report.

5.2. The final report should state that the report represents the Investigating Officer’s final findings and will, unless an informal resolution of the complaint is achieved, be presented to the standards committee, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, and notes of interviews with witnesses.

5.3. The Monitoring Officer shall then send a copy of the final report to the Member, the complainant and the Independent Person. The Monitoring Officer must consider whether informal resolution of the complaint is still possible, consulting as s/he feels appropriate with the Chair of the Standards Committee and the Independent Person.

5.4. If the Monitoring Officer concludes that informal resolution is not possible, s/he must advise the Member and the complainant of the following:

5.4.1. where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local
protocol, that he/she will close the matter, unless following consultation with the Independent Person s/he considers that the report should be referred to the Standards Committee to decide if a hearing is nevertheless required; and

5.4.2. where the report concludes that there has been a failure by the Member to comply with the Code of Conduct for Members or with a local protocol, he/she will refer the report to the Standards Committee for a formal hearing.

5.5. Where the Standards Committee considers the report in accordance with Paragraph 5.4.1 above, it shall, after considering any views put forward by the Independent Person, make one of the following findings:

5.5.1. That it accepts the Investigating Officer’s finding that the Member has not failed to comply with the Code of Conduct for Members as set out in the allegation; or

5.5.2. That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the authority’s adopted Procedure for Standards Hearings (Annex C).

5.6. Where the Standards Committee finds no failure to comply with the Code of Conduct, the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer’s report to the Member and to the Person who made the allegation. The Monitoring Officer must ask the Member whether s/he agrees to the publication of a notice of the finding.

5.7. Where the Standards Committee finds that the matter should be considered at a full hearing or the Investigating Officer’s report contains a finding that the Member did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the authority’s adopted Procedure for Standards Hearings (Annex C).
Annex B – Criteria for consideration by the Monitoring Officer when what action to take in respect of a complaint.

The following criteria will be taken into account by the Monitoring Officer, or the Standards Committee, as the case may be, in deciding what action, if any, to take in respect of a complaint received alleging a failure by a member of the Council to follow the Code of Conduct:

1. Has the complainant submitted enough information to satisfy the Monitoring Officer (or the Standards Committee if appropriate) that the complaint should be referred for investigation or other action? If not: The information provided is insufficient to make a decision. Unless, or until, further information is received, no further action should be taken on the complaint.

2. Is the complaint about someone who is no longer a member of the Council, but is a member of another authority? If so, should the complaint be referred to the monitoring officer of that other authority? If yes: The complaint should be referred to the monitoring officer of that other authority to consider.

3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities? If yes: There may be nothing more to be gained by further action being taken.

4. Is the complaint about something which happened so long ago that there would be little benefit in taking action now? If yes: Further action may not be warranted.

5. Does the complaint appear too trivial to justify the cost or inconvenience of further action? If yes: Further action will not normally be warranted.

6. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat? If yes: Further action will not normally be warranted.

7. Is the complaint anonymous? If yes: No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.
Annex C – Procedure for Standards Hearings

1. Introduction

1.1. This Annex details the procedure to be adopted for the hearing of complaints by the Standards Committee of South Tyneside Council (‘the Council’), where an investigation has been completed.

1.2. The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member.

1.3. The Investigating Officer means the Monitoring Officer or other person appointed by the Monitoring Officer to conduct a local investigation in relation to a matter referred to the Monitoring Officer for local investigation.

1.4. References to Monitoring Officer include any other person appointed by the Monitoring Officer to carry out the functions of the Monitoring Officer.

2. Legal Advice to the Standards Committee

2.1. Where the Monitoring Officer also takes the role of the Investigating Officer, he/she must arrange for a separate legal adviser for the Standards Committee in respect of the allegation.

3. Notifying the Member and Complainant

3.1. The Monitoring Officer shall send a copy of the report to the Member, the Complainant and the Independent Person, making the provision of the report conditional upon an appropriate undertaking of confidentiality.

3.2. The Monitoring Officer will ask for a written response from the Member, stating whether or not s/he:

3.2.1. disagrees with any of the findings of fact in the report, including the reasons for any disagreements

3.2.2. wants to be represented, at his/her own expense, at the hearing by a solicitor, barrister or any other person

3.2.3. wants to give evidence to the Standards Committee, either verbally or in writing

3.2.4. wants to call relevant witnesses to give evidence to the Standards Committee

3.2.5. wants any part of the hearing to be held in private
3.2.6. wants any part of the report or other relevant documents to be withheld from the public

3.3. The Monitoring Officer will also inform the Member that if, at the meeting of the Standards Committee, s/he seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Standards Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

3.4. Upon receipt, the Member’s response shall be forwarded to the Investigating Officer, who the Monitoring Officer will invite to comment, on the Member’s response to the issues specified in 3.2 above.

3.5. The Monitoring Officer will also seek the views of the Independent Person on the report and on any action the Independent Person feels should be taken in respect of it.

3.6. Upon receipt of the responses, the Monitoring Officer will discuss the responses of the Member, the Investigating Officer and the Independent Person with the Chair of the Standards Committee.

3.7. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Standards Committee, following advice from the legal adviser, may limit the number of witnesses, if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or else will not provide evidence that will assist the Committee to reach its decision.

3.8. Nothing in this procedure shall limit the Chair of the Standards Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Standards Committee to reach its decision.

3.9. The Chair of the Standards Committee, in consultation with the legal adviser will then:

3.9.1. confirm a date, time and place for the hearing, which must be within three months from the date that the report was completed;

3.9.2. confirm the main facts of the case that are agreed

3.9.3. confirm the main facts that are not agreed

3.9.4. confirm which witnesses will give evidence

3.9.5. outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private and
3.9.6. request the Monitoring Officer to provide this information, with the Agenda, to everyone in the hearing at least one week before the proposed date of the hearing

4. The Standards Committee

4.1. The Standards Committee shall decide, on the balance of probability, whether the grounds of the complaint are upheld. It shall do so by considering the report and, where appropriate, written or oral representations made by the Member, and any additional relevant information from the Investigating Officer or witnesses.

4.2. Each Councillor Standards Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast.

4.3. The meeting of the Standards Committee will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

5. Procedure at the Hearing

5.1. The initial order of business at the meeting shall be as follows:

5.1.1. Quorum for the Standards Committee shall be three

5.1.2. declarations of interest

5.1.3. consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present

5.1.4. introductions

5.1.5. any representation from the Investigating Officer and/or the Member as to reasons why the Standards Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Standards Committee decides that it will not exclude press and public, the Head of Legal Services shall at this point provide copies of the agenda and reports to any members of the press and public who are present.

5.2. The purpose of the hearing is to test the robustness of the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Standards Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Standards
Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

5.3. The Standards Committee may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Investigating Officer and the Member.

5.4. The procedure at the hearing will be as follows, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting.

5.4.1. Examination of report and written representations

The Panel will consider the report together with any written response from the Member to the report. The Committee may require the Investigating Officer to answer questions put to him/her by members regarding the contents of the report.

5.4.2. Oral evidence

If there is any disagreement as to the facts of the case, the Investigating Officer will be invited to make any necessary representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Member, will not be permitted to directly question the Investigating Officer or the witnesses he/she calls. If the Member wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair.

The Member will then be invited to make any necessary representations to support their version of the facts, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Investigating Officer will not be permitted to directly question the Member or the witnesses he/she calls. If they wish to challenge any oral evidence being presented, then these questions must be directed through the Chair.

5.5. Where the Member seeks to dispute any matter in the report which he/she had not given notice of intention to dispute in his/her written statement in response, the Investigating Officer shall draw this to the attention of the Standards Committee. The Standards Committee may then decide:

5.5.1. not to admit such dispute but to proceed to a decision
5.5.2. to admit the dispute, but to invite the Investigating Officer to respond

5.5.3. to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute

5.6. Where appropriate the Investigating Officer will make representations on behalf of the Complainant to the Standards Committee.

5.7. The Standards Committee may adjourn the hearing on one occasion only to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

6. Decision by the Standards Committee

6.1. The Standards Committee will consider in private session which of the following findings to adopt:

6.1.1. that there is no evidence of any failure to comply with the Code of Conduct

6.1.2. that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken

6.1.3. that the Member has failed to comply with the Code of Conduct and that a sanction should be imposed. The available sanctions are:-

6.1.3.1 Issuing a formal censure by the Committee;

6.1.3.2 Recommending to Council the issue of a formal censure by the Council

6.1.3.3 Recommending to Council that access to Council facilities be restricted

6.1.3.4 Recommending to Council that access to Council buildings be restricted

6.1.3.5 Recommending to Council that access to Council Officers be restricted

6.1.3.6 Recommending to Council that the member’s attendance at events on behalf of the Council be restricted

6.1.3.7 Referral of its findings to Council for information
6.1.3.8 Publication of its findings by such means as the Committee thinks fit

6.1.3.9 Recommending to Council that the member be removed from any or all Committees or Sub-Committees (subject to the approval of the member’s Group if applicable)

6.1.3.10 Recommending to Council that the member be removed from being the Chair or vice-chair of any Committees or sub-committees

6.1.3.11 Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities

6.1.3.12 Recommending to Council that the member be removed from all outside appointments to which s/he has been appointed or nominated by the Council

6.1.3.13 Instructing the Monitoring Officer to offer training to the member.

6.2. In deciding what penalty (if any) to set, the Standards Committee will consider all relevant circumstances and must take into account any views expressed by the Independent Person.

6.3. The Standards Committee will then resume the public session and the Chair will announce the decision of the Panel and the reasons for that decision.

6.4. If the matter is a complicated one, where the complaint has a number of aspects, the Standards Committee can decide to consider the evidence and reach a finding on each aspect separately.

6.5. The Standards Committee will then consider in open session whether there are any recommendations which it wishes to make arising from consideration of the allegation.

7. **Notice of findings**

7.1. The Monitoring Officer will make the decision of the Committee available in writing by the end of the working day following the day of the hearing.

7.2. The Monitoring Officer shall also arrange for a summary of the findings to be published as may be directed by the Standards Committee.
7.3. Where the Standards Committee determines that there has not been a breach of the Code of Conduct, the notice specified in paragraph 7.2 shall:

7.3.1. state that the Standards Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding: and

7.3.2. not be published if the Member so requests.

7.4. Where the Standards Committee determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice specified in paragraph 7.2 shall:

7.4.1. state that the Standards Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure

7.4.2. specify the details of the failure; and

7.4.3. give reasons for the decision reached

7.5. Where the Standards Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified in paragraph 7.2 shall:

7.5.1. state that the Standards Committee found that the Member had failed to comply with the Code of Conduct

7.5.2. specify the details of the failure

7.5.3. give reasons for the decision reached; and

7.5.4. specify the sanction imposed

7.6. Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

8. **Confidentiality and disclosure of information**

8.1. Where the Chair of the Standards Committee considers that the report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Standards Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.
8.2. The Hearing will be held in public except for those parts of its proceedings which involve exempt information and during the deliberations of the Standards Committee referred to in Paragraph 6.1.
Annex D – Review of Decisions

1. If a complainant is aggrieved by a decision by the Monitoring Officer to either;
   (a) not investigate a complaint; or
   (b) not refer it to Standards Committee where it has been investigated with a finding of no failure to comply with the Code;
   then the Complainant may request the Monitoring Officer to reconsider his/her decision.

2. The Monitoring Officer will then consult the Independent Person and the Chair of the Standards Committee, and take their views into account, before deciding whether to uphold or vary his/her original decision.

3. If a member is aggrieved by a finding of Standards Committee that they have failed to comply with the Code, or with the sanction imposed, they may request a review by an Independent Person from another local authority.

4. The Monitoring Officer will supply such Independent Person with a copy of the report and of the full decision of the Standards Committee in order that they may carry out their review.

5. If the Independent Person comes to a different view from the original finding or sanction, the Standards Committee will review its original decision, taking those views into account.
Annex E – Media Protocol

1. Introduction

1.1 This Protocol guides all Members of the Council when dealing with the media in respect of complaints against Members and their investigations.

1.2 Individual Members should not initiate press comment on complaints and investigations. The only exceptions are comments made by:

1.2.1 a Member against whom the complaint has been made; or

1.2.2 a Member who has made a complaint

either of whom may respond factually when approached by the media.

1.3 The aim of the Protocol is to ensure a consistent approach.

2. Key Principles for dealing with the media

2.1 All press releases about the Committee’s business should only be issued through the Council’s communications team (“the Press Office”) in accordance with the procedure set out below.

2.2 All press releases must be authorised by the Monitoring Officer in consultation with the Committee Chair.

2.3 The appropriate spokesperson to be quoted in any press release will normally be the Committee Chair who will comment on behalf of all Members of the Committee or the Monitoring Officer.

2.4 Each situation should be treated according to the particular circumstances (e.g. potential criminal proceedings could influence the statements or releases). In this context, the Press Office should liaise with the Monitoring Officer to ensure that statements issued could not be seen as prejudicing potential criminal or other proceedings. Any statement issued by the Council must be fair and accurate.

2.5 Should any Members of the Committee be approached directly by the media with enquiries relating to Committee business, they should refer them to the Press Office to ensure a consistent response. The Committee Member should endeavour to forewarn the Press Office that they have received such an approach so that the enquiry can be anticipated.

3. Nature of media comment

3.1 To ensure a fair and consistent treatment of all cases and a properly controlled release of information, the Committee shall adopt the following practice:
3.1.1 Complaint upheld

Where a complaint is upheld and action taken, a press release should be issued as a matter of course. This should be issued to the local media as appropriate. Any press release will also be published on the Council’s website. The press release should include the following information:

- The nature of the complaint
- The outcome
- The Committee’s reasons for reaching its decision
- The nature of the action taken (e.g. nature of censure)

3.1.2 Complaint not upheld

Where the Committee determines that there is no case to answer and no action is taken, no release should be issued unless the Member concerned specifically requests it. This may happen, for example, where there has already been press coverage or speculation on a particular investigation and there is a need to clarify the position. Where a press release is not issued, it is possible that media enquiries could still be received and such enquiries should be responded to so far as considered necessary.

3.1.3 Ongoing investigations

The Council should only respond as necessary to media enquiries relating to any ongoing investigation. All media enquiries should be referred to the Press Office. The Press Office will limit their response to confirming only the following details:

- That a complaint has been received
- The nature of the complaint
- That an investigation is underway
- The likely timetable to be followed

At this stage, the name of the individual subject to the investigation should not be released. However the Member who is the subject of the complaint and the Monitoring Officer and the Committee Chair should be informed of the media interest shown and the response given.

4. Monitoring of this Protocol

4.1 The operation of this protocol shall be regularly monitored by the Monitoring Officer and the Press Office.
Employees Code of Conduct

SECTION 3
EMPLOYEES’ CODE OF CONDUCT

(References to National Conditions of Service have been replaced by the National Joint Council for Local Government Services National Agreement July 1997 and subsequent amendments)

1. INTRODUCTION

1.1. The statutory responsibilities placed upon employees in Local Government are limited and are contained in Section 117 of the Local Government Act 1972. Appendix A attached to this procedure outlines such responsibilities.

1.2. Local Government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to other employees and Members with impartiality. Employees are obliged, through agreed procedures and without fear of recrimination to bring to the attention of the appropriate level of management, any deficiency or irregularity in the provision of service. Employees must report any impropriety or breach of procedure in line with the Council’s Financial Procedure Rules.

1.3. The purpose of this procedure is to make all employees aware of the difficulties which present themselves in the Local Government environment and to offer guidance.

1.4. This procedure sets out the minimum standards which apply to Local Government employees. It aims to maintain and improve standards of conduct. Its main purpose is to protect employees from any misunderstanding or criticism and maintain the reputation of the Council.

1.5. It applies to all employees. Inevitably the procedure will affect some employee groups more than others. It is the responsibility of every employee to see how the procedure affects them and whether or not they need to act in response to it.

1.6. The procedure is concerned with the standards of conduct expected of employees in relation to ten main areas for which it is not easy to lay down guidelines covering every eventuality. These are:

1.6.1. Gifts and Hospitality
1.6.2. Political Neutrality
1.6.3. Relationships
1.6.4. Conflicts of Interest
1.6.5. Use of Confidential Information
1.6.6. Separation of Roles during Tendering
1.6.7. Corruption
1.6.8. Use of Financial Resources and Other Assets
1.6.9. Sponsorship
1.6.10. Behavior at Work and Outside Work
1.7. Whilst these areas are somewhat different to the usual range of matters which are considered under the Council’s Disciplinary Procedure, it should be noted that breaches of this procedure may result in action being taken against the employee in accordance with the Disciplinary Procedure. This might apply even when the particular incident which led to the questioning of conduct or integrity occurred completely outside the work environment. This procedure aims to set out minimum guidelines for Local Government employees which will help to maintain and improve standards, protecting employees from misunderstanding or unfair criticism.

1.8. This procedure is intended to assist employees to reach the “informed and correct” decision in any particular case. If in doubt employees should always seek the advice of more senior Corporate Group managers before committing themselves to any particular course of action. The Service Lead for Employee Support & Development, who may consult with other appropriate officers, can be contacted for advice through appropriate Corporate Group managers.

2. GIFTS AND HOSPITALITY

2.1. It would be wrong to work in an atmosphere where Council employees refused all invitations for social involvement with persons or bodies who may have had or may seek to have in the future, business dealings with the Council. Social contacts can be helpful. At the same time it is very easy for such involvement to be misconstrued as providing an opportunity to bring about undue influence.

2.2. Employees must not seek for themselves, their relatives or friends any gift, favour or hospitality.

2.3. Gifts

2.3.1. This paragraph, and paragraphs 2.3.2. and 2.3.3. below, are particularly concerned with the subject of gifts from organisations or persons who are providing, may provide or who seek to provide, work, goods or services to the Council, e.g. developers, building contractors, suppliers of goods or equipment and firms able to provide professional or commercial services to the Council. With the exceptions listed below, an employee should refuse any personal gift offered to him or her, or to a member of his or her family by any person or body who has, or may seek dealings with the Council.

The offer should be reported to the employee’s Corporate Director and, if the offer is made to a Corporate Director, to the Chief Executive. A record of any such offers must be maintained in each Corporate Group in a Register of Gifts and Hospitality. (see paragraph 2.4.4)

2.3.2. Exceptions
2.3.2.1. A modest gift of a promotional nature given to a wide range of people and not uniquely to one employee. These gifts are often given at Christmas time and include calendars, diaries, desk sets, pens, flow charts, tape measures and other articles of relatively low value for use in the office. These items will usually feature the company logo, donors name or trade mark. Such gifts need not be recorded.

2.3.2.2. Gifts of a promotional nature on the conclusion of any courtesy visit to a factory or firm of a sort normally given and where a refusal is likely to offend. This equally applies to promotional gifts obtained or distributed at Conferences. Obviously, it is wise to err on the side of caution; an expensive gift should raise a question even if it otherwise falls within one of the above categories. If in doubt, the advice of a more senior officer should be sought. In general terms organisations/companies dealing with the Council should be discouraged from making offers of gifts wherever possible.

2.3.2.3. Some employees may represent the Council in an official capacity in foreign countries. Such employees may be presented with mementoes of their visit and need to be very careful not to offend their hosts by refusing to accept such gifts. Items of intrinsic value should be declared in the Register of Gifts and Hospitality and consideration given to donating such gifts to a charity or to displaying them in the office. Other items of small value need not be recorded as for items in 2.3.2.1. above.

2.3.3. Christmas is a particularly difficult time. The giving of gifts in a commercial environment and in some parts of Local Government where direct services are provided, is common practice at this time and refusal of reasonable gifts can cause offence or impair future working relationships. The general rule must always be to seek to discourage such gifts. Gifts should be politely refused. If this is not possible, acceptance should be reported to the employee’s Corporate Director who will make a decision as to whether the gift should be returned with the appropriate explanation. If the gift is accepted by a Corporate Director, the matter should be brought to the attention of the Chief Executive.

2.3.4. Paragraphs 2.3.5. to 2.3.6. are specifically concerned with the subject of gifts which may be offered by individuals to those employees who have a caring role or who provide a “direct personal service” role to such individuals, e.g. Residential Care Staff, Domiciliary Care Staff. It is not unusual for residents of old people’s homes or old people receiving any form of domiciliary service to wish to express their thanks and gratitude to Care Staff by offering gifts, money or even by making the employee a beneficiary in their Will.
2.3.5. It is most important in such situations to protect the employee from any suggestion of improper motives or conduct. This is obviously an area however, which needs to be handled with great tact and sensitivity to avoid giving needless offence to the individual. The general principle must be that gifts or money of any denomination should be politely refused with a proper explanation given as to the reason why.

2.3.6. Clients should be tactfully discouraged, if they suggest or express an intention to include an employee of the Council as a beneficiary in their Will. On being made aware that he or she has been made a beneficiary in such a Will, the employee should immediately report the matter to their line manager who should consult with the Monitoring Officer.

2.4. **Hospitality**

2.4.1. Hospitality is sometimes offered to representatives of the Council and is accepted as official, e.g. civic receptions, openings, the launching of new initiatives. In these cases, only appropriate very senior managers of the Council should attend. All attendances must be reported to the Chief Executive and recorded appropriately. Where hospitality is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. It is important to avoid any suggestion of improper influence. The question is one of judgement.

2.4.2. Employees should also be careful in attending exhibitions, seminars, visiting manufacturers, participating in sporting functions etc. There is an increasing trend towards linking visits with manufacturers to a major sporting event, show, concert, etc. Such devices are clearly an attempt to legitimise offers of hospitality in the guise of business activities.

2.4.3. In general terms, it will often be more acceptable to join in hospitality offered to a group, than to accept something unique to an individual. When a particular person or body has a matter currently at issue with the Council, e.g. an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality be refused even if in normal times they would be regarded as acceptable.

2.4.4. All offers of hospitality should be reported to the employee’s Corporate Director or authorised senior manager concerned, or if the offer is made to a Corporate Director, to the Chief Executive. A record of any such offers must be maintained in each department in a Register of Gifts and Hospitality. Acceptance of hospitality by any employee requires the approval of the relevant Corporate Director/Head of Service. The form of this Book will be determined by the Chief Executive. (See Appendix B)

2.5. The following check-list of questions should help an employee to decide whether a gift or an offer of hospitality should be accepted or tactfully rejected.
2.5.1. Is the donor, or event, significant in the community or the Borough? If so, is the refusal likely to cause offence?

2.5.2. What is the motivation behind the invitation?

2.5.3. Will acceptance of the invitation be, in any way, inappropriate or place an individual under pressure in relation to any current or future issue involving the Council?

2.5.4. Can the decision be justified to the Council, press and public?

2.5.5. Is the extent of the hospitality or the nature of the gift reasonable and appropriate?

2.5.6. How will the individual respond to the hospitality?

3. POLITICAL NEUTRALITY

3.1. Employees serve the Council as a whole. It follows they must serve all Elected Members not just Members of any controlling group, and must ensure that the individual rights of all Elected Members are respected.

3.2. Employees, whether or not they are in posts which are politically restricted, must adhere to all policies of the Council and must not allow their own personal or political opinions to interfere with their work. Those employed in politically restricted posts are subject to greater restrictions. It is the responsibility of every employee to clarify whether or not they hold a politically restricted post.

3.3. Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the advice in paragraph 3.1.

4. RELATIONSHIPS

4.1. Elected Members

Employees are responsible to the Council through senior managers. For some, their job is to give advice to Elected Members and the Council as a whole. All are there to carry out the Council's work. Mutual respect between employees and Elected Members is essential to good local government. Close personal familiarity between employees and individual Elected Members outside of work can damage the relationship and prove embarrassing to other employees and Members and should therefore be avoided.

4.2. The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all
groups and individuals within that community as defined by the policies of the Council.

4.3. **Contractors**

All relationships with contractors or potential contractors should be made known to the appropriate manager. To do otherwise contravenes the law. Orders and contracts must be awarded in accordance with the Council's Financial Procedure Rules and Procurement Procedure Rules. No favouritism should be shown to businesses run for example by friends, partners or relatives. No part of the community should be discriminated against.

5. **APPOINTMENT/OTHER EMPLOYMENT MATTERS**

5.1. All Local Government employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with as well as those required by law. All residents in the local community, customers and other employees have the right to be treated with fairness and equity.

5.2. Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an appointment to be made which was based on anything other than an assessment of the ability of the candidate. In order to avoid any possible allegation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a personal relationship outside work with the applicant.

5.3. Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

6. **CONFLICTS OF INTEREST**

6.1. **Conditions of Service**

Outside of normal working hours an employee is entitled to conduct themselves as they see fit. However they should not ignore the role the Council plays in the local community and any actions/activities should not put the individual employee in a position where work responsibilities and private interests conflict. The Council should not attempt to preclude employees from undertaking additional employment, but any such employment must not in the view of the Council, conflict with or react detrimentally to its interests, or in any way weaken public confidence in the conduct of the Authority's business.

6.1.1. As employer, the Council has to be satisfied that conflicts of interest do not occur. Failure by an employee to notify the Council of a possible conflict of interest may result in disciplinary action being taken against the employee concerned, including, in certain circumstances, the possibility of dismissal. The onus of complying with this is placed upon each employee.
6.1.2. This does not mean, of course, that every outside interest has to be declared. It is only where those interests might conflict with the work an employee does for the Council and it is not always easy to define this. A complete list cannot be given. They may or may not involve remuneration, fee or reward. They can occur through other employment such as plan drawing; from business interests, such as the purchase and sale of land; or by appointment to a voluntary or other body, such as acting as treasurer to an organisation which is grant aided by the Council.

6.1.3. Membership of any organisation not open to the public without formal membership and with a commitment to allegiance, or which has secrecy about rules, membership or conduct should also be declared. If you are in doubt about any particular activity, it is best to declare it.

6.1.4. The requirement to seek approval for outside employment does not apply to appointments as Elected Members of Local Authorities, Magistrates or Governing Bodies of Schools. However, it is a condition of the granting of any leave of absence to an employee in respect of these matters that the employee’s Corporate Director or appropriate body concerned e.g. Governors, is satisfied that the work of the Directorate/school will not suffer due to the absence of the employee on any particular occasion. Such applications should be discussed with the appropriate Corporate Director/Head of Service prior to giving an undertaking, to avoid unnecessary embarrassment.

6.1.5. Employees on spinal column 29 or above are required to devote their whole-time service to the work of the Council and not to take any further employment opportunities or engage in any other business without the express consent of the Council. Those graded spinal column point 29 or above need specific permission from the Council to undertake outside work even if in their view the work could not possibly conflict with their duty as an employee of the Council.

6.1.6. The Council has granted a general approval to the involvement of employees on spinal column point 29 or above in work connected with the registration of electors and the organisation and running of local, Parliamentary and European elections.

6.1.7. However, an addendum was added to the Local Conditions of Service approved by the Staff Joint Consultative Committee and Personnel Sub-Committee on the 28th June 1979, and further approved by the Council on the 25th July 1979. This addendum states:

Employees at all levels must avoid getting into a position of conflict by undertaking outside work. It is considered that conflict arises when an employee is to be paid by a member of the public or any outside organisation or body for work which is in any way connected with the scope of his official duties, or with
the exercise by his employing authority of one or more of its functions. Such work should not be accepted.

6.1.8. Therefore, in practice, restrictions which apply to employees on spinal column point 29 or above apply equally to other employee groups where the work is in any way connected to the scope of their duties.

6.1.9. Although an employee's "off-duty" hours are their personal concern, extreme care must be taken to ensure that personal interests do not take preference over, or conflict with those of the Council. This is particularly relevant when an employee is considering accepting additional employment outside of the work environment. The Council does not wish to preclude employees from undertaking additional employment, but if there is a potential conflict of interest, the employee should inform their Corporate Director as to the nature of the work. Approval to undertake additional employment will be considered by the Corporate Director in consultation with the Service Lead, Employee Support & Development.

6.1.10. Council facilities, equipment, or documentation must not be used in the undertaking of any additional employment, and if any such unauthorised use is discovered then the Council will take the appropriate disciplinary action.

6.2. Declaring a Conflict of Interest

6.2.1. A Voluntary Register of Officers' Interests is maintained by the Monitoring Officer under Paragraph 10 of the Scheme of Delegations in Part C of this Constitution. Section 117 of the Local Government Act 1972 provides a statutory obligation on officers to disclose any interest in a contract involving the Council. Registration of interests protects an officer against allegations of non-disclosure. The content of the Register has been extended to cover other matters referred to in this Guidance (e.g. membership of clubs and societies) and all Corporate Directors have a supply of the Form to be used for registration which is also on the Council's Intranet.

6.2.2. The contents of individual forms will be considered by the Monitoring Officer and, where appropriate, a report will be submitted to the Human Resources Committee for consideration. No report will be submitted to the Human Resources Committee until the employee has been notified.

6.2.3. Where employees wish or are asked to undertake lectures or talks during working hours, or wish to carry out duties as an examiner or invigilator for professional bodies during working hours, approval must be sought from the relevant Corporate Director.

6.2.4. Employees in certain Corporate Groups can occasionally be placed in a position where, within the normal scope of their duties, they may be
faced with the problem of making official professional decisions about matters in which they have a personal involvement. Examples of such employees and Corporate Groups are Planning and Building Surveying employees within the Regeneration & Resources Directorate; Domiciliary Care Organisers in the Neighbourhood Services Directorate. The following general guidelines are issued for the assistance of employees.

6.2.5. In general terms employees must declare an interest if they have assisted in the completion of a job application form and are subsequently involved in the recruitment process for that post. Specifically, employees should not involve themselves or assist in the preparation and/or submission of applications to South Tyneside M.B.C. for planning permission, building regulations approval, assessment of need for domiciliary care etc., except for those applications relating to their own property or themselves or those of their immediate family i.e. sons/daughters/spouse/parents. It is essential that under these circumstances, the individual should not take any part in the processing/vetting and advising on such applications. If in doubt, advice from senior management should be sought.

6.2.6. This does not, of course, mean that employees should not assist members of the public with applications or discuss applications informally with them, in the normal course of their duties.

6.2.7. Employees preparing or submitting an application in accordance with 6.2.5. above, or having a direct, personal (not necessarily pecuniary) interest in an application by virtue of that application being submitted by or on behalf of a relative, should inform their Corporate Director in writing of that interest. In such cases the employee shall not take any part in the processing or determination of the application.

6.2.8. The decision whether or not to declare an interest must, of course, be left to the discretion and good sense of the individual employee. However, a good general guide will be for employees to ask themselves whether their judgement in regard to an application may or might be said to be impaired in any way by their relationship to, or friendship with, the applicant or that their employment in the Corporate Group might be said to influence the determination of the application.

6.2.9. Employees who hold membership of organisations, which by their nature could give rise to accusations of unfair preference in the awarding of contracts, job appointments or promotions should exercise caution at all times.

7. USE OF CONFIDENTIAL INFORMATION

7.1. The law requires that certain types of information must be available to Members, auditors, Government departments, service users and the public. Employees must be aware of the types of information which are confidential
and which are not and act accordingly. The public is entitled to demand of a Local Government officer conduct of the highest standard and public confidence in his or her integrity would be shaken were the least suspicion to arise that he or she could in any way be influenced by improper motives. No officer shall communicate to the public proceedings of any committee meeting, etc, nor the contents of any document relating to the Council unless required by law or expressly authorised to do so.

7.2. Employees should not use any confidential information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from an Elected Member or a fellow employee which is personal to that person, should not be divulged by the employee to anyone else without the prior approval of that person, unless it is reasonable for the employee to do so in the normal course of the duties of his/her post.

7.3. The Government has issued Circulars and Guidelines covering the confidentiality and security of personal information particularly in respect of employees directly involved in caring for clients, interviewing and gathering information on behalf of the Council and processing that information.

7.4. Confidentiality is particularly important in those services which are subject to competitive tendering. Disclosure of information to the Council's potential competitors, either deliberately or inadvertently could have serious implications for the Council unless it is reasonable for the employee to do so in the course of their normal duties.

7.5. Nothing is more damaging to the relationship between employees and Members of the Council and between the Council and the public than ill considered discussions about the Council's business.

7.6. Some Corporate Groups deal extensively in matters of a confidential and personal kind. Employees need to be particularly circumspect in what is said outside the Corporate Group about matters which are going on inside it.

7.7. In all Corporate Groups, the following guidelines should be adhered to:

7.7.1. Official documents, letters, memoranda, committee reports, agenda and minutes, files, plans, etc., should only be taken away from the office in connection with official Council business or where the employee wishes to carry out work away from the office. Documents marked confidential should only be so removed where this has been previously agreed with an employees' Section Head.

7.7.2. It is important that the rules governing communication of Council information to the public are clear. The "public" must also be taken to read the "media" and employee's attention is drawn to the need for the Council's Press Office to be the principal point of contact with the media. However, there may be circumstances where of necessity, senior managers have to communicate with the media. In such
situations, the Press Office must be informed and the contents of the discussion outlined.

7.7.3. Employees should not communicate confidential information or the contents of any documents to other employees of the Council who do not have a legitimate work involvement with the subject to which the information or document relates.

7.8. Employees handling computer information should be aware of the implications of the Data Protection Act 1998. Personal data (i.e. consisting of information about a living individual from which that individual can be identified) recorded in a form in which they can be processed by equipment operating automatically (as defined in the Act), must not be disclosed to persons or organisations which are not registered as receivers of such information. Contravention of this Act can result in the Information Commissioner taking proceedings for prosecution of offences under the Act.

8. ROLES DURING TENDERING

8.1. Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised person, group or organisation unless it is reasonable for the employee to do so in the course of their normal duties. This duty of confidentiality extends to ex-employees.

8.2. Employees should ensure that no special favour is shown to current or former employees or their partners, immediate family, associates or any other person in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

9. CORRUPTION

9.1. Employees must be aware that it is a criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. The employee may be required to justify any such reward.

10. USE OF FINANCIAL RESOURCES AND OTHER ASSETS

10.1. In addition, employees must ensure that they use public funds and other assets entrusted to them in a responsible and lawful manner, ensuring value for money to the local community and avoiding legal challenge to the Council.

11. INDUCEMENTS TO PURCHASE

11.1. Certain employees are in a position to place orders for goods and services on a regular basis. Suppliers occasionally offer relatively minor benefits which can incrementally amount to something of value over a long period of time. Employees should not take personal advantage of such offers; nor should
they switch suppliers because of such offers. All orders must be placed with suppliers in accordance with the Financial Procedure Rules of the Council.

12. SPONSORSHIP - GIVING AND RECEIVING

12.1. Where an outside private organisation wishes to sponsor or is sought to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

12.2. Where the Council wishes to sponsor an event or service neither an employee nor any partner or relative should unreasonably benefit from such sponsorship in a direct or indirect way without there being full disclosure to an appropriate manager of any such benefit. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

13. BEHAVIOUR AT WORK AND OUTSIDE WORK

13.1. Local Government employees are expected to conduct themselves to the highest standard both during and outside of working hours. At no time should the actions of an employee bring the Council's reputation into disrepute, or weaken the public's confidence in an employee's integrity. Employees should also have an awareness of the effect their actions, behaviour, or remarks may have on colleagues. A lack of sensitivity may result in allegations of misconduct if complaints are received.

13.2. Employees should also maintain a high degree of confidentiality and must not use any knowledge or information gained through their employment with the Council to further either their own interests or those of a third party unless, in the case of the latter, this is compatible with the Council's interest. Employees should accept that the Council owns intellectual property or copyright created during their employment.

13.3. With regard to an employee's "off duty" conduct individuals should be aware that criminal offences, committed outside of the work environment, where the nature of the offence is such that the confidence of the Council, or the public, in the integrity and character of the employee is affected, may lead to disciplinary action being taken, up to and including dismissal.

13.4. If an offence has been committed, the Council will consider whether the offence has any relevance to the suitability or ability of the employee to continue at work. In some cases the impact on employment will be very direct and the Council will have to take action of some kind. In considering what action to take in respect of offences committed outside of work, the Council will have regard to the reaction of other employees towards the offence and to whether the employee's conduct undermines the trust and confidence of the
employer, its clients, those in the professional care of the employee, or the public.

**APPENDIX "A"**

1. It is worth stating at the outset that the statutory responsibilities placed on an officer are limited.

2. They are contained in Section 117 of the Local Government Act 1972. Briefly they can be summarised as follows:

   If an officer knows that a contract in which he or she has a pecuniary interest, direct or indirect, is before the Council, he or she must give notice in writing of his or her interest to the Council. In this context, a pecuniary interest includes that of a partner with whom the officer is living. Failure to comply with this requirement is a criminal offence. Section 117 also makes it an offence under guise of his or her office or employment to accept any fee or reward whatsoever other than his or her proper remuneration.

3. It must also be borne in mind that under the Prevention of Corruption Acts 1906-1916, if it is proved that any money, gift or other consideration has been paid or given to or received by an employee from a person holding or seeking to obtain a contract from the authority, it shall be deemed to have been paid or given or received corruptly as an inducement or reward unless the contrary is proved.

4. The Local Government and Housing Act 1989 identified Politically Restricted Posts. This has had an impact upon Paragraph 70(c) of National Joint Council Scheme of Conditions of Service.

5. Section 114 of the Local Government Finance Act 1988, includes a related requirement for the Chief Finance Officer to report cases where officers act unlawfully to the detriment of the Council.

6. Section 82 of the Local Government Act 2000 provides for the Secretary of State to issue, by Order, a Code of Conduct for local government employees which will be deemed to be incorporated in the terms and conditions of employment of all such employees (not issued yet).
<table>
<thead>
<tr>
<th>Date of Offer</th>
<th>Host/Company/Individual Making Offer</th>
<th>Hospitality/Gift Offered and to Whom (4)</th>
<th>Purpose/Event</th>
<th>Whether Accepted/Declined</th>
<th>Signed</th>
<th>Date</th>
<th>Authorised by</th>
</tr>
</thead>
</table>

Notes: 1. In accordance with the Council's Code of Conduct, all offers of gifts, hospitality or other such benefits should be recorded above and retained on the appropriate file held by the Chief Officer or Head of Service.

2. This form should be completed preferably before or immediately after any offer is made.

3. This confidential record will be retained on file and may be inspected by authorised representatives of the Director of Corporate Services.

4. This is intended to ascertain whether offered only to one person, group or generally available.
Protocol for Member/Officer Relations

SECTION 4
PROTOCOL ON MEMBER/OFFICER RELATIONS

1. Role and Purpose

1.1. The purpose of this protocol is to guide members and officers in their relations with each other and outline some of the appropriate conventions within the Council. It is clear that such a document cannot seek to be comprehensive or prescriptive and the intention is to offer guidance on some of the issues which commonly arise. It is hoped that the approach adopted to these issues will serve as a guide to dealing with other issues.

2. Definition of the Role of Officers and Members

2.1. This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

2.2. The key role of officers is to implement the policies determined by Members. Officers serve the Council as a whole and must ensure that the individual rights of all Members (including members of all political groups and independent members) are respected. Policies of the Council are determined either by a decision of the whole Council or of the Cabinet in accordance with its powers as provided in the Constitution.

2.3. Relevant provisions in the Code of Conduct in the context of member/officer relationships include promotion of equality, treating others with respect and not compromising the impartiality of those who work for or on behalf of the Council.

2.4. However it is acknowledged that some close relationships will inevitably develop. It is important that they be openly declared and where possible Members and Officers who have close personal relationships should avoid working relationships where they would come into regular contact on projects and in day to day business of the Council.

3. Officer Advice to Party Groups

3.1. There is now statutory recognition for party groups and it is common for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups, provided they maintain a stance which is politically impartial.

3.2. Support may include a range of activities including briefings for members related to their roles e.g. chairperson or spokesperson.
Officers should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups; not solely the majority group. It is important that the political neutrality of Officers is preserved and that group confidentiality is maintained by Officers.

3.3. Usually only the Chief Executive, Corporate Directors and Heads of Service may be asked to attend Group meetings and will usually be excluded after making a presentation. It is likely that these Officers will be required to attend meetings of Members of the majority group from time to time and possibly other groups.

4. **Support Services for Members**

4.1. The role of Officers is only to assist Members in discharging their role as Members of the Council for Council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. stationery and photocopying) may only be used for Council business.

5. **Relationships between Officers and the Leadership/Cabinet**

5.1. The Chief Executive, Corporate Directors, Heads of Service and other appropriate senior officers may be asked or consider it appropriate to brief the Leader or Deputy Leader in accordance with their responsibilities as provided in the Constitution. Briefings of Cabinet members either individually or collectively will also take place regularly in accordance with respective responsibilities in the Constitution and in accordance with statutory provisions.

6. **Members’ Access to Information and Council Documents**

6.1. Members should not put pressure on officers to release information and documents to which they are not entitled to have access. Reference should be made to the provisions of the Code of Conduct and the statutory provisions relating to members access to documents.

6.2. The common law right of members is based on the principle that any member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.

6.3. The exercise of this common law right depends therefore upon the member’s ability to demonstrate that they have the necessary “need to know”. In this respect a member 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”. This question must initially be determined by the particular
Corporate Director whose Corporate Group holds the document in question (with advice from the Monitoring Officer).

6.4. In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee or a ward Councillor fulfilling constituency duties) a member’s “need to know” will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.

7. **Operation of the Overview and Scrutiny Committees**

7.1. The Overview and Scrutiny Committees may require Officers and Members to attend and provide any information required to answer questions (other than those which he or she would be entitled to refuse to answer in a court of law). The Council may consider that this requirement should only apply to the Chief Executive, Corporate Directors, Heads of Service, Senior Managers and not more junior staff (except with their agreement).

7.2. Members of the Overview and Scrutiny Committees must treat officers and independent witnesses with respect and should explain the role and operation of the Committee, particularly in relation to future policy development, before asking questions of witnesses. Members should adopt an inquisitorial approach to questioning and may be firm and assertive, but should not be adversarial, rude or aggressive.

8. **Officer/Chairperson Relationship**

8.1. Officers and Chairpersons of Committees will inevitably need to work closely together. However 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 with other members and other party groups, nor to undermine public trust and confidence in the Council.

8.2. If a report is written in an Officer’s name, it remains the Officer’s report and, even if the Chairperson is unhappy with its contents, it should not be amended other than with the consent of the Officer. Where the Chairperson wishes to suggest an alternative course of action to that proposed by the officer, then in exceptional circumstances, he/she should write his or her own report in addition to the report submitted by the Officer but should not use undue pressure to persuade the Corporate Director to withdraw or amend the original Officer report. Members should not interfere with the day to day work of Corporate Directors and their staff.

8.3. In relation to action between meetings, it is important to remember that the law only allows for decisions relating to the discharge of any of the Council’s functions to be taken by a Committee, a Sub-Committee or
an officer since no single member has been given delegated powers under the Council’s executive arrangements.

8.4. Finally, it must be remembered that officers within a Corporate Group are accountable to their Corporate Director and that whilst officers should always seek to assist a Chairperson (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Constitution, the Chief Executive or the appropriate Corporate Director.

9. **Involvement of Ward Councillors**

9.1. Ward Councillors should be kept informed and consulted on relevant matters affecting their ward, i.e. on planning, licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward Councillor will normally be invited to attend and could normally be expected to be consulted on any form of consultative exercise on local issues.

9.2. So far as decision making is concerned, however, Members remain accountable to the whole electorate of the Borough and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole, including those members of the public who did not vote for them.

9.3. Ward members will treat officers with respect in accordance with the Members Code of Conduct and will not seek to put undue pressure on relatively junior officers with whom they may have contact in their ward duties or at meetings of Community Area Forums.

10. **Correspondence**

10.1. Where an officer copies correspondence addressed from one Member to another, it should be made clear to the original Member and should not be sent to any member of another political group without the Member’s consent.

10.2. In addition, official letters from the Council should normally be sent out in the name of the appropriate officer rather than a Member. However, it may be appropriate in certain circumstances (e.g. representations to a Government Minister), but this would be the exception rather than the norm. Letters which create obligations or give instructions should not be sent out in the name of a Member.

11. **Officer Complaints about Members**

11.1. Contact should be made in the first instance with the Chief Executive or the Monitoring Officer where member conduct is considered inappropriate. The Monitoring Officer can advise on whether a written complaint can be made to the Standards Board for England or under the Council’s Whistleblowing Policy. The Chief Executive and/or
Monitoring Officer will liaise with the Leader of the Member’s political group and the Member(s) concerned to establish whether the matter can be resolved locally, particularly where the conduct appears to fall short of a breach of the Code of Conduct.

12. **Monitoring the Performance of Officers**

12.1. Members should avoid making personal attacks on Officers and, in particular, avoid undermining respect for Officers in Council and Committee meetings or public forums.

13. **Delegation to Officers**

13.1. Members should be clear that the final decision rests with the Officer rather than the Member and that the Officer has a duty to the whole Council rather than to an individual Member.

14. **Press Releases**

14.1. Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibit Councils from publishing any material which appears to be designed to affect public support for a political party. Publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole. Officers will advise and inform Members accordingly in this connection.

15. **Ceremonial Events**

15.1. Ceremonial events would normally be attended by the Mayor or the Deputy Mayor or the Chief Executive of the Council unless specifically related to initiatives led by a particular Cabinet Member or Committee, in which case the Chairperson or Vice-Chairperson of that Committee or the Leader or appropriate Cabinet members would attend.

15.2. In addition, local members should be informed and, where possible and appropriate, invited to participate.

16. **Non-Adherence to the Protocol**

16.1. Breaches of this protocol by Officers should be dealt with under the Council’s disciplinary procedures. Breaches by Members may be referred to the relevant political Group Leader for consideration and should be reported to the Chief Executive and the Monitoring Officer and may be reported to the Standards Committee or dealt with as breaches of the Code of Conduct if appropriate. Breaches by co-opted members will be similarly considered under the Code of Conduct.
Planning Protocols

SECTION 5
PLANNING PROTOCOLS
Code of Conduct for Members and Officers
Dealing with Planning Matters

1 Introduction

1.1 This Code of Conduct supplements advice contained in the Members Code of Conduct contained in Section 2 of this Part of the Constitution and the Royal Town Planning Institute, Code of Professional Conduct. It provides guidance on applying the Code of Conduct and associated probity issues to planning matters. It also provides advice on the operation of the planning system in the Borough. The protocol is concerned not only with individual probity but with the integrity of the planning system, including the conduct of Members and Officers in its processes and procedures.

1.2 The protocol applies to all Members and Officers who become involved in operating the planning system. It is not therefore restricted to professional town planners and Planning Committee members.

2 The Standards of Service that we will achieve

2.1 The Council is committed to providing a planning service of the highest standard. The Service will adhere to the principles of fairness, impartiality, openness and accountability.

2.2 The Council will make its planning decisions in an open and transparent manner, without discrimination, based on sound judgement, and for justifiable reasons.

2.3 All planning decisions will be taken in the interests of the whole Borough.

2.4 Members and Officers of the Council will operate in accordance with this Code of Conduct for planning matters.

2.5 A legal officer will attend all Planning Committee meetings.

3 General Role and Conduct of Members and Officers

3.1 Members and Officers have different but complementary roles. Officers advise Members and the Council, and carry out the Council’s work. They are employed by the Council and it follows that instructions can only be given to Officers through a decision of the Council, its Cabinet or a Committee. A successful relationship between Members and Officers can only be based on mutual trust and understanding of each others positions. This relationship and trust must never be abused or compromised. With this in mind Members must not put undue pressure on Officers or seek to influence their professional judgment of an
application or enforcement matter and should comply and act in accordance with the Protocol on Member / Officer Relations.

3.2 Members will represent the views and interest of the community as a whole, and will not favour individuals, groups or localities when making planning decisions. The consideration of proposals for new development must be balanced against the wider public interest, and decisions will be taken on the basis of sound and defensible planning grounds.

3.3 No whip shall be applied in relation to planning decisions.

3.4 No Member of the Council will put pressure on Officers for a particular recommendation.

3.5 In coming to a decision on a planning matter Members will:-

3.5.1 Act impartially and honestly;
3.5.2 Approach each application with an open mind;
3.5.3 Determine each application on its own merits in accordance with the law;
3.5.5 Ensure the reasons for their decision are accurately recorded in writing.

3.6 Officers responsible for advising Members will act impartially and in strict accordance with the Royal Town Planning Institute Code of Professional Conduct or other applicable professional code.

3.7 Officers in their role of advising Members shall provide:-

3.7.1 Impartial and professional advice;
3.7.2 Consistency of interpretation of planning policy;
3.7.3 Complete written reports covering all necessary information for a decision to be made.

4 Gifts and Hospitality

4.1 All Members and Officers who are offered gifts or hospitality in the course of their duties from people with an interest in a planning proposal will, wherever possible decline. If receipt of hospitality is unavoidable, Officers and Members will ensure that the minimal level is accepted and will declare the matter in the appropriate register of hospitality. The Members Code of Conduct requires all gifts and hospitality over £25 to be declared in writing.
5 Training

5.1 Given the nature of the role of Members in determining planning applications it is strongly recommended that all Members appointed to the Planning Committee for the first time receive initial training at the first available opportunity. Annual refresher training will also be arranged for Members. Given the complexity of the legislation Members are strongly advised to attend. Group leaders will be notified annually about attendance and training.

6 Declaration of Interests

6.1 In accordance with the Members Code of Conduct, Members must declare any Personal Interest / Disclosable Pecuniary Interest (as defined in the Code of Conduct) held by them or their partner, where it is relevant to a planning matter being considered. Where any such interest is declared the Member must not participate (or further participate) in any discussion of it, or participate in any vote on it. The Member should leave the chamber whilst the matter is considered and voted upon.

6.2 Members must also bear in mind the potential for their interests to affect the decisions of the Planning Committee, even if such interests do not amount to a Personal Interest / Disclosable Pecuniary Interest under the Code of Conduct. If a Member’s interest in any matter would lead them to predetermine a decision, or give rise to an appearance of bias, it will not be appropriate for that Member to participate in the decision. Any Member doing so is at risk of breaching the General Obligations contained in the Code of Conduct, as well as making the decision of the Planning Committee vulnerable to legal challenge. Where a Member has such an interest in an application:

6.2.1 They should declare the interest and the nature of that interest;

6.2.2 Subject to any other applicable rules of this Protocol, they will be allowed to make representations, give evidence or answer questions about the matter; and

6.2.3 They should leave the meeting immediately after having declared their interest or after having made representations, given evidence or answered questions pursuant to paragraph 6.2.2.

6.3 Where a Member has such an interest and wishes to exercise their right to speak pursuant to paragraph 6.2.2 then the requirements of paragraphs 19.1 or 20.1 (as applicable) shall not apply to them. For the avoidance of doubt a Member who is not independent of the applicant within the terms identified in paragraph 20.1 shall not be allowed to speak in support of the application.
7 Development Proposals by Members and Officers

7.1 Members of planning committee and planning officers employed by the Authority will not act as agents for people pursuing planning matters within the Borough.

7.2 No Officer wishing to submit their own planning proposal to the Council shall play any part in the processing or the decision making process in so much as it relates to that proposal. Similarly, no Officer who has knowledge of any planning proposal submitted by anyone with whom they have a close association, shall play any part in processing or the decision making process as it relates to those proposals.

7.3 Except where the proposal is in accordance with the Council’s Planning Policies, and is not the subject of any objections, it shall be reported to the Planning Committee for determination.

8 Lobbying of and by Members

8.1 The Council recognises that lobbying of Members of the Planning Committee is an acceptable part of the political process, but that such lobbying should not lead to the impartiality or the integrity of any Member being called into question. If Members react to lobbying and express a fixed and public view on an application prior to its formal consideration by the Planning Committee this can lead to the Member being seen to have a predetermined the application and they would not be able to take part in the consideration of that application. With regard to lobbying, Members will:

8.1.1 Only give procedural advice;

8.1.2 Consider referring those lobbying to the relevant officer who can provide further advice;

8.1.3 Will not seek to meet an applicant or potential applicants alone;

8.1.4 If Members are minded to express an opinion on a particular proposal they will state clearly that they will reserve their final decision until after having heard all the relevant evidence and arguments at Committee.

8.2 Members will recognise that there is a high level of public expectation that such matters are dealt with fairly and openly, and that rules of procedure, rights of appeal and potential for Ombudsman Complaints and Judicial Review all mean that decisions must be arrived at only after hearing all relevant evidence.

8.3 If a member of the Planning Committee is lobbied on an application, then they should make an oral declaration to this effect at the beginning of the item, explaining the nature of the lobbying.
10 Predisposition

9.1 Predisposition is where a Member holds a view in favour of or against an issue (such as a planning application) but they have an open mind to the merits of an argument before they make the final decision at a Council meeting.

9.2 Members can be predisposed towards the outcome of a planning application including having a preliminary view about how they will vote before the planning committee meeting. However they must have an open mind and be seen to have an open mind before coming to the final decision.

10 Predetermination and bias

10.1 Predetermination is where a Member is closed to the merits of any argument relating to a particular issue. Members must not appear as if they are closed to the merits of an argument before they make the final decision. In relation to predetermination, section 25(2) of the Localism Act 2011 provides,

“...(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter...”

10.2 When considering if there is an appearance of predetermination or bias Members should consider the following test:

“Would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the Member had predetermined the issue or was biased?”

10.3 If a Member of the Planning Committee considers that they have predetermined the outcome of an application then they shall not take part in the consideration of that matter and shall withdraw from the Committee.

10.4 However, the Member may attend the meeting as a Ward Member and exercise their right to speak for or against the application as a Ward Member under paragraph 21 of this Protocol. In order to do so the Member shall move from the body of the Committee into the public gallery, where they shall remain for the entirety of the application. Alternatively, they may remain in their seat whilst making
representations, but shall then immediately leave the meeting for the remainder of the item.

10.5 Where a Member who is pre-determined wishes to exercise their right to speak then the requirements of paragraphs 19.1 or 20.1 (as applicable) shall not apply to them. For the avoidance of doubt a Member who is not independent of the applicant within the terms identified in paragraph 20.1 shall not be allowed to speak in support of the application.

11 Pre Application Discussion

11.1 The Council recognises the importance of pre-planning application discussions but acknowledges that, to avoid any suspicion that they become part of the lobbying process, such discussions should be subject to the following guidelines:

11.1.1 It will be made clear that such discussions will not bind the Council to a particular decision and that any views expressed will be provisional and without prejudice;

11.1.2 Advice given will be based upon the development plan and material considerations; all Officers taking part in discussions will make it clear as to whether the proposal is likely to be delegated for decision;

11.1.3 A written note will be made of all such meetings and potentially contentious telephone calls.

11.2 As a general rule it is seen as inappropriate for Planning Committee Members to be directly involved in pre application discussions with developers. Should there be occasions where Members are involved it should be part of a structured arrangement with Officers including a senior planning officer.

11.3 Members may receive invites to attend presentations by developers or pre application public consultation events. Such events can be helpful in providing Members with information. If Members choose to attend such events they need to be very careful to ensure that they do not express any view either for or against the proposal and should consult with Officers before accepting such invitations.

12 Officers Reports to Planning Committee
12.1 The Committee requires all reports that it receives to cover the following matters: -

12.1.1 Reports will be accurate and will include a summary of the views of those who are objecting to or supporting a proposal;

12.1.2 Reports will include reference to the relevant development plan policies, previous relevant site history and any other material considerations;

12.1.3 Reports will contain written recommendations, and any oral reporting will be accurately minuted;

12.1.4 Reports will contain a technical appraisal, which clearly justifies the recommendation, including an explanation of material considerations which justify a departure from the development plan should this be the case.

13 Public Speaking at Committee

13.1 Public speaking and presentations by objectors or applicants will be allowed at Committee meetings in accordance with the agreed Committee protocol for Speaking at Planning Committee.

14 Decisions Contrary to Recommendation

14.1 The law requires that all decisions on applications must be taken in accordance with the development plan, unless material considerations indicate otherwise. Members, having considered all the relevant policies and material considerations, are perfectly entitled to reach a different conclusion to officers when considering the merits of an application. However, such decisions must be based on planning considerations and evidence must be available to defend the resolutions put forward.

14.2 Should the Planning Committee be minded to refuse or grant an application contrary to the Officers recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. A decision to defer should be taken after having regard to the legal and planning advice already provided at the meeting. A deferral will allow Members to obtain further legal or other professional advice on the proposed reasons for refusal or on suggested appropriate conditions before the final decision is made.

14.3 If on receiving the additional report Members do make a decision contrary to the Officers’ recommendation, a detailed minute will be made of the Committee’s reasons, and a copy will be placed on the application file. Officers will be given the opportunity to explain the implications of any contrary decision before it is made. Any such decision contrary to Officers’ advice must be expressed clearly and must be based upon sound planning reasons supported by evidence.
14.4 In the case of conditions which the Planning Committee wish to add or amend and which cannot be accurately drafted at the meeting, formal approval may be delegated to the appropriate Head of Service in consultation with the Chairperson and Vice-Chairperson.

15 Planning Committee Site Visits

15.1 All requests for site visits will be considered on their merits in accordance with the following criteria:

15.1.1 Members are of the view that full and proper consideration of the proposal and likely impact of it can only be given with the benefit of a site visit;

15.1.2 The matter can only safely be determined after information has been acquired directly from inspecting the site;

15.1.3 The comments of the applicant or objector would be better understood by inspecting the site.

15.2 The reason for holding a site visit must be recorded in the minutes.

15.3 Ward Members will be invited to attend the visits for applications in their Ward.

15.4 At each site visit Members will hear a description of the proposal by a relevant Officer and will hear an explanation of the material planning considerations and a brief justification for the recommendation.

15.5 The purpose of the visit is to see the site and its surroundings. No discussion shall take place on the merits of the application and no decision will be taken at a site visit.

15.6 Whilst applicants will be informed of the site visit, should they attend, they shall remain out of earshot and will not be allowed to participate or be approached by Members.

15.7 The Planning Committee will similarly not hear any objectors to a proposal at a site visit. All objectors will remain out of earshot. They will not participate in the visit and will not be approached by Members.

15.8 Members who have an interest in the application of the type identified in paragraphs 6.1 or 6.2 above shall not attend the site visit. However if they are present on the site visit tour due to the need to attend other site visits that are taking place that day they shall not take part in the tour of the site relating to the application.

15.9 At the next meeting of the planning committee the planning officers will make an oral report on the site visit having regard to any additional information received.
15.10 Members should attempt to attend site visits. If a Member has been unable to attend a site visit they should, before subsequently taking part in consideration of the application and voting on the matter, be satisfied that they are in receipt of sufficient information about the application to make a reasoned decision.

16 Review of Decisions

16.1 The Planning Committee will undertake an annual site visit to a number and range of sites to view implemented proposals. The purpose of such a visit will be to decide whether any review of policy or practice will be necessary.

Protocol for Public Speaking at Planning Committee Meetings

17 Introduction

17.1 The protocol is designed to give the public a fair hearing during the decision making process. However, it does not give the public an absolute entitlement to speak. The Committee may use its discretion to disapply any provision of the protocol where particular circumstances make it impractical, unreasonable or unfair to adhere to the protocol. Members will also note that the Code of Conduct makes provision for public speaking at Planning Committee meetings.

18 Protocol

18.1 The protocol itself will relate only to planning applications being considered by Planning Committee meetings. It does not apply to other matters considered by the Committee such as Tree Preservation Orders and enforcement matters. It will complement the existing public consultation arrangements for planning applications such as neighbour notification, press and site advertisement etc. The members of the public will be permitted to speak in accordance with the following guidelines, with the objectors speaking first, followed by the supporters of the application (if any) and finally the applicant.

18.2 The procedure to be followed when members of the public address the Committee shall be as follows:

18.2.1 Chairman introduces the item;
18.2.2 Planning Officer presents the report;
18.2.3 Chairman invites members of the public to speak, with the applicant speaking last;
18.2.4 Planning Officer responds as appropriate;
18.2.5 Committee debates the application;
18.2.6 The vote is taken.
19 Objectors

19.1 A member of the public or their representative will be allowed to speak where he/she had lodged a written objection to a planning application within the statutory consultation period:

19.1.1 Stating the grounds of their objection;

19.1.2 Indicating at the same time that they may wish to speak at Planning Committee; and

19.1.3 Giving five clear working days notice confirming their intention to speak.

19.2 The objectors to an application will be allowed to speak first.

19.3 Each objector will be allowed no more than 5 minutes to speak.

19.4 The objectors will be called upon to speak in alphabetical order in the absence of the Committee determining otherwise.

19.5 Where there is more than one objector, objectors will be encouraged to nominate one spokesperson. If they fail to do so the Committee may decide that it is unable to hear all objectors personally depending upon the numbers involved. In this event it will decide who should be heard and in what order.

19.6 Where a petition is received only the chief petitioner will be allowed to speak on behalf of those objectors who have signed the petition and will be allowed no more than 5 minutes.

20 Supporters of the Proposal

20.1 Supporters of the proposal who are independent of the applicant (not being related to the applicant, in a business relationship with the applicant, or liable to benefit financially from the proposal), will be given the opportunity to speak in support of the proposal provided they have lodged a written request to that effect and given 5 clear working days’ notice of their wish to speak.

20.2 Each supporter will be allowed no more than 5 minutes to speak.

20.3 The supporters will be called in alphabetical order to speak in the absence of the Committee determining otherwise.

20.4 Where there is more than one supporter, supporters will be encouraged to nominate one spokesperson. If they fail to do so the Committee may decide that it is unable to hear all supporters personally depending upon the numbers involved. In this event it will decide who will be heard and in what order.
20.5 Where a petition in support is received, only the chief petitioner will be allowed to speak on behalf of those supporters who have signed the petition and will be allowed no more than 5 minutes to speak.

21 Ward Members

21.1 Ward Members will be allowed to speak if appearing as a representative on behalf of one or more of their constituents, either in support of or against an application. Where a Ward Member wishes to speak under this paragraph the requirement to give written notice (referred to in paragraphs 19.1 or 20.1 as applicable) shall not apply to them.

22 Applicants

22.1 Where an objector speaks the applicant (or his/her agent) will be given the opportunity to respond verbally to any objection made provided they have given 24 hours notice of their intention to do so (save that no notice must be given when responding to: (i) a Planning Committee Member who has declared an interest and speaks either for or against the proposal; or (ii) a Ward Member who exercises their right to speak under paragraph 21.1 without giving notice). The applicant (or the agent) will be allowed no more than 5 minutes to speak or (at the discretion of the Chairman) no more than the total time allowed for all objectors.

22.2 The applicant will not be permitted to speak simply to support his or her proposal.

22.3 Where a planning officers report recommends refusal of planning permission the applicant (or their agent) will be permitted to speak, even where there is no objector wishing to speak, but should give at least 5 clear working days’ notice of their intention to do so. The applicant or agent will be allowed no more than 5 minutes to speak.

23.3 Where a Member of Planning Committee who is pre-determined exercises their right to speak against an application the applicant (or his/her agent) if present will be given the opportunity to respond verbally to the objection. However, the applicant (or agent) will only be allowed to speak once where there are other objectors and/or the planning officer’s report recommends refusal. The applicant will be allowed no more than 5 minutes to speak or (at the discretion of the Chairman) no more than the total time allowed for all objectors.

23 General

23.1 Members of the Planning Committee will not enter into any debate with either the objectors or the applicants.

23.2 The Chairperson of the Committee may clarify any ambiguities.
23.3 The objectors and applicants will not be allowed to question each other.

23.4 A person making representations will not be allowed to speak more than once. On some occasions planning applications are deferred for site visits or further information before a decision is made. In these cases persons making representations may only do so at one committee, unless the Committee decides that significant new information has been raised which justifies the giving to any such person the opportunity to make further representations.

23.5 If a speaker wishes to submit any supporting material including photographs this must be submitted at least 5 clear working days before the Committee meeting. Any material submitted after this time will only be accepted at the discretion of the Chair in consultation with the Legal Services Officer. Material submitted will be summarised for the Committee in the Planning Officer’s presentation.

23.6 Where a Member is not present at a meeting where representations have been made but is present at the meeting where the decision is to be made, they should not vote unless they are satisfied that they have sufficient information about the application to make a reasoned decision.
FORMAT AND CONSIDERATIONS RELEVANT TO A HEARING BEFORE THE LICENSING COMMITTEE

SECTION 6
FORMAT AND CONSIDERATIONS RELEVANT TO A HEARING BEFORE THE LICENSING COMMITTEE

In order to ensure all parties are on an equal footing before any Licensing hearing and to ensure a fair hearing for all concerned the Licensing Committee have adopted the following procedure which will, in the absence of any circumstances giving cause to vary the same, be followed in determining all matters before it.

1. The Council’s Solicitor in attendance at the Committee will identify all members/officers of the Council and ask all persons attending the hearing to identify themselves.

2. The Licensing Officers will present a report outlining the nature of the matter before the Committee and all issues which arise from the matter or which they had been able to establish from any objections received.

N.B. The Committee expect and anticipate that all parties, including objectors, to a matter before it will have endeavoured to work closely with the Licensing Officer, prior to the hearing, to establish what the issues are that the Committee will be called upon to consider.

The Officers Report will:

a. Confirm what the hearing is for, the nature of the Licenses involved, who any application for the hearing is from and the premises concerned, if any.

b. State the nature of the objections received, if any, and from whom.

c. May, where relevant, highlight aspects of the National Guidance and Local Policy that are considered to be relevant in relation to the issues concerned.

d. Include observations of any suggested conditions which may have been offered as acceptable by any party, if the Committee concludes certain action as appropriate.

3. Any objectors will be invited to give further information by calling such evidence as is necessary to deal with the issues they wish to raise which are not agreed/accepted by the applicant.

Where any evidence to be called by the objectors has been able to be agreed in advance with the applicant it may if relevant to the issues before the Committee be read out at the hearing.

In order to avoid repetition objectors from the same group of interested parties must appoint an agreed spokesperson to identify the salient points of the objection.

4. The applicant and members of the Committee will be given the opportunity to ask questions of any of the objectors or their witnesses in relation to the issues raised.
5. The applicant will be invited to give further information by calling such evidence as is necessary to deal with the issues identified in relation to their application. Where any evidence to be called by the applicant has been able to be agreed in advance with the objectors it may if relevant to the issues before the Committee be read out at the hearing.

6. The objectors will be invited to sum up their case drawing together their main points succinctly and briefly to confirm their views.

7. The applicant will be invited to sum up their case drawing together their main points succinctly and briefly to confirm their views.

8. The Committee will retire to consider the matter before it and may request the presence of the Council’s Solicitor to be in attendance during its deliberations, to ensure that all matters of law, evidence and procedure are adhered to appropriately.

9. The Committee will give a brief indication to the parties of the decision they have reached. This will be followed up in writing within the statutory time limits.

**General Principles**

All parties will be expected to demonstrate which of the 4 licensing objectives are addressed in relation to each of the issues they wish to raise at the hearing and to draw to the Committee’s attention any relevant aspects of the National Guidance or Local Policy which they also consider are particularly relevant to the Committee’s consideration of the issues raised by themselves.

The Council’s Solicitor in attendance at the Committee may ask questions on behalf of, or in addition to, any party or person present themselves.

The Council expects all parties to a hearing to endeavour to address any issues openly and work towards an amicable resolution, if at all possible, prior to the hearing taking place.

If for any reason a party to a hearing is unable to attend they should contact the Licensing Officers as soon as possible to advise of the reasons why and how, if at all, the party considers they may be affected if the hearing was to proceed in their absence.
PART F

Members Allowances Scheme
MEMBERS’ ALLOWANCES SCHEME

The scheme of allowances for members of the authority drawn up in accordance with regulations made under section 18 of the Local Government and Housing Act 1989 is as set out below:

South Tyneside Council - Members' Allowance Scheme 2017/18

Local Government Act 2000
Local Authorities (Members’ Allowances) (England) Regulations 2003

1. All Council members receive the same Basic Allowance which is intended to recognise the time devoted by Councillors to their work.
2. In addition, certain Councillors who have significant extra responsibilities such as those of the Leader or Cabinet Members receive a Special Responsibility Allowance.
3. The Council does not pay attendance allowances to Councillors.

<table>
<thead>
<tr>
<th>2017/2018 Members' Allowances Scheme</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Basic Allowance (amount per Member)</strong></td>
</tr>
<tr>
<td><strong>Special Responsibility Allowances</strong></td>
</tr>
<tr>
<td>Leader of the Council</td>
</tr>
<tr>
<td>Deputy Leader of the Council</td>
</tr>
<tr>
<td>Cabinet Member (7)</td>
</tr>
<tr>
<td>Leader of main opposition group</td>
</tr>
<tr>
<td>Police and Crime Panel Member (x2)</td>
</tr>
<tr>
<td>2nd Member Transport for the North East Committee</td>
</tr>
<tr>
<td>Scrutiny Committee (3)</td>
</tr>
<tr>
<td>Pensions Committee</td>
</tr>
<tr>
<td>Planning Committee</td>
</tr>
<tr>
<td>Appeals Panel</td>
</tr>
<tr>
<td>Licensing</td>
</tr>
<tr>
<td>Community Area Forums (5)</td>
</tr>
<tr>
<td>Human Resources</td>
</tr>
<tr>
<td>Audit Committee</td>
</tr>
<tr>
<td>Contracts Performance Panel</td>
</tr>
<tr>
<td>Housing Performance Panel</td>
</tr>
<tr>
<td>Safeguarding and Education Panel</td>
</tr>
<tr>
<td>Standards Committee</td>
</tr>
</tbody>
</table>

No Member should receive more than one Special Responsibility Allowance (SRA). Any Member holding two or more posts eligible for an SRA should be paid only the highest of the SRA’s payable. Where a Member is also a Member of another authority, that Member should not receive allowances from more than one authority in respect of the same duties.
Co-Optees Allowances

<table>
<thead>
<tr>
<th>Chair</th>
<th>£4,914</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Audit Committee</strong></td>
<td>£737</td>
</tr>
<tr>
<td><strong>Standards Committee</strong></td>
<td>£737</td>
</tr>
</tbody>
</table>

Dependent Carers’ Allowances

Based on actual costs, but not exceeding **£7.98 per hour and per dependant**.

Carers’ allowance should be paid for the care of dependants (whether children, elderly people or people with disabilities) when a Councillor attends a meeting or carries out other Council business which is specified in the regulations. The maximum period of entitlement should be the duration of approved duty together with reasonable travelling time.

The allowance should only be paid for care by a registered child minder or carer (not a Member of the Councillor’s own household) and only if supported by receipted paid invoices.

The allowance will be payable for an approved duty and any other duty or class of duty approved by the Head of Legal Services for the purposes of, or in connection with, the discharge of any of the Council’s functions or the functions of any of the Council’s committees or sub-committees.

Pension Entitlements

Councillors who were members of the LGPS on 31 March 2014 retain access to the LGPS up to the end of their then current term of office (or to age 75 if earlier).

Travel Allowances (for Elected Members and Co-Optees)

(These are the 2017/18 HMRC rates. They are to be increased if the Inland Revenue publishes revised rates.)

| 2017/18 | 
|---------|-------|
| Cars - First 10,000 miles | 45p per mile |
| Cars - Over 10,000 miles | 25p per mile |
| Cars - Each additional passenger | 5p per mile |
| Motor Cycles | 24p per mile |
| Bicycles | 20p per mile |

Subsistence and Out of Pocket Allowances (for Elected Members and Co-Optees)

**Subsistence**

<table>
<thead>
<tr>
<th></th>
<th>£</th>
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</thead>
<tbody>
<tr>
<td>Overnight (outside London) – 24 hours</td>
<td>102.92</td>
</tr>
<tr>
<td>Overnight (inside London) – 24 hours</td>
<td>117.38</td>
</tr>
<tr>
<td>Breakfast (4 hours before 11am)</td>
<td>6.33</td>
</tr>
<tr>
<td>Lunch (4 hours including period 12 noon)</td>
<td>8.73</td>
</tr>
<tr>
<td>Tea (4 hours including period 3pm to 6pm)</td>
<td>3.44</td>
</tr>
<tr>
<td>Evening Meal (4 hours ending after 7pm)</td>
<td>10.79</td>
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</table>

**Out of Pocket**

<table>
<thead>
<tr>
<th></th>
<th>£</th>
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</thead>
<tbody>
<tr>
<td>UK (24 hours)</td>
<td>16.27</td>
</tr>
<tr>
<td>Abroad (24 hours)</td>
<td>32.56</td>
</tr>
</tbody>
</table>
Election to Forgo Allowances

Any Elected Member or Co-Oppee may, by notice in writing given to the Council’s Head of Legal Services, elect to forgo all or part of any allowance entitlement.